

*PRESENTATION
ON
INSOLVENCY &
BANKRUPTCY CODE,
2016*

Section wise coverage

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INTRODUCTION

The existing framework for insolvency and bankruptcy resolution is inadequate, ineffective and results in undue delays.

There have been several committees and commissions recommending consolidation of insolvency and bankruptcy laws. In November, 2015, the Bankruptcy Law Reforms committee recommended the Insolvency and Bankruptcy Code. It was introduced in the parliament In December, 2015.

The objective of the Code is to consolidate and amend the laws relating to insolvency Acts of 1909 and 1920 and amend several Acts.

The Code aims at promoting investments as well as resolution of insolvency of corporate persons, firms and individual in a time bound manner. It provides for designating the NCLT and DRT as the Adjudicating Authorities. The Code separates commercial aspects of insolvency and bankruptcy proceedings from judicial aspects. It also provides for establishment of the Insolvency professional agencies and information utilities.

STATEMENTS OF OBJECTS AND REASONS

There is no single law in India that deals with insolvency and bankruptcy. Provisions relating to insolvency and bankruptcy for companies can be found in the Sick Industries Companies (Special Provisions) Act, 1985, the Recovery of Debt Due to Banks Financial Institutions Act, 1993, the Securitization and Reconstruction of Financial Assets and enforcement of Security Interest Act, 2002 and the Companies Act, 2013. These statutes provide for creation of multiple fora such as Board of Industrial and Financial Reconstruction (BIFR), Debt Recovery tribunal (DRT) and National Company Law Tribunal (NCLT) and their respective Appellate tribunals. Liquidation of companies is handled by the High Courts. Individual bankruptcy and insolvency is dealt with under the Presidency Towns insolvency Act, 1909, and the Provincial Insolvency Act, 1920 and is dealt with by the Courts. The existing framework for insolvency and bankruptcy is inadequate, ineffective and results in undue delays in resolution, therefore, the proposed legislation.

The objective of the Insolvency and Bankruptcy Code, 2016 is to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the priority of payment of government dues and to establish an Insolvency and Bankruptcy Board of India, and matters connected therewith or incidental thereto. An effective legal framework for timely resolution of insolvency and bankruptcy would support development of credit markets and encourage entrepreneurship. It would also improve Ease of Doing Business, and facilitate more investments leading to higher economic growth and development.

**THE INSOLVENCY AND BANKRUPTCY
CODE, 2016 NO. 31 OF 2016**

**5 Parts|23 Chapters| 12 Schedules | 255
Sections**

28th May, 2016- Assented by President
1st Dec 2016- Effective date

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THE INSOLVENCY AND BANKRUPTCY CODE, 2016
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for the Purposes of Clause (D) of Section 29A

S.NO	ACTS
1	The Foreign Trade (Development and Regulation) Act, 1922 (22 of 1922);
2	The Reserve Bank of India Act, 1934 (2 of 1934);
3	The Central Excise Act, 1944 (1 of 1944);
4	The Prevention of Food Adulteration Act, 1954 (37 of 1954);
5	The Essential Commodities Act, 1955 (10 of 1955);
6	The Securities Contracts (Regulation) Act, 1956 (42 of 1956);
7	The Income-tax Act, 1961 (43 of 1961);
8	The Customs Act, 1962 (52 of 1962);
9	The Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
10	The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974);
11	The Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

S.NO	ACTS
12	The Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);
13	The Environment (Protection) Act, 1986 (29 of 1986);
14	The Prohibition of Benami Property Transactions Act, 1988 (45 of 1988);
15	The Prevention of Corruption Act, 1988 (49 of 1988);
16	The Securities and Exchange Board of India Act, 1992 (15 of 1992);
17	The Foreign Exchange Management Act, 1999 (42 of 1999);
18	The Competition Act, 2002 (12 of 2003);
19	The Prevention of Money-laundering Act, 2002 (15 of 2003);
20	The Limited Liability Partnership Act, 2008 (6 of 2009);
21	The Foreign Contribution (Regulation) Act, 2010 (42 of 2010);
22	The Companies Act, 2013 (18 of 2013) or any previous company law;
23	The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015);
24	The Insolvency and Bankruptcy Code, 2016 (31 of 2016);
25	The Central Goods and Services Tax Act, 2017 (12 of 2017) and respective State Acts imposing State goods and services tax;
26	Such other Acts as may be notified by the Central Government.]

BANKRUPTCY LAW REFORMS COMMITTEE 2015

In the budget speech in 2014-15, Shri Arun Jaitley, the then Finance Minister of India had stated that 'entrepreneur' friendly legal bankruptcy framework will be created for small and medium enterprises to enable them to exit business easily. This was the need of the hour as the entrepreneurs found that they were stuck with the business organisation years after that business has failed, making them face the ire of labour unions and government authorities. Starting a business was easy but exiting it wasn't really a choice for them. The process of exit was too complex and tardy. To bring back the confidence of the entrepreneur, it was essential that the bankruptcy framework be reviewed and reformed.

SETTING UP OF VISHWANATHAN COMMITTEE

In the backdrop of the statement by the then Finance Minister, the Bankruptcy Law Reforms Committee under the chairmanship of Shri TK Vishwanathan was set up in August, 2014 (hereinafter called as Vishwanathan Committee).

Vishwanathan Committee submitted its report in November 2015 in two volumes: Volume I – Text of findings and recommendations, and Volume II – Draft Insolvency and Bankruptcy Code. Recognising

that ‘there are multiple contradictory elements in the legal arrangements’, the committee took up the task of drafting a single unified framework which deals with bankruptcy and

insolvency by persons other than financial firms’, Vishwanathan Committee was of firm belief that financial creditors alone can provide the best answer in resolving insolvencies, being a business decision. The committee also observed that:

SETTING UP OF VISHWANATHAN COMMITTEE

The failure of some business plans is integral to the process of the market economy. When business failure take place, the best outcome for society is to have a rapid re- negotiation between the financiers, to finance the going concern using a new arrangement of liabilities and with a new management team. If this cannot be done, the best outcome for society is a rapid liquidation. When such arrangements can be put into place, the market process of creative destruction will work smoothly, with greater competitive vigor and greater competition.

TWO-STEP PROCESS - INSOLVENCY RESOLUTION AND LIQUIDATION

Noticing that the existing process of rescuing the companies is susceptible to manipulation as it allows the debtor/promoter to seek endless extensions, the committee sought to restrict the resolution period to 180 days with a maximum of 90 days' extensions, as it felt that seriousness will come into decision making if the time is shortened. At the first instance, insolvency resolution process will be underway in all cases but if it remains unsuccessful, liquidation is triggered. The two step process of resolution and liquidation was suggested by the committee in each and every case of insolvency and bankruptcy, if the debtor commits a default or unable to pay its debts to creditors.

NO NEED OF ANY GOVERNMENT ARM IN INSOLVENCY RESOLUTION OR LIQUIDATION

The committee strictly avoided bringing in arms of the government (Legislature, executive or judiciary) into insolvency resolution. The notable aspect of the committee report was the recommendation of appointment of regulated private insolvency professionals to handle insolvency resolution process and then liquidation. There was deliberate attempt to keep away the official liquidation from the insolvency process.

ALTERED DISTRIBUTION WATERFALL

The distribution waterfall to the claimants, as suggested by the committee, kept the government dues at a priority below the unsecured financial creditors as it felt that in the long run, this would increase the availability of finance, reduce the cost of capital, promote entrepreneurship and lead to faster economic growth'. The committee also observed that the government also will be the beneficiary of this process as economic growth will increase revenues. It also felt that the efficiency enhancement and consequent greater value capture through the proposed insolvency regime will bring in additional gains to both the economy and the exchequer.

Simplified 'Fresh Start' process for Individuals

Vishwanathan Committee suggested a simplified process for default by individuals including a concept of 'fresh start' where specified loans of a limited class of borrowers can be waived, but this information about individual bankruptcy will reflect in the records of the individual.

Speed is the Essence

Speed is of essence for the working of the bankruptcy code. The shorter insolvency resolution period, the Committee felt, would trigger quick decision making by the creditors about the fate of debtor and if, the resolution fails, the liquidation value of assets will not suffer a greater fall or diminution. The committee noted that delays cause value destruction;

Setting up of Regulators

Vishwanathan Committee suggested the establishment of Insolvency and Bankruptcy Board of India to oversee the functioning of Insolvency professionals and information utilities. The committee envisioned the bankruptcy law should not be burdened with bankruptcy process, which should evolve through regulations allowing much needed flexibility to the regulator to amend them based on experience and changes in the economy.

GOVERNMENT COMMITTEES ON BANKRUPTCY REFORMS IN INDIA

During the last 100 years of the existence of the bankruptcy laws in India, many government committees have been set up in Independent India to review the law and procedure relating to bankruptcy in India. Based on these recommendations several amendments were carried out in the laws governing insolvency. The following table indicates the government committees that have worked on bankruptcy laws:

Government Committees on Bankruptcy Reforms

YEAR	COMMITTEE	OUTCOME
1964	24 th Law Commission	Amendments to the Provincial Insolvency Act, 1920
1981	Tiwari Committee (Department of Company affairs)	Sick Industrial (Special Provision) Companies Act, 1985
1991	Narasimham Committee I (RBI)	Recovery of Debts Due to Banks and Financial Institution Act, 1993 (RDDBFI)

YEAR	COMMITTEE	OUTCOME
1992	Narasimham Committee II (RBI)	The securitisation and Reconstruction of Financial assets and Enforcement of security interest act, 2002 (SARFAESI)
1999	Justice Eradi Committee (GOI)	Companies (Amendment Act, 2002, Proposal repeal of SICA
2001	LN Mira Committee (RBI)	Proposed a comprehensive bankruptcy code
2005	Irani Committee (RBI)	Enforcement of Securities Interest and Recovery of debts Bill, 2011. (with amendments to RDDBFI and SARFAESI)
2008	Raghuram Rajan Committee (Planning Commission)	Proposed improvements to credit infrastructure
2013	Financial Sector Legislative Reforms Commission (Ministry of Finance)	Draft Indian Financial Code which includes a “Resolution Corporation” for resolving distressed financial firms

The key difference between the past committees and Vishwanathan Committee lies in their approach. The past committees worked on the existing laws and suggested either incremental change in the existing laws or creation of additional laws, treating the board Landscape of the bankruptcy process as given. Vishwanathan Committee, on the other hand, had the mandate of comprehensive reform, covering all aspect of bankruptcy of individuals and non-financial firms including but not restricting to limited liability corporations. Not only the Vishwanathan Committee examined the law relating to individual and corporate bankruptcy and insolvency, it also looked at debt recovery laws in a holistic manner leading to 'deeper redesign of the entire resolution process, rather than working on strengthening any single piece of it.

PART - I

IBC 2016

Central Government

Apex Court

↓
Regulator (IBBI)

↓
Authorities

↓
IBBI.Gov.in

↓
Appellate authorities

NCLAT

DRAT

↓
Professionals (IP & IPE)

↓
Agencies

↓
Information Utilities

↓
Adjudicating authorities

NCLT

DRT

Limited insolvency exam

IPA

NESL

50hrs Training

iiipicai.in

(nesl.co.in)

Enrolment with IPA &

ipaicmai.in

Registration with IBBI

icsiip.com

(May assume different roles

IRP, RP, Liquidator,

Bankruptcy Trustee

↓
Applicant

F

O

C

C

C

D

Part I-Preliminary

SECTION 1 TO 3

Section 1



IBC

Extends to whole India

Section 2

Applicable to-

- Co.'s incorporated Under 2013 or any previous Act
 - Co's governed by any special Act
 - LLP registered Under LLP 2008 Act
 - Any body corporate-notified by Govt
 - Partnership firms, **Proprietor Firms** & Individuals
 - Personal Guarantors of Corporate Debtor(Would apply only for limited purpose of Section 60(2) and(3))
- Insolvency
 - Liquidation
 - Voluntary Liquidations
 - Bankruptcy
 - Part-III Individual & Partnership Insolvency

SECTION 1 TO 3..

Section 3

3(6) – Claim means (a) A right to payment – Fixed, disputed, Undisputed, legal, Equitable, Secured or Unsecured

(b) Right to remedy for breach of contract- Gives rise to right to payment- fixed, matured, Un matured, disputed undisputed, secured or unsecured

3(7)- Corporate Person means a company, a LLP or any other person incorporated with limited liability but shall not include any financial service provider

3(10) Creditor – person to whom debt is owed includes, FC, OC, Secured Creditor, Unsecured Creditor and a Decree-holder

Treatment of Home Buyers under IBC

Home Buyers having agreement with assured return clause treated as financial creditors

Home Buyers without assured return clause

- Section 3(11)

Committed Return plan is in the nature of debt.

- Section 3(12)

Default triggers Insolvency Resolution Process

Default takes place when debt becomes due and is not paid

The adjudicating authority has to merely satisfy itself that a default has occurred, in case of a corporate debtor who commits a default of a financial debt.

Different claims arising out of different agreements or work order, having different amount and different dates of default cannot be clubbed together for alleged default of debt, the cause of action being separate.

3 (13) Financial Information- one or more Category of following Information

- (a) records of the debt of the person
- (b) records of Liabilities when the person is solvent
- (c) records of assets of person over which security interest has been created
- (d) records of instances of default by the person against any debt.
- (e) record of the B/Sheet & Cash Flow Statement of person
- (f) Such other information as may be specified.

3 (14) Financial Institution means

(a) A Scheduled Bank

(b) Financial Institution defined u/s 45(1) of RBI Act

(c) Public Financial Institution as per 2(72) of Co's Act { LIC, IDFC, UTI and Institution notified by Govt. C/G
–

where 51% **holding** is
with

(d) Other Institution notified by C. Govt.

3 (16) Financial Services – Includes following services

(a) Accepting Deposits

(b) Administration of assets (Financial products) belonging to another person
Securities, insurance, deposit, loan & advance by Banks,
Currency Contracts

(c) Effecting Contracts of Insurance

(d) Offering / managing financial product belonging to another person

(e) rendering advice or soliciting (For Consideration)

- Buying, Selling financial product

- Availing financial **services**

-Exercising associated rights with financial product/services.

(f) Establishing or operating an investment scheme

(g) Maintaining, transferring record of ownership of financial product

(h) Underwriting the issuance of financial product

(i) Selling, providing- payment instrument or payment sources

3(17)-financial service provider means a person engaged in the business of providing financial services in terms of authorization issued or registration granted by a financial sector regulator

3(18)-financial sector regulator includes-RBI,SEBI,IRDA,PFDR and such other regulatory bodies as notified.

SECTION 1 TO 3..

3(18) Financial Sector regulator

-Authority Constituted to regulate services of financial sector & Includes – RBI, SEBI, IRDAI, PFRA (pension fund regulatory Authority)
Any Other authority notified by C. Govt.

3(19) Insolvency professional

-Enrolled u/s 206 with IPA

-Registered u/s 207 with IBBI

3(20) Insolvency Professional Agency (IPA)

- Person registered with IBBI u/s 201 as IPA.

3 (21) Information Utilities

- Person registered with IBBI u/s 210 as IU.

3 (23) Person- Includes Individual, HUF, Co, Trust, Partnership LLP, any other incorporated body & INCLUDES person resident outside India

Person resident in India – As defined u/s 2 (v) of FEMA, 1999.

3(31) Security Interest – right, title or interest or a claim to property created in favour of Secured Creditor which secures payment & includes mortgage, charge, hypothecation, assignment BUT DOES NOT Include Performance Guarantee

Section 1

05

Q)Section 1 of IBC came into force with effect from

a) 1.12.2016

b)28.5.2016

c)28.06.2016

d)1.5.2016

Section 1

05

Q)Part III of the code does not apply to J &K

a) Partially Correct

b) Totally incorrect

c) Absolutely correct

d)None of the above

Section 2

05

Q) Treatment of personal guarantors and other individuals is different in IBC

a) Absolutely incorrect

b) Partially incorrect

c) Absolutely correct

d) Not yet notified

Section 2

05

Q)Reg application of provisions of the code, Any other company governed by any special act

a)Is governed by its own Act

b)Provisions of code override the provisions in such special Act

c) Provisions of special Act override the provisions in IBC

d)Is governed by Central Government

Section 3

05

Q) Bye Laws mean the Bye Laws made by

a) IBBI

b) IPE

c) IPA

d) IIPA

Section 3

05

Q) Even Disputed claims are covered under the definition of claim

a) False

b) In case of right to payment only

c) In case of right to remedy for breach of contract only

d) Both b and c are Correct

Section 3

05

Q) Even unmatured claims are covered under the definition of claim

a) False

b) In case of right to payment only

c) In case of right to remedy for breach of contract only

d) Both b and c are Correct

Section 3

05

Q)Corporate Debtor means

a) A corporate person who owes a debt to any corporate person

b) A person who owes a debt to a corporate person

c) A corporate person who owes a liability to any person

d) A corporate person who owes a debt to any person

Section 3

05

Q)Core services means services rendered by

a) An IPE to its directors or partners

b)IPA to its members

c) An information utility

d) IBBI to its stakeholders

Section 3

05

Q)Debt means a liability or obligation in respect of a ... Which is due from any ... And includes a financial debt and operational debt

a)debt, creditor

b)liability, entity

c) claim, creditor

d) claim, person

Section 3

05

**Q)Default means non payment of debt when whole or any part or instalment of the amount of debt has become due and is.....
By the debtor or the corporate debtor, as the case may be**

a) Not repaid

b) Not paid

c) Not honoured

d) dishonoured

Section 3

05

Q) Financial Information in relation to a person does not include the following categories of information

a) Records of the liabilities when the person is insolvent

b) Records of assets of person over which security interest has been created

c) Records of Profit & Loss Account

d) Fund Flow Statement

Section 3

05

Q)Which of the following is a Financial Institution

a) A cooperative Bank

b) A Gramin Bank

c) NABARD

d) SIDBI

Section 3

05

Q) In case of Public Financial Institution what is the percentage of paid up share capital to be held by Central /State Govt(s)

a) Not less than 50%

b) Not less than 51%

c) 50% in case of Central Govt
and 51% in case of State
Govt(s)

d) 100%

Section 3

05

Q) Financial Product does not include

a) Indian currency

b) Foreign currency

c) Derivative contracts

d) Options and futures

Section 3

05

Q) Transaction should be

a) Orally or in writing

b) In writing only

c) Not only in writing but
registered with Information
utility as well

d) As per Provisions of Indian
Contract Act

Section 3

05

Q) Transfer does not include

a) renting

b) Posting from one office to another

c) vesting

d) bailment

Section 3

05

Q) Workman includes

a) An apprentice

b) An Airman

c) Police Constable

d) Manager

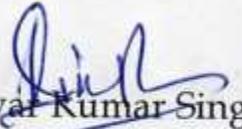
[To be published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii)]

MINISTRY OF CORPORATE AFFAIRS

New Delhi, the....., March, 2020

S.O.(E). – In exercise of the powers conferred by the proviso to section 4 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby specifies one crore rupees as the minimum amount of default for the purposes of the said section.

[F. No.30/9/2020-Insolvency]


Gyaneshwar Kumar Singh
Joint Secretary


सत्यमेव जयते

भारत का राजपत्र

The Gazette of India

सी.जी.-डी.एल.-अ.-09042021-226475
CG-DL-E-09042021-226475

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 1432]
No. 1432]

नई दिल्ली, शुक्रवार, अप्रैल 9, 2021/चैत्र 19, 1943
NEW DELHI, FRIDAY, APRIL 9, 2021/CHAITRA 19, 1943

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 9 अप्रैल, 2021

का.बा. 1543(अ).—केंद्रीय सरकार, दिवाला और शोधन अधमता संहिता (संशोधन) अध्यादेश, 2021 (2021 का 3) द्वारा यथा संशोधित दिवाला और शोधन अधमता संहिता, 2016 (2016 का 31) की धारा 4 के दूसरे परंतुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, संहिता के अध्याय-3क के अधीन निगमित ऋणी पूर्व-निर्धारित दिवाला समाधान प्रक्रिया से संबंधित मामलों के लिए व्यतिक्रम की न्यूनतम रकम के रूप में दस लाख रुपए को विनिर्दिष्ट करती है।

[फा. सं.30/20/2020-इंसोल्वेंसी]

जानेश्वर कुमार सिंह, संयुक्त सचिव

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 9th April, 2021

S.O. 1543(E).—In exercise of the powers conferred by the second proviso to section 4 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), as amended by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021 (3 of 2021), the Central Government hereby specifies ten lakh rupees as the minimum amount of default for the

Part II Chapter 1

SECTION 4 TO 5

Section 4

Insolvency & Liquidation of Corporate Debtor

When default is minimum – **1 lakh**

Or

Higher amount provided by C.G by notification (BUT SHALL NOT be more than 1 crore)

Section 5

5 (5) Corporate Applicant means

- Corporate Debtor or
- Authorised member or partner of the Corporate Debtor in case of LLP
- Individual, who is in charge of managing the operations & resources of the Corporate Debtor
- Person, Controls & Supervision over financial affairs of Corporate Debtor.

5(6)-Dispute includes a suit or arbitration proceedings relating to– (a)The existence of the amount of debt

(b)The quality of goods or service; or

© the breach of a representation or warranty;

Definition of dispute is an inclusive one.

Counter claim is not a dispute relating to financial debt.

Dispute must be pre-existing

Breach of Trust and breach of terms of NDA is a dispute

Period of Limitation for filing dispute need to be taken into consideration.

Application pending under Section 34 or appeal under Section 37 of the Arbitration Act,1996 is not a dispute.

For financial debt, even if there is a dispute , it does not matter so long as the debt is due.

Police Complaint for forgery, cheating , falsification , fabrication etc.-Per se cannot be the basis of dispute. Besides this, specific evidence is to be brought on record.

5 (8) Financial Debt means debt along with interest disbursed against the Consideration for the time value of money & Includes

- (a) money borrowed against payment of Interest
- (b) Amount raised under acceptance credit facility or its de-materialised equivalent
- (c) Amount raised by issue of bonds, notes, debentures, loan stock
- (d) Amount of lease liability or hire purchase agreement which is deemed as finance or Capital **lease**
- (e) Receivable sold or discounted [Except sold on non – recourse basis]
- (f) Amount raised under forward sale or purchase agreement, having the commercial effect of borrowing
- (g) **Derivative** transaction
- (h) counter- indemnity obligation in respect of guarantee L/C, Indemnity bond issued by Bank / Financial Institution
- (i) Liability in respect of guarantee or Indemnity for item in above clauses.

SECTION 4 TO 5..

Section 5

Bank Holding Corporate Guarantee considered as a FC.

TDS deduction or interest payment by corporate debtor serves as a proof of financial debt. But mere interest payment during certain period may not suffice to qualify as a financial debt.

Amount invested by investors comes within the meaning of Financial Debt.

Home buyer covered in the definition of Financial Debt vide Explanation to Section 5(8)(f)(i) and (ii).

IBC does not use the term Home Buyer. It uses the term allottee in real estate project. The expressions 'allottee' and "real estate project" shall have the meanings respectively assigned to them in clause (d) and (zn) of section 2 of the RERA Act, 2016. Hence even allottee of a commercial space is covered under IBC.

Initiation date - When Application is made to AA

Section 5(12) Commencement date - When Application is admitted by AA

Section 5(13) Insolvency process cost

- (a) Amount of Interim finance and its raising cost
- (b) Fees payable to RP
- (c) cost incurred by RP for running business on going concern basis
- (d) cost incurred at the Exp of Govt to **facilitate** RP process
- (e) Any other cost specified by IBBI

SECTION 4 TO 6..

Section 5

Insolvency resolution process period (180 days)

Beginning from the insolvency commencement date

Ending on 180th day

Section 5(21) Operational Debt

Filtration process for classifying an amount as an operational debt It should pass three stages:

Claim as per Section 3(6)

Debt as per Section 3(11)

Operational Debt as per 5(21)

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- Related Party appears in (19 places):
- Section 5(24)
- Section 5(24A)
- Section 5(24) (i)
- Proviso to Section 21(2)
- Second Proviso to Section 21(2)
- Section 28 (1) (7)
- Section 29A
- Section 32A
- Section 43
- Section 44 Explanation 1(b)
- Section 46 (1) (ii)

- In order to be covered under section 5(24), the first condition is that there has to be a corporate person on at least one side. If there are non corporate persons on both sides, then the relationship shall not be covered under Section 5(24).
- Once we are sure that there is a corporate person on at least one side, we have to ensure that either party is able to control or influence the business decisions which could be by virtue of relationship, shareholding, ownership, control, decision making ability etc.

Explanation. - For the purposes of this clause, - (a) "relative", with reference to any person, means anyone who is related to another, in the following manner, namely:-

(i) members of a Hindu Undivided Family, 1 Ins. by Act No. 26 of 2018, sec. 3 (w.e.f. 6-6-2018). 13

(ii) husband,

(iii) wife,

(iv) father,

(v) mother,

(vi) son,

(vii) daughter,

(viii) son's daughter and son,

(ix) daughter's daughter and son,

(x) grandson's daughter and son,

(xi) granddaughter's daughter and son,

(xii) brother,

(xiii) sister,

(xiv) brother's son and daughter,

(xv) sister's son and daughter,

(xvi) father's father and mother,

(xvii) mother's father and mother,

(xviii) father's brother and sister,

mother's brother and sister; and

(b) wherever the relation is that of a son, daughter, sister or brother, their spouses shall also be included;]

Sub Clauses (a),(b) and © of Section 5(24) contain relatively simpler relationships.

Let us see sub clauses (a),(b) and © by way of illustrations:

“related party”, in relation to a corporate debtor, means-

(a) a director or partner of the corporate debtor or a relative of a director or partner of the corporate debtor;

What is covered:

XYZ Pvt.Ltd	Director of XYZ Pvt Ltd	Relative of director of XYZ Pvt .Ltd.
XYZ LLP	Partner of XYZ LLP	Relative of partner of XYZ LLP

- (b)a key managerial personnel of the corporate debtor or a relative of a key managerial personnel of the corporate debtor;

XYZ Pvt Ltd	KMP of XYZ Pvt Ltd	Relative of KMP of XYZ Pvt . Ltd
XYZ LLP	KMP of XYZ LLP	Relative of KMP of XYZ LLP

© a limited liability partnership or a partnership firm in which a director, partner, or manager of the corporate debtor or his relative is a partner;

Director of XYZ Pvt.Ltd	LLP in which such director is a partner	Partnership firm in which such director is a partner
Partner of XYZ LLP	LLP in which such partner is a partner	Partnership Firm in which such partner is a partner
Manager of XYZ Pvt Ltd	LLP in which such manager is a partner	Partnership Firm in which such manager is a partner
Relative of Director of XYZ Pvt.Ltd	LLP in which such relative is a partner	Partnership firm in which such relative is a partner
Relative of Partner of XYZ LLP	LLP in which such relative is a partner	Partnership Firm in which such relative is a partner
Relative of Manager of XYZ Pvt Ltd	LLP in which such relative is a partner	Partnership Firm in which such relative is a

- Sub Clause (d) and (e) cover cases where a director along-with his relatives holds more than two percent share capital or paid up share capital

(d) a private company in which a director, partner or manager of the corporate debtor is a director and holds along with his relatives, more than two per cent. of its share capital;

Sub Clause (d) covers cases in which shareholding of the director along-with his relatives is more than two percent of the share capital

XYZ Pvt. Ltd	ABC Pvt. Ltd
Director of XYZ Pvt.Ltd	Director in ABC Pvt. Ltd and holds along-with his relatives more than two percent of share capital of ABC Pvt. Ltd.
Manager of XYZ Pvt Ltd	Director in ABC Pvt. Ltd and holds along-with his relatives more than two percent of share capital of ABC Pvt. Ltd.
Partner of XYZ LLP	Director in ABC Pvt. Ltd and holds along-with his relatives more than two percent of share capital of ABC Pvt. Ltd.
Manager of XYZ LLP	Director in ABC Pvt. Ltd and holds along-with his relatives more than two percent of share capital of ABC Pvt. Ltd.

(e) a public company in which a director, partner or manager of the corporate debtor is a director and holds along with relatives, more than two per cent. of its paid-up share capital;

Sub Clause (e) covers cases in which shareholding of the director along-with his relatives is more than two percent of the paid up share capital of the public company. In clause (e) the term used is paid up share capital as against share capital in clause (d)

XYZ Pvt. Ltd	ABC Ltd or ABC Public Ltd.
Director of XYZ Pvt.Ltd	Director in ABC Ltd and holds along-with his relatives more than two percent of paid up share capital of ABC Ltd.
Manager of XYZ Pvt Ltd	Director in ABC Ltd and holds along-with his relatives more than two percent of paid up share capital of ABC Ltd.
Partner of XYZ LLP	Director in ABC Ltd and holds along-with his relatives more than two percent of paid up share capital of ABC Ltd.
Manager of XYZ LLP	Director in ABC Ltd and holds along-with his relatives more than two percent of paid up share capital of ABC Ltd.

(f)anybody corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;

- Clause (f) uses the word body corporate for the first time. A body corporate includes a company incorporated outside India. Here there is no common director, partner or shareholding but there is a remote control (shadow director)
- Another important thing to note is acting in the ordinary course of business and not under any special circumstances or in a professional capacity.
- Here it could be difficult for RP to prove such a connection. It could be on the basis of press reports , report of Board of Directors or some concrete evidence

XYZ inc (A company incorporated outside India)	XYZ Pvt.Ltd	XYZ LLP
Board of Directors of XYZ Inc	Acts on the advice of director or manager of XYZ Pvt.Ltd	Acts on the advice of partner or manager of XYZ LLP
Managing director of XYZ Inc	Acts on the advice of director or manager of XYZ Pvt.Ltd	Acts on the advice of partner or manager of XYZ LLP
Manager of XYZ Inc	Acts on the advice of director or manager of XYZ Pvt.Ltd	Acts on the advice of partner or manager of XYZ LLP

(g) any limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;

In Sub Clause(g),the word employee has been used for the first time. Another important thing is in the ordinary course of business.

Such a relationship would not be easy to establish . But an inference could be drawn from the premises in which the business is being run, frequency of interaction , signatures on documents etc.

XYZ LLP	XYZ Pvt Ltd	XYZ LLP
Partner of XYZ LLP	Acts on the advice of director or manager of XYZ Pvt.Ltd	Acts on the advice of partner or manager of XYZ LLP
Employee of XYZ LLP	Acts on the advice of director or manager of XYZ Pvt.Ltd	Acts on the advice of partner or manager of XYZ LLP
Partner of XYZ & Co.	Acts on the advice of director or manager of XYZ Pvt.Ltd	Acts on the advice of partner or manager of XYZ LLP
Employee of XYZ & Co.	Acts on the advice of director or manager of	Acts on the advice of partner or manager of

(h) any person on whose advice, directions or instructions, a director, partner or manager of the corporate debtor is accustomed to act;

Sub Clause (h) uses the word person which may include individuals , HUF ,Trust Etc etc. as well . The term accustomed to act although not defined in IBC or Companies Act suggests habitual tendency to follow and obey the advice, instructions and directions on a repetitive basis.

XYZ Pvt Ltd	Person
Director of XYZ Pvt Ltd	Acts on the advice , directions or instructions of this person
Manager of XYZ Pvt. Ltd.	Acts on the advice , directions or instructions of this person
Partner of XYZ LLP	Acts on the advice , directions or instructions of this person
Manager of LLP	Acts on the advice , directions or instructions of this person

(i) a body corporate which is a holding, subsidiary or an associate company of the corporate debtor, or a subsidiary of a holding company to which the corporate debtor is a subsidiary;

- Here the body corporate is a holding, subsidiary or an associate of the CD or both the body corporate and the Corporate debtor are subsidiaries of a holding company.
- Coverage:
- Holding company of the CD
- Subsidiary company of the CD
- Associate Company of the CD
- Co-subsidiary of the CD
- What is to be checked:
- Controlling the composition of BOD (appointment or removal of all or majority of directors)
- More than 50% share capital on its own or along with its subsidiaries
- Ability to influence decision making holding at least 20% of share capital

(j)any person who controls more than twenty per cent. of voting rights in the corporate debtor on account of ownership or a voting agreement;

Sub Clause (j) and (k) are similar. In Sub Clause (j),any person is controlling whereas in sub-Clause(k),the CD is controlling

Who is controlling : Any Person . Control could be direct or indirect.

What is to be controlled: Voting rights (right of a member of a company to vote in any meeting or by postal ballot)

How much is to be controlled : More than 20%

How it is to be controlled: On account of ownership or a voting agreement

(k)any person in whom the corporate debtor controls more than twenty per cent. of voting rights on account of ownership or a voting agreement;

Who is controlling : CD . Control could be direct or indirect.

What is to be controlled: Voting rights

Who could be controlled: Anyone where decisions are taken by way of voting (e.g. Karta of HUF)

How much is to be controlled : More than 20%

How it is to be controlled: On account of ownership or a voting agreement

(1)any person who can control the composition of the board of directors or corresponding governing body of the corporate debtor;

- Who is controlling :Any person
- What is being controlled : Composition of the BOD or corresponding governing Body of the CD
- How composition of BOD could be controlled : Ability to appoint or remove majority of the directors
- What is the difference between BOD and Governing Body?:In case of a company it is BOD . If it is a body corporate other than a company , it is the governing body.
- Stress is on ability to control (Use of the word Can). Actually such ability may or may not be exercised.

m) any person who is associated with the corporate debtor on account of

(i) participation in policy making processes of the corporate debtor; or

(ii) having more than two directors in common between the corporate debtor and such person; or

(iii) interchange of managerial personnel between the corporate debtor and such person; or

(iv) provision of essential technical information to, or from, the corporate debtor;

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- XYZ Company Ltd is a Pharmaceutical company working in the field of medicines having 4 directors namely A, B, C & D in its BOD. X being a PH.D in medicines is the 'Key Management Personnel' of the company working as Research Analyst for 15 years. Z is the son of C's Granddaughter & working as Manager in XYZ Company Ltd. D is a partner in a LLP namely ABC consultants Providing Finance related services. Examine the 'Related Party' u/s 5(24)?

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- (a) a director or partner of the corporate debtor or a relative of a director or partner of the corporate debtor.

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- (b) key managerial personnel of the corporate debtor or a relative of a key managerial personnel of the corporate debtor;
- ILLUSTRATION:XYZ Company Ltd is a Pharmaceutical company working in the field of medicines having 4 directors namely A, B, C & D in its BOD.X being a PH.D in medicines is the 'Key Management Personnel' of the company working as Research Analyst for 15 years. Z is the son of X's Granddaughter & working as Manager in XYZ Company Ltd. Examine the 'Related Party' u/s 5(24)?

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- (c) A limited liability partnership or partnership firm in which a director, partner, or manager of the corporate debtor or his relative is a partner;
- ILLUSTRATION:XYZ Company Ltd is a Pharmaceutical company working in the field of medicines having 4 directors namely A, B, C & D in its BOD.D is a partner in a LLP namely ABC consultants Providing Finance related services. Z is the son of D's Granddaughter & working as Manager in ABC Consultants Ltd. Examine the 'Related Party' u/s 5(24)?

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- (d) a private company in which a director, partner, or manager of the corporate debtor is a director and holds **along with his relatives**, more than two percent. of its share capital;
- **ILLUSTRATION I:** Sunpharma Company (p) Ltd is a Pharmaceutical company working in the field of medicines having 4 directors namely A, B, C & D in its BOD. Z is the son of D's Granddaughter & working as Manager in Sunpharma Company (p) Ltd.
- Z holds 2.5% of the paid up share capital of Sunpharma Company (p) Ltd. Examine the 'Related Party' u/s 5(24)?
- What could be the Related Party status if D although being a director do not hold any part of the paid up share capital of Sunpharma Company (p) Ltd ?
- What could be the implications if Z holds 2% of the paid up share capital of Sunpharma Company (p) Ltd?

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- (d) a private company in which a director, partner, or manager of the corporate debtor is a director and holds **along with his relatives**, more than two percent. of its share capital;
- **ILLUSTRATION II:** Sunpharma Company (p) Ltd is a Pharmaceutical company working in the field of medicines having 4 directors namely A, B, C & D in its BOD. Gulmohar Management Consultants is a LLP working in the field of Management Related Services. B is one of the partners of Gulmohar Management Consultants. Z is the son of B's Mother's Sister & working as Manager in Gulmohar Management Consultants. Gulmohar Management Consultants owes a sum of Re.75000/- to Sunpharma Company (p) Ltd. B & Z both holds 1% of the paid up share capital of Sunpharma Company (p) Ltd. Examine the 'Related Party' u/s 5(24)?
- What could be the Related Party status if B although being a director do not hold any part of the paid up share capital of Sunpharma Company (p) Ltd ?
- What could be the implications if Z holds 2% of the paid up share capital of Sunpharma Company (p) Ltd?

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- (e) a public company in which a director, partner, or manager of the corporate debtor **is a director and holds along with relatives**, more than two percent. of its paid-up share capital;
- **ILLUSTRATION I:** ABC Ltd is a Public Sector Undertaking working in the field of Bio-Agricultural Products. XYZ (P) Ltd is a private company Providing Bio-Technical Services having 3 directors namely A, B & C. SUNCARE Services is a LLP providing Finance Related Services. XYZ (P) Ltd owes a sum of Re.200000/- to ABC Ltd.
- C a director of XYZ(P) Ltd is also a director in ABC Ltd & he & his relative Z both holds 1% of the paid up share capital of ABC Ltd. SUNCARE Services owes a sum of Re.75000/- to ABC Ltd.
- Alpha a partner of SUNCARE Services is also one of the directors of ABC Ltd & he & his relative Gama holds 2% & 1% of the paid up share capital of ABC Ltd. respectively.
- Y an employee of SUNCARE Services also holds 2.5% of the paid up share capital of ABC Ltd without enjoying the director status in ABC Ltd. Examine the 'Related Party' Status u/s 5(24)?

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- (e) a public company in which a director, partner, or manager of the corporate debtor **is a director and holds along with relatives**, more than two percent. of its paid-up share capital;
- **ILLUSTRATION II:** ABC Ltd is a Public Sector Undertaking working in the field of Bio-Agricultural Products. XYZ (P) Ltd is a private company Providing Bio-Technical Services having 3 directors namely A, B & C. XYZ (P) Ltd owes a sum of Re.200000/- to ABC Ltd. C a director of XYZ (P) Ltd is also a director in ABC Ltd & holds 1% of the paid up share capital of ABC Ltd. Y a manager of XYZ (P) Ltd also holds 2.5% of the paid up share capital of ABC Ltd without enjoying the director status in ABC Ltd. Examine the 'Related Party' Status u/s 5(24)?
- What could be the implications if Y is one of the relative of C?

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- **(f)** any body corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;
- **ILLUSTRATION:** ABC Ltd is a Public Sector Undertaking working in the field of Bio-Agricultural Products. XYZ (P) Ltd is a private company Providing Bio-Technical Services having 3 directors namely A, B & C.
- C a director of XYZ (P) Ltd is also a director in ABC Ltd .Besides C ABC Ltd have 3 more directors in its BOD namely ALPHA,BETA & GAMA. The BOD of ABC Ltd are under significant influence of C and acts on the advice, directions or instructions of C in the ordinary course of business. Examine the 'Related Party' Status u/s 5(24)?

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- **(g)** any limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, acts on the advice, directions, or instructions of a director, partner, or manager of the corporate debtor;
- **ILLUSTRATION:** RELIABLE SOLUTIONS is a LLP working in the field of Consultancy Services regarding Management, Corporate, Tax & Finance having Ram, Sohan, Shyam & Deepti as its partners. XYZ (P) Ltd is a private company Providing Bio-Technical Services having 3 directors namely A, B & C.
- The Partners of RELIABLE SOLUTIONS are under significant influence of C and acts on the advice, directions or instructions of C in the ordinary course of business . Examine the 'Related Party' Status u/s 5(24)?
- What could be the implications if RELIABLE SOLUTIONS is a Partnership Firm & not a LLP?

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- **(h)** any person on whose advice, directions or instructions, a director, partner or manager of the corporate debtor is accustomed to act;
- **ILLUSTRATION:** RELIABLE SOLUTIONS is a LLP working in the field of Consultancy Services regarding Management, Corporate, Tax & Finance having Ram, Sohan, Shyam & Deepti as its partners. XYZ (P) Ltd is a private company Providing Bio-Technical Services having 3 directors namely A, B & C. RELIABLE SOLUTIONS & XYZ (P) Ltd both owes a sum of Re.10,00,000/- & Re.12,50,000/- to Manikarnika (a leading Merchant Banker who advances unsecured loans to corporates & Firms), being a friend of Ramlal. Ramlal an Ex-serviceman from the field of Commerce & Industry have a great significant influence on both RELIABLE SOLUTIONS & XYZ (P) Ltd. The Partners of RELIABLE SOLUTIONS & directors of XYZ (P) Ltd are accustomed to act on the advice, directions or instructions of Ramlal . Examine the 'Related Party' Status u/s 5(24)?
- What could be the implications if Manikarnika is a relative of Ramlal instead of being a friend?

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- (i) a body corporate which is a holding, subsidiary or an associate company of the corporate debtor, or a subsidiary of a holding company to which the corporate debtor is a subsidiary;
- **ILLUSTRATION:** In the above text 4 words are of a great significance. The words are:
 - Holding Company
 - Subsidiary Company
 - Associate Company &
 - Corporate Debtor.
- Now, we will understand the basic idea behind the above words.
- XYZ Pvt Ltd (Body Corporate) is holding company of ABC Pvt Ltd (CD)
- XYZ Pvt Ltd is a holding company of LML Ltd

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- **Holding Company:**
- Section 2(46) of the Companies Act, 2013 defines Holding Company. The company is said to be the holding company if that particular company holds/owns at least 50% of the other companies and has the authority to make management decisions, influences and controls the company's board of directors.
- **Sec 2(46) of the Companies Act, 2013 defines as follows:**
“**Holding company**”, in relation to one or more other companies, means a company of which such companies are subsidiary companies. 1. Meaning of 'Holding Company': Holding company means a company having one or more subsidiaries.
- **A holding company is a parent business entity—usually a corporation or LLC—that doesn't manufacture anything, sell any products or services, or conduct any other business operations. Its purpose, as the name implies, is to hold the**

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- **Types of Holding Companies:**
- **Pure.** A holding company is described as pure if it was formed for the sole purpose of owning stock in other companies.
- **Mixed.** A mixed holding company not only controls another firm but also engages in its own operations.
- **Immediate.**
- **Intermediate.**
- An example of a well-known holding company is **Berkshire Hathaway**, which owns assets in more than one hundred public and private companies, including Dairy Queen, Clayton Homes, Duracell, GEICO, Fruit of the Loom, RC Wiley Home Furnishings and Marmon Group.
- **Another examples of Holding companies are:**
- **Prudential Financial , Inc.**
- **MetLife, Inc.**
- **American International Group, Inc.**

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- **Subsidiary Company:**
- In the corporate world, a subsidiary is **a company that belongs to another company, which is usually referred to as the parent company or the holding company**. The parent holds a controlling interest in the subsidiary company, meaning it has or controls **more than half of its stock**.
- Section 2(87) of the Companies Act, 2013 defines the Subsidiary Company. The subsidiary company is **the company that is controlled by the holding or parent company**. It is defined as a company/body corporate where the holding company **controls the composition of the Board of Directors** or **controls more than one half of total share capital** either on its own or together with one or more of its subsidiaries.
- A subsidiary company is a company that is completely or partially owned by another company, which may be a parent company that also has business operations or a holding company whose sole purpose is to own its subsidiaries.¹

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- A subsidiary company is a business that is owned, either partially or completely, by another company. This company is referred to as a parent company (if it has other business operations) or a holding company (if the sole purpose of the company is to own its subsidiaries).
- The holding or parent company must own more than 50% of the subsidiary company. If it owns 100%, the subsidiary company is called a "wholly owned subsidiary."
- What is a good example of a subsidiary? An example of a subsidiary is **Google, owned by Alphabet; Instagram, owned by Facebook, and NBC, owned by General Electric**. The parent owns more than 50% of the subsidiary and holds a controlling interest in the stock.

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- How many subsidiaries can a company have?
- The Companies Act, 2013 ('Companies Act') read with the Companies (Restriction on Number of Layers) Rules, 2017 ('Layering Rules') provides that a company is **not allowed to have more than 2 (two) layers of subsidiaries.**
- Can private companies have subsidiaries?
- **Any private company can be the Holding as well as subsidiary of any Public or private company.**
- Do subsidiaries need to be registered?
- If the company makes the business line a subsidiary, the company may also decide to incorporate it as a legally separate entity. The decision rests with the business owner or parent company, as **subsidiaries aren't legally required to be incorporated.**

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- Can a subsidiary become independent?
- **A subsidiary can itself own other subsidiaries.** This is increasingly common and has led to modern corporations that are several layers deep. Subsidiaries owned by the same parent company are called "sister companies." Sister companies operate independently, even sometimes in direct competition with each other.
- What are the types of subsidiary companies?
- **Examples of Subsidiary Company**
- Facebook is a popular company in the digital industry. It has various subsidiaries acquired from time to time. ...
- Google & Nest are subsidiaries of Alphabet.
- TCS – Tata consultancy services are of TATA Group.
- Jio belongs to the Reliance Group.
- Lenovo acquired Motorola.

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- **Associate Company:**
- 'associate company', in relation to another company, means **a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.**
- **Section 2(6) of Companies Act, 2013:**“Associate company”, in relation to another company, means a company in which that other company has **a significant influence**, but which is **not a subsidiary company** of the company having such influence and includes a joint venture company of such company having significant influence.
- **Explanation.** – For the purposes of this clause, —“**significant influence**” means **control of at least twenty per cent. of total share capital, or of business decisions under an agreement.**
- **Example of associate company:** Like **Mahindra and Mahindra Limited** there are many such examples to quote.

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- The Indian Accounting Standards (IAS 28) also defines an associate company as a company where an investor has significant influence. Significant Influence is further defined in IAS 28 as ‘the power to participate in the financial and operating policy decisions of the company but not control or jointly control those policies.’
- “Joint control” is the contractually agreed sharing of control of an arrangement, which exists only when decisions about the relevant activities require the unanimous consent of the parties sharing control.
- **Section 29A and Associated Company:**
- Section 29A of IBC 2016 talks about the ineligibility criteria for a Resolution Applicant to submit a resolution plan. As per Explanation 1 to Section 29A, Associated Company is included in the definition of the Connected Person. Also, Section 5(24) of the IBC determines an associated company as a related party. It means that the associated company comes under the ambit of both, connected person and related party.

RELATED PARTY

SECTION 5(24)

- **IBC Section 79-**
- “associate” of the debtor means—
- (a) a person who belongs to the immediate family of the debtor;
- (b) a person who is a relative of the debtor or a relative of the spouse of the debtor;
- (c) a person who is in partnership with the debtor;
- (d) a person who is a spouse or a relative of any person with whom the debtor is in partnership;
- (e) a person who is employer of the debtor or employee of the debtor;
- (f) a person who is a trustee of a trust in which the beneficiaries of the trust include a debtor, or the terms of the trust confer a power on the trustee which may be exercised for the benefit of the debtor; and
- (g) a company, where the debtor or the debtor along with his associates, own more than fifty per cent. of the share capital of the company or control the appointment of the board of directors of the company.
- *Explanation.*—For the purposes of this sub-section, “relative”, with reference to any person, means anyone who is related to another, if—
(i) there are members of a Hindu undivided family

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- **Corporate Debtor:**
- Corporate Debtor under the IBC. As per Section 3(8), Corporate Debtor means **a corporate person who owes a debt to any person.**
- **Corporate Person** shall be specified as u/s 3(7) of IBC, which includes the following:
 - Companies defined under the companies act.
 - LLP defined under the LLP Act.
 - Any other person incorporated with limited liability.
 - Nevertheless, it does not include financial services providers, i.e., Banks or NBFC's.

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- (j) any person who controls more than twenty percent. of voting rights in the corporate debtor on account of ownership or a voting agreement;
- **ILLUSTRATION: Sunpharma Company (p) Ltd is a Pharmaceutical company working in the field of medicines having 3 directors namely A, B, & C in its BOD. Their Respective shareholdings in the company are as follows:**
 - **A 8**
 - **B 1**
 - **C 7**
 - **D 5**
- **D has entered into an agreement with A,B,and C that in case they are required to vote on a resolution of Sun Pharma Co. Pvt Ltd.,D will be voting on behalf of B,C and A s well**
- **Whether D is a related party of sun Pharma Co(P)Ltd.**

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- (a) If D along with C controls the voting rights in the company under a voting agreement, What could be the implications?
- (b) What if B dies & GAMA the son of B (who is a MINOR) entitled to the share of B?
- (c) What if D dies & KAMALTARANGINI his daughter (who happens to be a MINOR) entitled to the share of D?
- (d) What if C dies & KAMALPRIYA (the only child & the Step Daughter of C) entitled to the share of C?

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- (k) **any person in whom the corporate debtor controls** more than twenty percent. of voting rights on account of ownership or a voting agreement;
- A group of shareholders may enter into a mutual agreement to pool their votes and cast them in a particular manner. Such agreements could also contain several other conditions which could result in curtailment of rights of certain individual shareholders or group of shareholders. ***This is known as voting agreement.*** In a voting agreement or a pooling pact, each shareholder retains sole ownership of shares binding him only to vote for a specific person or in a certain way. **The Supreme Court in the case of *Mohan Lal Chandumall And Ors. vs. Punjab Company Ltd., Bhatinda*^[3] held such agreements to be enforceable in law** since the right to cast a vote is regarded as a proprietary right and the shareholder can exercise such right as he wants. Most American states recognize expressly that agreements between shareholders to vote their shares in

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- The Supreme Court in *Gherulal Parekh v. Mahadeo Das Maiya* [7] held that **freedom of contract can be restricted by law only in case of public interest**. The court held that such agreements are valid provided that they are entered into keeping in mind the best interest of the company. It is important that such Shareholder's Agreement must be in accordance with the Articles of Association of the company. The essential purpose of a shareholder's agreement is to ensure proper and effective internal management of the company. There is **no express provision under Companies Act 1956, FERA 1973, RBI regulations or I.T. Act, which restricts shareholders of a company from entering into agreements regarding exercised of voting rights attached to their shares**.
- Thus, voting agreement is essentially An agreement between two or more shareholder if in writing and signed by the parties thereto, may provide that in exercising any voting rights, shares held by them shall be votes as provided by the agreement ,or

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- Related questions to this Clause:
- Q1. Corporate Debtor's relationship in regard to an individual.
- How can the Corporate Debtor controls more than 20% of voting rights on a/c of ownership or a voting agreement in regard to an Individual?
- It seems that the word used here 'Any person' denotes the Corporate Person (as defined under the IBC Code) only & not the Individual.
- Q2 Can a Corporate Person (As defined under the IBC CODE) enter into a valid agreement with a Non-corporate Person (as per the definition under the IBC code) i.e. Individual in relation to voting rights in a Corporate Person?
- **As per our view a Corporate Person (as per the IBC code) may enter into a valid contract with a non corporate person but not in regard to Voting agreements.**

SECTION 5(24)

- **ILLUSTRATION:** Moonpharma Company (P) Ltd is a Pharmaceutical company working in the field of medicines having 3 directors namely A, B, & C in its BOD. Its Respective shareholdings in the following are as follows:

• ABC CONSULTANTS LLP	20
• B.PHARMA CO (P) LTD	21
• C.PHARMACEUTICALS LTD	17
• D	25

- Moonpharma Company (P) Ltd owes the following sums to the aforesaid parties:

• ABC CONSULTANTS LLP	12,75,000/-
• B.PHARMA CO (P) LTD	22,37,500/-
• C.PHARMACEUTICALS LTD	17,75,250/-
• D	37,72,500/-

- Moonpharma Company (P) Ltd under a voting agreement with D Controls 32% of voting rights in C.PHARMACEUTICALS LTD. The respective shareholdings of D in the latter are 15%. Examine the 'Related Party' u/s 5(24)?

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- **Solution: Moonpharma** Company (P) Ltd , THE CORPORATE DEBTOR IS A RELATED PARTY IN RELATION TO:
- B.PHARMA CO (P) LTD 21 AS IT HOLDS MORE THAN 20% OF IT'S VOTING RIGHTS ON ACCOUNT OF OWNERSHIP & NOT A RELATED PARTY TO ANY OF THE FOLLOWING:
- ABC CONSULTANTS LLP 20
- C.PHARMACEUTICALS LTD 17
- D 25 AT THE FIRST INSTANCE. In case of D although it holds 25% as per the given situation but that situation is only introduced to test the validity of the Clause mentioned. The question being the same. How can the Corporate Debtor controls more than 20% of voting rights on a/c of ownership or a voting agreement in regard to an Individual?

ILLUSTRATIONS FOR RELATED PARTY SECTION 5(24)

- NOW SINCE Moonpharma Company (P) Ltd is a corporate person as per IBC CODE and a Corporate Person can enter into a valid Contract with any person (Whether Corporate or Non-Corporate). Is the Contract made by Moonpharma Company (P) Ltd with D in regard to VOTING RIGHTS IN C.PHARMACEUTICALS LTD valid? The answer of this Question is very difficult to give but let me give a try
- It is pertinent to note in the given situation that neither Moonpharma Company (P) Ltd nor the D holds more than 20% of voting rights in C.PHARMACEUTICALS LTD in their individual capacity. Also we have to consider that although Moonpharma Company (P) Ltd is a Corporate Debtor to both D & C.PHARMACEUTICALS LTD but D is not a Corporate Debtor to any of Moonpharma Company (P) Ltd or C.PHARMACEUTICALS LTD. Now read the Clause given carefully:
- **“any person in whom the corporate debtor controls more than**

SECTION 5(24)

- From the aforesaid description the inference which can be drawn is that Both Moonpharma Company (P) Ltd & D are not Related Party to C.PHARMACEUTICALS LTD in their individual capacity as their shareholding in the said company is below the statutory limit.
- Now if the Moonpharma Company (P) Ltd & D join hands under a Voting Agreement is it enforceable in the eyes of law ?Is the contract made by a Corporate Debtor with any person who is not a Corporate Debtor to the party under consideration be considered valid in the eyes of law? If the answer to the aforesaid questions is Yes , in that case D stands as a Personal Guarantor for Moonpharma Company (P) Ltd & thereby Both the Moonpharma Company (P) Ltd & D are Related Party in regard to the C.PHRMACEUTICALS LTD. If the answer to the aforesaid questions is NO then both the Parties i.e. Moonpharma Company (P) LTD & D are not Related Party in regard to the C.PHRMACEUTICALS LTD.
- From the view point of D since D is not a corporate debtor to C.PHARMACEUTICALS LTD & the clause specifically talks about the Corporate debtor controlling the voting rights in any

Section 4

05

Q) Minimum amount of default in case of insolvency and liquidation of corporate persons is

a) One lakh rupees

b) One crore rupees

c) One thousand rupees

d) Ten lakh rupees

Section 4

05

Q) Increase in threshold limit from one lakh to one crore in case of insolvency and liquidation is

a) prospective

b) retrospective

c) Applicable from the date of the notification

d) Prospective and would not apply to pending applications filed prior to the issuance of the aforesaid notification

Section 5

05

Q) Constitution of National Company Law Tribunal is

a) As per IBC, 2016

b) As per section 408 of the
Companies Act, 2013

c) As per the Constitution

d) As per the delegated
powers of Central Govt.

Section 5

05

Q) Auditor means

a) CA/CS/CMA having COP

b) CA having COP

c) CA having COP and Cost auditor

d) Statutory and Internal Auditor

Chapter 2: Sections 6 to 32

Section 6

Corporate Debtor Defaults

FC or OC or the Corporate Debtor itself may Initiate insolvency proceeding

The expression default bears the same meaning in Sections 7 and 8 of the code.

Section 7

FC Itself **OR** Jointly with other FC

File Application to AA

- Record of the default
- name of RP to act as IRP
- Any other information specified by Board

* Default includes for financial Debt not only to applicant
But to any other financial creditor

SECTION 7 TO 9..

Section 7

AA shall

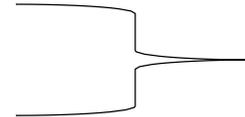
within 14 days

Ascertaining (1) default has occurred



(2) No disciplinary proceeding pending against proposed RP

No default



Admits the application

reject the application

•Before rejecting given notice to rectify the defect WITHIN 7 Days of receipt of such notice from AA. This period of seven days for rectifying defects is not mandatory.

Communication within 7 days to creditors

For the purpose of admitting an application under Section 7, default has to be ascertained as on the date of decision of the adjudicating authority and not at the time of filing the application.

SECTION AMENDMENT-Second Day Session

- 5 In section 5 of the Insolvency and Bankruptcy Code, 2016 (hereafter referred to as the principal Act),— (i) in clause (12), the proviso shall be omitted; (ii) in clause (15), after the words "during the insolvency resolution process period" occurring at the end, the words "and such other debt as may be notified" shall be inserted. In section 5 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the principal Act), in clause (26), the following Explanation shall be inserted, namely:—
“Explanation.—For the removal of doubts, it is hereby clarified that a resolution plan may include provisions for the restructuring of the corporate debtor, including by way of merger, amalgamation and demerger;”
- 7 In section 7 of the principal Act, in sub-section (1), before the Explanation, the following provisos shall be inserted, namely:— "Provided that for the financial creditors, referred to in clauses (a) and (b) of sub-section (6A) of section 21, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such creditors in the same class or not less than ten per cent. of the total number of such creditors in the same class, whichever is less: Provided further that for financial creditors who are allottees under a real estate project, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such allottees under the same real estate project or not less than ten per cent. of the total number of such allottees under the same real estate project, whichever is less: Provided also that where an application for initiating the corporate insolvency resolution process against a corporate debtor has been filed by a financial creditor referred to in the first and second provisos and has not been admitted by the Adjudicating Authority before the commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2020, such application shall be modified to comply with the requirements of the first or second proviso within thirty days of the commencement of the said Act, failing which the application shall be deemed to be withdrawn before its admission."
- In section 7 of the principal Act, in sub-section (4), the following proviso shall be of section 7. inserted, namely:—
“Provided that if the Adjudicating Authority has not ascertained the existence of default and passed an order under sub-section (5) within such time, it shall record its reasons in writing for the same.”

SECTION 7 TO 9..

OC

Section 8

On occurrence of default

-Deliver a demand notice to Debtor/ or copy of unpaid invoice

to the corporate Debtor

within 10 days **of receipt** of demand notice

↓
-Bring to the notice of OC

-Existence of dispute if any or record of pending suit, arbitration process **may or may not have been filed before receipt** of such notice

OR repay the amount /send attest copy of record of electronic transfer/ or attest copy of record of encashed cheque by OC

Important Points:

Mode of Delivery of Form 3 or Form 4

Delivery through Electronic Mail

Delivery on specified personnel of CD

Whether Lawyer can sign or issue Demand notice

Demand Notice can be issued by a lawyer on behalf of OC

Demand notice or invoice demanding payment to be filed with Information Utility

FAQ available on NESL website : <https://nesl.co.in/faqs/>

- Important Points Continued:
- How to calculate the period of ten days
- Existence of Dispute
- **Section 9**
- After the expiry of 10 days from the date of delivery of notice or invoice
 - **OC**
 - File application to AA
 - Copy of invoice demanding payment or demand notice
 - Affidavit to the effect that there is no notice given by the Corporate Debtor relating to a dispute of the unpaid operational Debt
 - Copy of Certificate from the financial institution/information utility maintaining accounts of the operational creditor if available

- Important Points to be considered:
- Service of Notice on the CD
- Reasonable Opportunity to CD before admitting application
- Substituted Service
- Appropriation of Payment-As per Indian Contract act
- Opportunity to file fresh affidavit by OC
- Joint application by Workmen/Employees permitted

SECTION 10 TO 12..

Section 10

In case a Corporate Debtor has committed a default, the corporate applicant on behalf of the corporate Debtor may itself file application to AA. Special resolution passed by the shareholders of the corporate debtor or $\frac{3}{4}$ th of the total number of partners. Books of Accounts & other document as specified may be submitted along-with the application. RP proposed to be appointed or IRP and no disciplinary proceedings are pending

In an application filed under Section 10,FC or OC may dispute that there is no default or that the debt is not due and is not payable . However the adjudicating authority has no option but to admit the application if the conditions laid down are satisfied.

AA

within 14 days of receipt of application



Admit

reject

Before rejecting give notice to rectify defect within 7 days from date of receipt of such notice from AA

- Important Points:
- Pendency of petition before DRT and invocation of SARFAESI Act is no ground not to commence IRP
- Notice to secured creditors to be given before admitting application under Section 10

SECTION	AMENDMENT	GIST OF AMENDMENT
10 A	<p>Suspension of initiation of corporate insolvency resolution process</p> <p>Notwithstanding anything contained in sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf:</p> <p>Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.</p> <p>Explanation.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March, 2020."</p>	

SECTION 10 TO 12..

Section 11

Persons not entitled to make application

- (a) Corporate Debtor Undergoing Insolvency process
- (b) CD Completed insolvency process 12 months preceding the date of making the application
- (c) CD/ FC Violated any term of resolution plan approved 12 months before the date of making application
- (d) CD for whom liquidation order has been passed.

No proceeding shall be initiated against IRP/RP for the action of CD, prior to the ICD.

Resolution Plan has to be approved by COC

IRP/RP for claims

- a) Form A – Public Announcement by IRP
- b) Form B – Proof of claim by OC Except workmen & Employees [post or electronic]
- c) Form C – Proof of claim by financial Creditors [Electronic mean]
- d) Form D – Proof of claim by workman or an Employee [Post or Electronic]
- e) Form E – Proof of claim Authorised representative of workmen & Employees [Post or Electronic]
- f) Form F (Proof of claim other than FCs and Ocs),Form –FA(Application for withdrawl),Form G(Invitation for EOI) and Form H(Compliance Certificate) introduced

SECTION	AMENDMENT
11	In section 11 of the principal Act, the Explanation shall be numbered as Explanation I and after Explanation I as so numbered, the following Explanation shall be inserted, namely:— "Explanation II.— For the purposes of this section, it is hereby clarified that nothing in this section shall prevent a corporate debtor referred to in clauses (a) to (d) from initiating corporate insolvency resolution process against another corporate debtor."

³[11A. Disposal of applications under section 54C and under section 7 or section 9 or section 10.

(1) Where an application filed under section 54C is pending, the Adjudicating Authority shall pass an order to admit or reject such application, before considering any application filed under section 7 or section 9 or section 10 during the pendency of such application under section 54C, in respect of the same corporate debtor.

(2) Where an application under section 54C is filed within fourteen days of filing of any application under section 7 or section 9 or section 10, which is pending, in respect of the same corporate debtor, then, notwithstanding anything contained in sections 7, 9 and 10, the Adjudicating Authority shall first dispose of the application under section 54C.

(3) Where an application under section 54C is filed after fourteen days of the filing of any application under section 7 or section 9 or section 10, in respect of the same corporate debtor, the Adjudicating Authority shall first dispose of the application under section 7, section 9 or section 10.

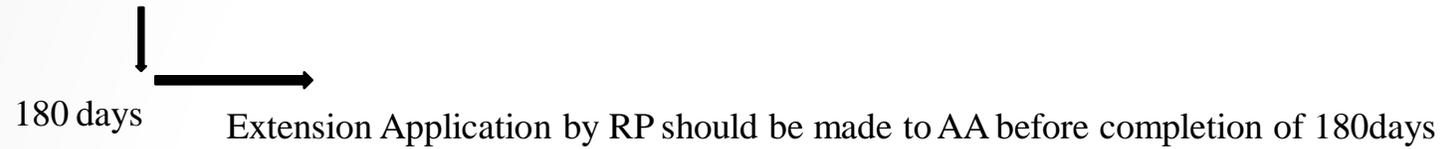
(4) The provisions of this section shall not apply where an application under section 7 or section 9 or section 10 is filed and pending as on the date of the commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2021.]

Situation	Treatment
Where an application filed under section 54C is pending	the Adjudicating Authority shall pass an order to admit or reject such application, before considering any application filed under section 7 or section 9 or section 10
Where an application under section 54C is filed within fourteen days of filing of any application under section 7 or section 9 or section 10, which is pending, in respect of the same corporate debtor	the Adjudicating Authority shall first dispose of the application under section 54C.
Where an application under section 54C is filed after fourteen days of the filing of any application under section 7 or section 9 or section 10, in respect of the same corporate debtor	the Adjudicating Authority shall first dispose of the application under section 7, section 9 or section 10
The provisions of this section shall not apply	where an application under section 7 or section 9 or section 10 is filed and pending as on the date of the commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2021.]

SECTION 10 TO 12

Section 12

Time line for IR process



AND

Extension not Exceeding 90 days → Instructed by resolution passed by Co C with **66%** voting

↓
Shall be granted once only

Section 12A

Provision for withdrawal of application even after admission if COC agrees with 90% voting power majority

Section 13

AA → After admission of application

U/S 7, 9 & 10

(a) declare moratorium

(b) Appoint IRP

SECTION	AMENDMENT
	<p>In section 12 of the principal Act, in sub-section (3), after the proviso, the following of section 12. provisos shall be inserted, namely:—</p> <p>“Provided further that the corporate insolvency resolution process shall mandatorily be completed within a period of three hundred and thirty days from the insolvency commencement date, including any extension of the period of corporate insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor:</p> <p>Provided also that where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso, such resolution process shall be completed within a period of ninety days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.”.</p>

MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION
New Delhi, the 30th November, 2016

G.S.R. 1108(E).—In exercise of the powers conferred by clauses (c), (d), (e) and (f) of sub-section (1) of section 239 read with sections 7, 8, 9 and 10 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby makes the following Rules, namely:-

1. Short title and commencement.—

- (1) These rules may be called the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
- (2) They shall come into force from the 1st day of December, 2016.

2. Application.—These Rules shall apply to matters relating to the corporate insolvency resolution process.

3. Definitions.—(1) In these Rules, unless the context otherwise requires,-

- (a) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
 - (b) “corporate insolvency resolution process” means the insolvency resolution process for corporate persons under Chapter II of Part II of the Code;
 - (c) “credit information company” shall have the meaning as assigned to it under the Credit Information Companies (Regulation) Act, 2005 (30 of 2005);
 - (d) “financial contract” means a contract between a corporate debtor and a financial creditor setting out the terms of the financial debt, including the tenure of the debt, interest payable and date of repayment;
 - (e) “Form” means a Form appended to these rules;
 - (f) “identification number” means the limited liability partnership identification number or the corporate identity number, as the case may be, of the corporate person;
 - (g) “Schedule” means the Schedule appended to these rules.
- (2) All the words and expressions used herein and not defined shall have the meanings respectively assigned to them under the Code.

4. Application by financial creditor.—

- (1) A financial creditor, either by itself or jointly, shall make an application for initiating the corporate insolvency resolution process against a corporate debtor under section 7 of the Code in Form 1, accompanied with documents and records required therein and as specified in the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (2) Where the applicant under sub-rule (1) is an assignee or transferee of a financial contract, the application shall be accompanied with a copy of the assignment or transfer agreement and other relevant documentation to demonstrate the assignment or transfer.
- (3) The applicant shall serve a copy of the application to the registered office of the corporate debtor and to the Board, by registered post or speed post or by hand or by electronic means, before filing with the Adjudicating Authority.
- (4) In case the application is made jointly by financial creditors, they may nominate one amongst them to act on their behalf.

5. Demand notice by operational creditor.—

- (1) An operational creditor shall deliver to the corporate debtor, the following documents, namely.-
 - (a) A demand notice in Form 3; or
 - (b) A copy of an invoice attached with a notice in Form 4.
- (1) The demand notice or the copy of the invoice demanding payment referred to in sub- section (2) of section 8 of the Code, may be delivered to the corporate debtor,
 - (a) At the registered office by hand, registered post or speed post with acknowledgement due; or
 - (b) By electronic mail service to a whole time director or designated partner or key managerial personnel, if any, of the corporate debtor.
- (3) A copy of demand notice or invoice demanding payment served under this rule by an operational creditor shall also be filed with an information utility, if any.

6. Application by operational creditor.—

- (1) An operational creditor, shall make an application for initiating the corporate insolvency resolution process against a corporate debtor under section 9 of the Code in Form 5, accompanied with documents and records required therein and as specified in the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (2) The applicant under sub-rule (1) shall serve a copy of the application to the registered office of the corporate debtor and to the Board, by registered post or speed post or by hand or by electronic means, before filing with the Adjudicating Authority.

Application by corporate applicant.—

- (1) A corporate applicant, shall make an application for initiating the corporate insolvency resolution process against a corporate debtor under section 10 of the Code in Form 6, accompanied with documents and records required therein and as specified in the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (2) The applicant under sub-rule (1) shall serve a copy of the application to the Board by registered post or speed post or by hand or by electronic means, before filing with the Adjudicating Authority.

8. Withdrawal of application.—The Adjudicating Authority may permit withdrawal of the application made under rules 4, 6 or 7, as the case may be, on a request made by the applicant before its admission.

9. Interim resolution professional.—

- (1) The applicant, wherever he is required to propose or proposes to appoint an insolvency resolution professional, shall obtain a written communication in Form 2 from the insolvency professional for appointment as an interim resolution professional and enclose it with the application made under rules 4, 6 or 7, as the case may be.
- (2) The application under sub-rule (1) shall be accompanied by a certificate confirming the eligibility of the proposed insolvency professional for appointment as a resolution professional in accordance with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

10. Filing of application and application fee.—

- (1) Till such time the rules of procedure for conduct of proceedings under the Code are notified, the application made under sub-section (1) of section 7, sub-section (1) of section 9 or sub-section (1) of section 10 of the Code shall be filed before the Adjudicating Authority in accordance with rules 20, 21, 22, 23, 24 and 26 of Part III of the National Company Law Tribunal Rules, 2016.
- (2) An applicant under these rules shall immediately after becoming aware, notify the Adjudicating Authority of any winding-up petition presented against the corporate debtor.
- (3) The application shall be accompanied by such fee as specified in the Schedule.
- (4) The application and accompanying documents shall be filed in electronic form, as and when such facility is made available and as prescribed by the Adjudicating Authority: Provided that till such facility is made available, the applicant may submit the accompanying documents, and wherever they are bulky, in electronic form, in scanned, legible portable document format in a data storage device such as a compact disc or a USB flash drive acceptable to the Adjudicating Authority.

Form 1

(See sub-rule (1) of rule 4)

**APPLICATION BY FINANCIAL CREDITOR(S) TO INITIATE CORPORATE INSOLVENCY
RESOLUTION PROCESS UNDER THE CODE.**

**(Under section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4
of the Insolvency and Bankruptcy (Application to Adjudicating Authority)
Rules, 2016)**

To,

The National Company Law Tribunal

[Address]

From,

[Names and addresses of the registered offices of the financial creditors]

In the matter of [name of the corporate debtor]

Subject: Application to initiate corporate insolvency resolution process in the matter of [name of the corporate debtor] under the Insolvency and Bankruptcy Code, 2016. Madam/Sir,

[Names of the financial creditor(s)], hereby submit this application to initiate a corporate insolvency resolution process in the matter of [name of corporate debtor]. The details for the purpose of this application are set out below:

PART- I

PARTICULARS OF APPLICANT (PLEASE PROVIDE FOR EACH FINANCIAL CREDITOR MAKING THE APPLICATION)

1	NAME OF FINANCIAL CREDITOR	
2	DATE OF INCORPORATION OF FINANCIAL CREDITOR	
3	IDENTIFICATION NUMBER OF FINANCIAL CREDITOR	
4	ADDRESS OF THE REGISTERED OFFICE OF THE FINANCIAL CREDITOR	
5	NAME AND ADDRESS OF THE PERSON AUTHORISED TO SUBMIT APPLICATION ON ITS BEHALF (ENCLOSE AUTHORISATION)	
6	NAME AND ADDRESS OF PERSON RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON ITS BEHALF (ENCLOSE AUTHORISATION)	

PART– II

PARTICULARS OF THE CORPORATE DEBTOR

1	NAME OF THE CORPORATE DEBTOR	
2	IDENTIFICATION NUMBER OF CORPORATE DEBTOR	
3	DATE OF INCORPORATION OF CORPORATE DEBTOR	
4	NOMINAL SHARE CAPITAL AND THE PAID-UP SHARE CAPITAL OF THE CORPORATE DEBTOR AND/OR DETAILS OF GUARANTEE CLAUSE AS PER MEMORANDUM OF ASSOCIATION (AS APPLICABLE)	
5	ADDRESS OF THE REGISTERED OFFICE OF THE CORPORATE DEBTOR	
6	DETAILS OF THE CORPORATE DEBTOR AS PER THE NOTIFICATION UNDER SECTION 55 (2) OF THE CODE– (i) ASSETS AND INCOME (ii) CLASS OF CREDITORS OR AMOUNT OF DEBT (iii) CATEGORY OF CORPORATE PERSON (WHERE APPLICATION IS UNDER CHAPTER IV OF PART II OF THE CODE)]	

PART – III

PARTICULARS OF THE PROPOSED INTERIM RESOLUTION PROFESSIONAL

1	NAME, ADDRESS, EMAIL ADDRESS AND THE REGISTRATION NUMBER OF THE PROPOSED INTERIM RESOLUTION PROFESSIONAL	
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PART-IV

PARTICULARS OF FINANCIAL DEBT

PARTICULARS OF FINANCIAL DEBT		
1	TOTAL AMOUNT OF DEBT GRANTED DATE(S) OF DISBURSEMENT	
2	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM)	

PART – V

PARTICULARS OF FINANCIAL DEBT [DOCUMENTS, RECORDS AND EVIDENCE OF DEFAULT]

PARTICULARS OF FINANCIAL DEBT [DOCUMENTS, RECORDS AND EVIDENCE OF DEFAULT]		
1	PARTICULARS OF SECURITY HELD, IF ANY, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR. ATTACH A COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES (IF THE CORPORATE DEBTOR IS A COMPANY)	
2	PARTICULARS OF AN ORDER OF A COURT, TRIBUNAL OR ARBITRAL PANEL ADJUDICATING ON THE DEFAULT, IF ANY (ATTACH A COPY OF THE ORDER)	

3	RECORD OF DEFAULT WITH THE INFORMATION UTILITY, IF ANY (ATTACH A COPY OF SUCH RECORD)	
4	DETAILS OF SUCCESSION CERTIFICATE, OR PROBATE OF A WILL, OR LETTER OF ADMINISTRATION, OR COURT DECREE (AS MAY BE APPLICABLE), UNDER THE INDIAN SUCCESSION ACT, 1925 (10 OF 1925) (ATTACH A COPY)	
5	THE LATEST AND COMPLETE COPY OF THE FINANCIAL CONTRACT REFLECTING ALL AMENDMENTS AND WAIVERS TO DATE (ATTACH A COPY)	
6	A RECORD OF DEFAULT AS AVAILABLE WITH ANY CREDIT INFORMATION COMPANY (ATTACH A COPY)	
7	COPIES OF ENTRIES IN A BANKERS BOOK IN ACCORDANCE WITH THE BANKERS BOOKS EVIDENCE ACT, 1891 (18 OF 1891) (ATTACH A COPY)	
8	LIST OF OTHER DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF FINANCIAL DEBT, THE AMOUNT AND DATE OF DEFAULT	

I, hereby certify that, to the best of my knowledge, [name of proposed insolvency professional], is fully qualified and permitted to act as an insolvency professional in accordance with the Insolvency and Bankruptcy Code, 2016 and the associated rules and regulations.

[[Name of the financial creditor] has paid the requisite fee for this application through [state means of payment] on [date] and served a copy of this application by registered post/speed post/by hand/electronic means to the registered office of the corporate debtor and to the Board.]

Yours sincerely,

Instructions

Please attach the following to this application:

Annex I Copies of all documents referred to in this application

Annex II Written communication by the proposed interim resolution professional as set out in Form 2.

Annex III Proof that the specified application fee has been paid.

Annex IV Where the application is made jointly, the particulars specified in this form shall be furnished in respect of all the joint applicants along with a copy of authorisation to the financial creditor to file and act on this application on behalf of all the applicants.

Annex V Proofs of serving a copy of the application (a) to the corporate debtor, and (b) to the Board.

FORM 2

(See sub-rule (1) of rule 9)

(Under rule 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

WRITTEN COMMUNICATION BY PROPOSED INTERIM RESOLUTION PROFESSIONAL

To,

The National Company Law Tribunal

[Address]

From,

[Name and address of the registered office of the proposed interim resolution professional]

In the matter of [name of the corporate debtor]

Subject: Written communication in connection with an application to initiate corporate insolvency resolution process in respect of [name of the corporate debtor]

Madam/Sir,

I, [name of proposed interim resolution professional], an insolvency professional registered with [name of insolvency professional agency] having registration number [registration number] have been proposed as the interim resolution professional by [name of applicant financial creditor] in connection with the proposed corporate insolvency resolution process of [name of the corporate debtor].

In accordance with rule 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, I hereby:

- (i) Agree to accept appointment as the interim resolution professional if an order admitting the present application is passed;
- (ii) State that the registration number allotted to me by the Board is [insert registration number] and that I am currently qualified to practice as an insolvency professional;
- (iii) disclose that I am currently having the following assignments in hand:
- (iv) certify that there are no disciplinary proceedings pending against me with the Board or [name of the insolvency professional agency he is a member of];
- (v) affirm that I am eligible to be appointed as a resolution professional in respect of the corporate debtor in accordance with the provisions of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;

disclose that I am currently having the following assignments in hand:

S.NO	ASSIGNMENT AS	NUMBER OF ASSIGNMENTS	NO	NAME OF CORPORATE DEBTOR	DATE OF COMMENCEMENT OF PROCESS	EXPECTED DATE OF CLOSURE OF PROCESS
CORPORATE PROCESS						
1	IRP					
2	RP					
3	Liquidator (including Voluntary liquidations)					
4	Authorised Representative					
INDIVIDUAL PROCESS						
5	Resolution Professional					
6	Bankruptcy Trustee					
7	Any other.					

(vi) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;

(Signature of the insolvency professional)

(Name in block letters)

(Name of insolvency professional entity, if applicable)

[Optional certification, if required by the applicant making an application under these Rules]

I, hereby, certify that the facts averred by the applicant in the present application are true, accurate and complete and a default has occurred in respect of the relevant corporate debtor. I have reached this conclusion based on the following facts and/or opinion:- [Please give details].

(Signature of the insolvency professional)

(Name in block letters)

(Name of insolvency professional entity, if applicable)

FORM 3

(See clause (a) of sub-rule (1) of rule 5)

FORM OF DEMAND NOTICE / INVOICE DEMANDING PAYMENT UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016

**(Under rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating
Authority) Rules, 2016)**

To,

[Name and address of the registered office of the corporate debtor]

From,

[Name and address of the registered office of the operational creditor]

Subject: Demand notice/invoice demanding payment in respect of unpaid operational debt due from [corporate debtor] under the Code.

Madam/Sir,

1. This letter is a demand notice/invoice demanding payment of an unpaid operational debt due from [name of corporate debtor].
2. Please find particulars of the unpaid operational debt below:

PARTICULARS OF OPERATIONAL DEBT

1	TOTAL AMOUNT OF DEBT, DETAILS OF TRANSACTIONS ON ACCOUNT OF WHICH DEBT FELL DUE, AND THE DATE FROM WHICH SUCH DEBT FELL DUE	
2	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF DEFAULT IN TABULAR FORM)	
3	PARTICULARS OF SECURITY HELD, IF ANY, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR. ATTACH A COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES (IF THE CORPORATE DEBTOR IS A COMPANY)	
4	DETAILS OF RETENTION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS	
5	RECORD OF DEFAULT WITH THE INFORMATION UTILITY (IF ANY)	
6	PROVISION OF LAW, CONTRACT OR OTHER DOCUMENT UNDER WHICH DEBT HAS BECOME DUE	
7	LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF OPERATIONAL DEBT AND THE AMOUNT IN DEFAULT	

3. If you dispute the existence or amount of unpaid operational debt (in default) please provide the undersigned, within ten days of the receipt of this letter, of the pendency of the suit or arbitration proceedings in relation to such dispute filed before the receipt of this letter/notice.
4. If you believe that the debt has been repaid before the receipt of this letter, please demonstrate such repayment by sending to us, within ten days of receipt of this letter, the following:
 - (a) an attested copy of the record of electronic transfer of the unpaid amount from the bank account of the corporate debtor; or
 - (b) an attested copy of any record that [name of the operational creditor] has received the payment.
5. The undersigned, hereby, attaches a certificate from an information utility confirming that no record of a dispute raised in relation to the relevant operational debt has been filed by any person at any information utility. (if applicable)
6. The undersigned request you to unconditionally repay the unpaid operational debt (in default) in full within ten days from the receipt of this letter failing which we shall initiate a corporate insolvency resolution process in respect of [name of corporate debtor].

Instructions

1. Please serve a copy of this form on the corporate debtor, ten days in advance of filing an application under section 9 of the Code.
2. Please append a copy of such served notice to the application made by the operational creditor to the Adjudicating Authority.

Form 4

(See clause (b) of sub-rule(1) of rule 5)

FORM OF NOTICE WITH WHICH INVOICE DEMANDING PAYMENT IS TO BE ATTACHED

(Under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

To,

[Name and address of registered office of the corporate debtor]

From,

[Name and address of the operational creditor]

Subject: Notice attached to invoice demanding payment

Madam/Sir,

[Name of operational creditor], hereby provides notice for repayment of the unpaid amount of INR [insert amount] that is in default as reflected in the invoice attached to this notice.

In the event you do not repay the debt due to us within ten days of receipt of this notice, we may file an application before the Adjudicating Authority for initiating a corporate insolvency resolution process under section 9 of the Code.

Yours sincerely,

Form 5

(See sub-rule (1) of rule 6)

APPLICATION BY OPERATIONAL CREDITOR TO INITIATE CORPORATE INSOLVENCY RESOLUTION PROCESS UNDER THE CODE.

**(Under rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority)
Rules, 2016)**

To,

The National Company Law

Tribunal [Address]

From,

[Name and address for correspondence of the operational creditor]

In the matter of [name of the corporate debtor]

Subject: Application to initiate corporate insolvency resolution process in respect of [name of the corporate debtor] under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

[Name of the operational creditor], hereby submits this application to initiate a corporate insolvency resolution process in the case of [name of corporate debtor]. The details for the purpose of this application are set out below:

PART-I

PARTICULARS OF APPLICANT

PARTICULARS OF APPLICANT		
1	NAME OF OPERATIONAL CREDITOR	
2	IDENTIFICATION NUMBER OF OPERATIONAL CREDITOR (IF ANY)	
3	ADDRESS FOR CORRESPONDENCE OF THE OPERATIONAL CREDITOR	

PART – II

PARTICULARS OF CORPORATE DEBTOR

PARTICULARS OF CORPORATE DEBTOR		
1	NAME OF THE CORPORATE DEBTOR	
2	IDENTIFICATION NUMBER OF CORPORATE DEBTOR	
3	DATE OF INCORPORATION OF CORPORATE DEBTOR	
4	NOMINAL SHARE CAPITAL AND THE PAID-UP SHARE CAPITAL OF THE CORPORATE DEBTOR AND/OR DETAILS OF GUARANTEE CLAUSE AS PER MEMORANDUM OF ASSOCIATION (AS APPLICABLE)	

5	ADDRESS OF THE REGISTERED OFFICE OF THE CORPORATE DEBTOR	
6	NAME, ADDRESS AND AUTHORITY OF PERSON SUBMITTING APPLICATION ON BEHALF OF OPERATIONAL CREDITOR (ENCLOSE AUTHORISATION)	
7	NAME AND ADDRESS OF PERSON RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON ITS BEHALF (ENCLOSE AUTHORISATION)	
8	DETAILS OF THE CORPORATE DEBTOR AS PER THE NOTIFICATION UNDER SECTION 55 (2) OF THE CODE – (i) ASSETS AND INCOME (ii) CLASS OF CREDITORS OR AMOUNT OF DEBT (iii) CATEGORY OF CORPORATE PERSON (WHERE APPLICATION IS UNDER CHAPTER IV OF PART II OF THE CODE)]	

PART – III

PARTICULARS OF THE PROPOSED INTERIM RESOLUTION PROFESSIONAL [IF PROPOSED]		
1	NAME, ADDRESS, EMAIL ADDRESS AND THE REGISTRATION NUMBER OF THE PROPOSED INSOLVENCY PROFESSIONAL	

PART – IV

PARTICULARS OF OPERATIONAL DEBT

1	TOTAL AMOUNT OF DEBT, DETAILS OF TRANSACTIONS ON ACCOUNT OF WHICH DEBT FELL DUE, AND THE DATE FROM WHICH SUCH DEBT FELL DUE	
2	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DATES OF DEFAULT IN TABULAR FORM)	

PART – V

PARTICULARS OF OPERATIONAL DEBT [DOCUMENTS, RECORDS AND EVIDENCE OF DEFAULT]

1	PARTICULARS OF SECURITY HELD, IF ANY, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR. ATTACH A COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES (IF THE CORPORATE DEBTOR IS A COMPANY)	
2	DETAILS OF RESERVATION / RETENTION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS	

3	PARTICULARS OF AN ORDER OF A COURT, TRIBUNAL OR ARBITRAL PANEL ADJUDICATING ON THE DEFAULT, IF ANY (ATTACH A COPY OF THE ORDER)	
4	RECORD OF DEFAULT WITH THE INFORMATION UTILITY, IF ANY (ATTACH A COPY OF SUCH RECORD)	
5	DETAILS OF SUCCESSION CERTIFICATE, OR PROBATE OF A WILL, OR LETTER OF ADMINISTRATION, OR COURT DECREE (AS MAY BE APPLICABLE), UNDER THE INDIAN SUCCESSION ACT, 1925 (10 OF 1925) (ATTACH A COPY)	
6	PROVISION OF LAW, CONTRACT OR OTHER DOCUMENT UNDER WHICH OPERATIONAL DEBT HAS BECOME DUE	
7	A STATEMENT OF BANK ACCOUNT WHERE DEPOSITS ARE MADE OR CREDITS RECEIVED NORMALLY BY THE OPERATIONAL CREDITOR IN RESPECT OF THE DEBT OF THE CORPORATE DEBTOR (ATTACH A COPY)	
8	LIST OF OTHER DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF OPERATIONAL DEBT AND THE AMOUNT IN DEFAULT	

I, [Name of the operational creditor / person authorised to act on behalf of the operational creditor] hereby certify that, to the best of my knowledge, [name of proposed insolvency professional], is fully qualified and permitted to act as an insolvency professional in accordance with the Code and the rules and regulations made thereunder. [WHERE APPLICABLE]

[Name of the operational creditor] has paid the requisite fee for this application through [state means of payment] on [date].

Yours sincerely,

Instructions

Please attach the following to this application:

Annex I Copy of the invoice / demand notice as in Form 3 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 served on the corporate debtor.

Annex II Copies of all documents referred to in this application.

Annex III Copy of the relevant accounts from the banks/financial institutions maintaining accounts of the operational creditor confirming that there is no payment of the relevant unpaid operational debt by the operational debtor, if available.

Annex IV Affidavit in support of the application in accordance with the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

Annex V Written communication by the proposed interim resolution professional as set out in Form 2 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. [WHERE APPLICABLE]

Annex VI Proof that the specified application fee has been paid.

Annex VII Proofs of serving a copy of the application (a) to the corporate debtor, and (b) to the Board.

Note: Where workmen/employees are operational creditors, the application may be made either in an individual capacity or in a joint capacity by one of them who is duly authorised for the purpose.

Form 5A

[Under section 9(3)(c) of the Code]

(To be issued on the letter head of the Bank / Financial Institution) To whomsoever it may concern

Based on a request of.....(name and address of person), having an account(s) bearing Nb.....at ...branch of bank/financial institution, it is certified that the following amounts have been credited in the last three years to this account on behalf of corporate debtor (name and address of the corporate debtor from whom the amount is supposed to be credited).

DATE OF CREDIT	AMOUNT OF CREDIT

Date :

Place

:

Form 6

(See sub-rule(1) of rule 7)

APPLICATION BY CORPORATE APPLICANT TO INITIATE CORPORATE INSOLVENCY RESOLUTION PROCESS UNDER THE CODE.

**(Under rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating
Authority) Rules, 2016)**

To,

The National Company Law

Tribunal [Address]

From,

[Name and address for correspondence of the corporate
applicant] In the matter of [name of the corporate debtor]

Subject: Application to initiate corporate insolvency resolution process in respect of [name
of the corporate debtor] under the Code.

Madam/Sir,

We, hereby submit this application to initiate a corporate insolvency resolution process in
respect of [name of corporate debtor]. The details for the purpose of this application are
set out below:

PART-I

PARTICULARS OF THE CORPORATE APPLICANT

1	NAME ADDRESS, EMAIL ADDRESS, IDENTIFICATION NUMBER AND ADDRESS FOR COMMUNICATION OF THE CORPORATE APPLICANT
2	NAME ADDRESS, EMAIL ADDRESS, IDENTIFICATION NUMBER AND ADDRESS OF THE REGISTERED OFFICE OF CORPORATE DEBTOR
3	NAMES AND ADDRESSES OF ALL DIRECTORS, PROMOTERS, DESIGNATED PARTNERS OF THE CORPORATE DEBTOR (AS APPLICABLE)
4	DATE OF INCORPORATION OF CORPORATE DEBTOR
5	NOMINAL SHARE CAPITAL AND THE PAID-UP SHARE CAPITAL OF THE CORPORATE DEBTOR AND/OR DETAILS OF GUARANTEE CLAUSE AS PER MEMORANDUM OF ASSOCIATION (AS APPLICABLE)
6	NAME, ADDRESS AND AUTHORITY OF PERSON SUBMITTING APPLICATION ON BEHALF OF CORPORATE APPLICANT (ENCLOSE AUTHORISATION)
7	NAME AND ADDRESS OF PERSON RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON ITS BEHALF (ENCLOSE AUTHORISATION)
8	DOCUMENTATION TO SHOW THAT THE CORPORATE APPLICANT IS AUTHORISED TO INITIATE THE CORPORATE INSOLVENCY RESOLUTION PROCESS
9	DETAILS OF THE CORPORATE DEBTOR AS PER THE NOTIFICATION UNDER SECTION 55 (2) OF THE CODE – (i) ASSETS AND INCOME (ii) CLASS OF CREDITORS OR AMOUNT OF DEBT (iii) CATEGORY OF CORPORATE PERSON (WHERE APPLICATION IS UNDER CHAPTER IV OF PART II OF THE CODE)]

PART- II

PARTICULARS OF PROPOSED INTERIM RESOLUTION PROFESSIONAL

1	NAME, ADDRESS, EMAIL ADDRESS AND THE REGISTRATION NUMBER OF THE PROPOSED INTERIM RESOLUTION PROFESSIONAL	
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PART- III

PARTICULARS OF FINANCIAL / OPERATIONAL DEBT [CREDITOR WISE, AS APPLICABLE]

1	NAME(S) OF FINANCIAL / OPERATIONAL CREDITOR(S)	
2	ADDRESS OF CORRESPONDENCE OF THE FINANCIAL / OPERATIONAL CREDITOR(S)	
3	TOTAL DEBT RAISED AND AMOUNT IN DEFAULT	
4	DATE WHEN THE FINANCIAL / OPERATIONAL DEBT WAS INCURRED	
5	PARTICULARS OF SECURITY HELD, IF ANY, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR. ATTACH A COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES (IF THE CORPORATE DEBTOR IS A COMPANY)	

6	DETAILS OF RETENTION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS	
7	RECORD OF DEFAULT WITH THE INFORMATION UTILITY, IF ANY	
8	LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF FINANCIAL / OPERATIONAL DEBT AND THE AMOUNT IN DEFAULT	

I, certify that, to the best of my knowledge, [name of proposed insolvency professional], is fully qualified and permitted to act as an insolvency professional in accordance with the Code and the associated rules and regulations.

[Name of the corporate applicant] has paid the requisite fee for this application through [state means of payment] on [date].

Yours
sincerely,

Instructions

Please attach the following to this application:

Annex I In case of financial debt, record of default obtained through the information utility or all documents listed in serial number 8 of part –III of this application.

Annex II In case of operational debt, (i) copy of invoice / demand notice served by an operational creditor on the corporate debtor and (ii) record of default obtained through the information utility or all documents listed in serial number 8 of part-III of this application.

Annex III Written communication by the proposed interim resolution professional as set out in Form 2 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

Annex IV Copy of the relevant books of accounts of the corporate debtor evidencing the default to creditors.

Annex V Copies of audited financial statements of the corporate debtor for the last two financial years and the provisional financial statements for the current financial year made upto a date not earlier than fourteen days from the date of the application.

Annex VI A statement of affairs made up to a date not earlier than fourteen days from the date of application including the following document, namely:-

- (a) a list of the corporate debtor's assets and liabilities, divided into such categories as are appropriate for easy identification, with estimated values assigned to each category;
- (b) in the case of any property on which a claim against the corporate debtor is wholly or partly secured, particulars of the claim and its amount, and of how and when the security was created;
- (c) the names and addresses of the financial creditors and operational creditors of the corporate debtor, with the amounts due to each of them;
- (d) particulars of any debts owed by or to the corporate debtor to or by persons connected with it;
- (e) whether any, and if so what, guarantees have been given in relation to the debts of the corporate debtor by other persons, specifying which, if any, of the guarantors is a related party to the corporate debtor and the corporate applicant; and
- (f) the names and addresses of the members and partners of the corporate debtor, as the case may be, with details of their respective shareholdings.

Annex VII A copy of:

- (a) relevant extract of any constitutional document or shareholders' agreement that records the authority of the corporate applicant to make this application, where the corporate applicant is a member or partner of the corporate debtor; or
- (b) relevant extract of an employment agreement, constitutional document or filings made to the Registrar of Companies confirming the authority of the corporate applicant to make this application, where the corporate applicant is an individual in charge of managing the operations and resources of the corporate debtor or has control and supervision over the financial affairs of the corporate debtor.

Annex VIII Affidavit in support of the application in accordance with the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

Annex IX Proof that the specified application fee has been paid.

Annex X Proof that a copy of the application has been served to the Board.

SCHEDULE

[See sub-rule (3) of rule 10]

S.NO	APPLICANT	FEE PAYABLE
1	Application by financial creditor (whether solely or jointly)	25,000
2	Application by operational creditor	2,000
3	Application by corporate debtor	25,000

Section	Amendment
14	<p>In section 14 of the principal Act,— (a) in sub-section (1), the following Explanation shall be inserted, namely:— "Explanation.—For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;"; (b) after sub-section (2), the following sub-section shall be inserted, namely:— "(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified."; (c) in sub-section (3), for clause (a), the following clause shall be substituted, namely:— "(a) such transactions, agreements or other arrangements as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;"</p>

SECTION 13 TO 15

Section 15

Public announcement

Contents -Name & address of CD

- Name of authority under which CD incorporated
- Last date for Submission of Claim as may be specified
- details of IRP
- Penalties for false or misleading claim
- Date on which CIRP process close (180 days from date of admission)

SECTION 16 TO 18..

Section 16

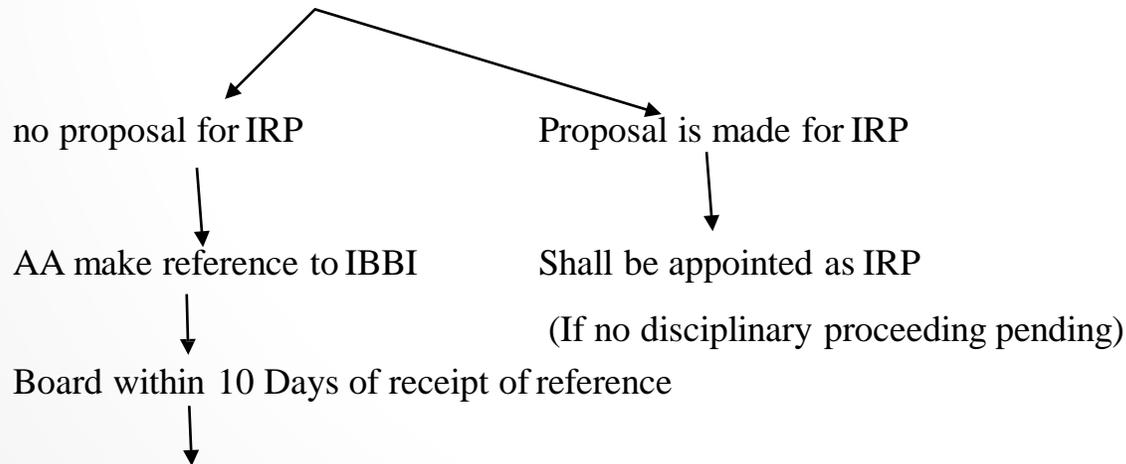
AA

appoint IRP within 14 days from the insolvency Commencement date (Admission of application)

If application is U/S 7, 10
(FC) (CD)

IP (Insolvency Professional) shall be appointed as IRP
(if no disciplinary proceeding pending)

If application is U/S 9 (OC)



Recommend the IRP name

SECTION	AMENDMENT
16	In section 16 of the principal Act, in sub-section (1), for the words "within fourteen days from the insolvency commencement date", the words "on the insolvency commencement date" shall be substituted.

SECTION 16 TO 18..

Section 17

From date of appointment (IRP)

- Management of affairs of CD vested in him
- Power of BOD / Partner suspended & exercised by IRP
- Officer/Manager of CD report to him & provide access to records of CD
- FI/Banks maintaining CD account act on instruction of IRP
- RP responsible for complying with the requirements under anylaw.

Section 18 :Duties of IRP

- (1) Collect information (Asset, financial, operation) of CD for
 - Business operations for previous 2 years
 - Financial & Operational payment for previous 2 years
 - List of asset & liabilities on initiation date
- (2) Receive & Collate Claims
- (3) Constitute COC
- (4) Take Control of CD assets
 - * Even assets owned by CD located in foreign country
 - * Or may not be in CD possession
 - * However, asset shall not include

SECTION 19 TO 20

Section 19

* If any personnel of CD/ Promoter/ any other person is not assisting or —→ IRP make co-operating application to AA for direction

Section -20

Manage the operation of the Corporate Debtor as a going concern & have authority to

- (a) Appoint, accountant, legal or other professional
- (b) Enter into Contracts/amend/modify the contracts even entered before commencement of CIRP
- (c) Raise Interim Finance



No Security interest shall be created on Encumbered property **without prior consent** of Creditors whose debt is secured over such property



No prior consent - Where value of such property is not less than the amount equivalent to twice the amount of Debt

IRP

After collation of all claims

SECTION 21

Section 21

Constitute a committee of Creditors (COC)

Comprises of all financial Creditor (FC)

Related party even FC, does not have right of representation, participation or Voting

Where financial debt is extended through consortium All FC of consortium will be member of COC

Voting share on basis of financial debt owed

-Where a person is FC as well as OC – is FC to the extent of Financial debt



OC to the extent of operational debt – Voting share proportionally to that extent



Where the consortium agreement provide for single trustee/agent each FC may



(a) authorise agent /trustee to act on his behalf to the extent of Votingshare

(b) represent himself in COC to the extent of Voting share

IRP to report Constitution of COC within two days of the verification of claims

IRP to conduct first meeting to AA within further 7 days

SECTION 21

Section 21

(c) appoint IP (other than RP) at his own cost to represent to the extent of voting share

(d) exercise his Voting right with one or more FC jointly or severally

-All decisions in COC shall be taken by not less than 51% of Vote save as otherwise provided in the code.

-Where No FC ,then COC consists of 18 largest OC, +(one representative of employees + one representative for workmen)

-COC may ask IRP to furnish financial information which IRP has to submit within 7 days of such requisition

SECTION	AMENDMENT
21	In section 21 of the principal Act, in sub-section (2), in the second proviso, after the words "convertible into equity shares", the words "or completion of such transactions as may be prescribed," shall be inserted.

Section 22

The First meeting of COC shall be held within 7 days— may appoint IRP as RP (66% of Voting required) or replace IRP with another RP **Where there is only one financial creditor and no operational creditor, COC will be constituted by the Board.**

Where COC replace IRP & appoint another RP

Files application with AA

AA forward the name of RP to Board

Board within 10 days not confirm then AA by order

Direct the IRP to continue as RP until such time as Board confirms the appointment of proposed RP.

COC -May meet in person OR
-by such Electronic means



All meeting of COC shall be conducted by RP



Section 23

RP responsible for carrying out CIRP and managing the operations.

In case IRP not appointed as RP-IRP to facilitate smooth transition and provide records/assistance.

Section 24

RP Give notices to

(a) member of COC

(b) member of suspended BOD or partners of CD → May attend the meeting but have no right to vote

(c) operational Creditors (if amount of their aggregate dues is not less than 10 % of the Debt)

-Member of COC can appoint Insolvency professional other than RP to represent in COC – his fees is payable by them

-Voting right- based on financial debt – RP determine the Voting share Consigned to each Cr in the manners specified by Board

SECTION	AMENDMENT
23	<p>In section 23 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:— "Provided that the resolution professional shall continue to manage the operations of the corporate debtor after the expiry of the corporate insolvency resolution process period, 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."</p>

Section 24

RP Give notices to

(a) member of COC

(b) member of suspended BOD or partners of CD May attend the meeting but have no right to vote

(c) operational Creditors (if amount of their aggregate dues is not less than 10 % of the Debt)

-Member of COC can appoint Insolvency professional other than RP to represent in COC – his fees is payable by them

-Voting right- based on financial debt – RP determine the Voting share Consigned to each Cr in the manners specified by Board

SECTION 25 TO 27

Section 25

Duties of RP-

- to preserve and protect the assets of the corporate debtor
- to invite prospective lenders, investor and other persons to put forward resolutions plans,
- present such plan to the committee of creditors and
- file applications for the avoidance of specified transactions in accordance with Chapter III of the Code.
- to raise interim finance, with the prior approval of the committee of creditors.

SECTION	AMENDMENT
25	<p>In section 25A of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely: —</p> <p>“(3A) Notwithstanding anything to the contrary contained in sub-section (3), the authorised representative under sub-section (6A) of section 21 shall cast his vote on behalf of all the financial creditors he represents in accordance with the decision taken by a vote of more than fifty per cent. of the voting share of the financial creditors he represents, who have cast their vote:</p> <p>Provided that for a vote to be cast in respect of an application under section 12A, the authorised representative shall cast his vote in accordance with the provisions of sub-section (3).”.</p>

Section 25A

05

Q) In case a resolution gets exactly 50% votes in favour and 50% against the resolution, what shall be the fate of such resolution

a) The resolution shall be deemed to have been passed

b) The resolution shall be deemed to have failed

c) AA will have the final decision in this regard

d) None of the above

Resolution Applicant and Resolution Plan defined

Duties of Resolution Professional - Sec. 25

(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions, namely:-

“(h) invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans;”

“(i) **present all resolution plans** at the meetings of the committee of creditors;”

`Resolution Applicant`

means a person who individually or jointly with any other person, submits a resolution plan to the resolution professional pursuant to the invitation made under clause (h) of sub-section (2) of section 25 – Sec. 5(25)

-any person

`Resolution Plan`

means a plan proposed by `resolution applicant` for insolvency resolution of the corporate debtor as a going concern in accordance with Part II – Sec. 5(26)

Invitation for EOI -Section 25(2)(h), regulation 36A

- Detailed Expression of Interest for submission of resolution plan (RFRP)
 - Criteria for prospective resolution applicants, as approved by the CoC – sec. 25(2)(h)
 - Ineligibility norms under section 29A to the extent applicable for prospective resolution applicants;
 - Basic information about the CD as may be required by a prospective RA
 - Shall not require payment of any fees/non-refundable deposit for submission of EOI or resolution plan (there can be refundable earnest money, security deposit and performance security/guarantee)
 - Evaluation Matrix as approved by the CoC
 - Each step in the process and the manner of interaction between the RP and the PRA along with corresponding timelines
- Brief Particulars to be published in Form G-timelines
 - -by 75th day from the Insolvency commencement date
 - -In one English and one Hindi Newspaper
 - -On the website of the CD
 - -On the website of the Board

Expression of Interest by PRA-regulation 36A

- An undertaking by the PRA that it meets the criteria specified by the Committee under section 25(2)(h)
- Relevant records in evidence of meeting the above criteria
- An undertaking by the PRA that it does not suffer from any ineligibility under section 29A to the extent applicable
- Relevant information and records to enable an assessment of his eligibility under section 29A
- An undertaking by the PRA that it shall intimate the RP forthwith if it becomes ineligible at any time during the CIRP
- An undertaking by the PRA that every information and records provided in EOI is true and correct and discovery of any false information or record at any time will render him ineligible to submit the resolution plan, forfeit any refundable deposit, and attract penal action against him, under the code

• **Section 26**

- Application for avoidance of transactions not to affect proceedings of the corporate insolvency process.
- PUFEE Transactions
- 75-115-135
- Transaction Audit

• **Section 27**

- Replacement of RP by COC-66% majority
- COC will recommend another RP.
- AA after confirmation from IBBI shall appoint RP

Section 26

05

Q) In case an application for avoidance transactions has been filed by the RP

a) The CIRP proceedings shall come to a standstill

b) The CIRP proceedings shall be void in case of any adverse finding by AA

c) CIRP proceedings shall remain unaffected and can continue

d) None of the above

Section 27

05

Q) OC may at a meeting by a vote ofof voting shares resolve to replace the RP appointed under section 22 with another RP

a) At least sixty six percent

b) Not less than sixty six percent

c) sixty six percent

d) Any of the above

Section 27

05

Q) Where any disciplinary proceedings are pending against the proposed RP, the RP appointed under section 22

a) Shall handover the charge to a fellow professional

b) continue till the appointment of another RP

c) Shall not be able to take any of the decisions mentioned under Section 28(1)

d) Any of the above

SECTION 28 TO 30..

Section 28

RP

Shall not take following functions without the prior approval of COC – 66%

(a) Raise any interim finance in excess of amount decided by COC (b) Create any security interest over assets of CD. (c) Change Capital Structure of CD.(d) Record any change in the ownership interest of the CD. (e) Give Instruction to FI for debt transaction in excess of amount decided by COC. (f) Undertake any related party transaction. (g) Amend any Constitutional documents of the CD. (h) Delegates its authority to any other person. (i) Dispose shares of CD or their nominees to third parties. (j) make any change in the management of CD or its Subsidiary. (k) transfer financial/operational debt/right other than in ordinary course of business

(l) Make changes in appointment or terms of contract of statutory auditor or Internal auditor of CD.

↓
Without prior consent of COC

↓
Any such action of RP is Void.

Section 29

RP Shall prepare the information memorandum (within 14 Days after constitution of COC)

Information Memorandum (Sec. 29, regulation 36)

- Duty of the RP- Sec. 25(2)(h)
- In such form and manner containing such relevant information as may be specified by the Board.
- With in 2 weeks of appointment of RP or by 54th day of start of CIRP whichever is earlier
- Relevant Information - Explanation to sec. 29(2)
 - means the information required by the RA to make the resolution plan for the CD.
 - Financial position of the CD
 - Disputes by or against the CD and
 - Any other matter specified by the Board

IM-Relevant information/matters specified by the Board- Reg. 36

- Assets and Liabilities with such description, as on the insolvency commencement date, as are generally necessary for ascertaining their values
- The latest annual financial statements
- Audited financial statements of the CD for the last two financial years and provisional financial statements for the current financial year made upto a date not earlier than 14 days
- A list of creditors containing the name of the creditors, the amounts claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims.
- Particulars of a Debt due from or to the CD with respect to related parties
- Details of Guarantees that have been given in relation to the debts of the CD by other persons, specifying which of the guarantors is a related party.
- The name and addresses of the members or partners holding at least 1% stake in the CD along with the size of the stake.
- Details of all material litigations and on going investigations or proceedings initiated by Government and Statutory Authorities
- The no. of workers and employees and liabilities of the CD towards them
- Other information which the RP deems relevant

Sharing of Information Memorandum (Sec. 29(2), regulation 36)

- With the RA in physical and electronic form on filing of undertaking of:
 - Confidentiality and insider trading
 - Protect any intellectual property of the CD
 - To share relevant information with third parties only after getting the above undertakings
- With the members of CoC on providing undertaking of:
 - Confidentiality and insider trading
 - Protect any intellectual property of the CD
 - To share relevant information with third parties only after getting the above undertakings
 - That such member shall maintain confidentiality of the information and shall not use such information to cause an undue gain to himself or undue loss to any other person

Section 29A..

Person not eligible to be resolution applicant

A person shall not be eligible to submit a resolution plan , if such person, or any other person acting jointly or in concert with such person –

- a) Is an **undischarged insolvent**
- b) Is a **willful defaulter** in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949)
- c) At the time of submission of the resolution plan has an account or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as **non- performing asset** in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949) or the guidelines of a financial sector regulator issued under any other law for the time being in force and **at least a period of one year has lapsed** from the date of such classification till the date of commencement of the corporate insolvency resolution process of the corporate debtor:

SECTION	AMENDMENT
29A	In section 29A of the principal Act,— (i) in clause (c), in the second proviso, in Explanation I, after the words, "convertible into equity shares", the words "or completion of such transactions as may be prescribed," shall be inserted; (ii) in clause (j), in Explanation I, in the second proviso, after the words "convertible into equity shares", the words "or completion of such transactions as may be prescribed," shall be inserted.

Provided that the person shall be **eligible** to submit a resolution plan if such person makes payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission of resolution plan.

Provided further that **nothing in this clause shall apply** to a resolution applicant where such applicant is a **financial entity and is not a related party to the corporate debtor**.

Explanation I- Conversion of Debt into Equity prior to ICD

For the purpose of this proviso, the expression “related party” shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.

Explanation II- NPA account acquired pursuant to a prior resolution plan? Clause not applicable for three years from the date of approval of such resolution plan

For the purpose of this clause, where a resolution applicant has an account, or an account of a corporate debtor under the management or control of such person of whom such person is a promoter, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under this Code, then, the provision of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this code.

- f) Is prohibited by the Securities and Exchange Board of India from Trading in securities or accessing the securities markets.
- g) Has been a promoter or in the management or a control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code.

Provided that this clause shall not apply if a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place prior to the acquisition of the corporate debtor by the resolution applicant pursuant to a resolution plan approved under this code or pursuant to a scheme or plan approved by a financial sector regulator or a court, and such resolution applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction.

- d) Has been convicted for any offence punishable with imprisonment-
- i) For two years or more under any Act specified under the 12th schedule
(List given specifying 25 Acts and a residuary clause for insertion of more acts)
 - ii) For seven years or more under any other law for the time being in force
Provided further that this clause shall not apply to a person after the expiry of a period of two years from the date of his release from his imprisonment:
Provided further that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I.
- e) Is disqualified to act as a director under the Companies Act, 2013 (18 of 2013) Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I.

- h) Has executed a guarantee in favour of a creditor in respect of corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code and such guarantee has been invoked by the creditor and remains unpaid in full or part
- i) Subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India or
- j) Has a connected person not eligible under clauses (a) to (i)

[Explanation I]- For the purpose of this clause, the expression “connected person” means-

- (i) any person who is the promoter or in the management or control of the resolution applicant
- (ii) any person who shall be the promoter or in management or control of the business of the corporate debtor during the implementation of the resolution plan
- (iii) the holding company, subsidiary company, associate company or related party of a referred to in clauses (i) and (ii)

Provided that nothing in clause (iii) of explanation I shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of a corporate debtor.

Provided further that the expression “related party” shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.

Explanation II.- For the purposes of this section, “financial entity” shall mean the following entities which meet such criteria or condition as the central government may, in consultation with the financial sector regulator, notify in this behalf, namely:-

A scheduled bank

- (a) Any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the international organization of securities Commissions Multilateral Memorandum of Understanding.
- (b) Any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation in 2 of the foreign exchange management Act, 1999 (42 of 1999)
- (c) An asset reconstruction company registered with the Reserve Bank of India under section 3 of the Securitization and Reconstructions of Financial asset and enforcement of security interest act, 2002 (54 of 2002)
- (d) An alternate investment fund registered with the securities and exchange board of India
- (e) Such categories of person as may be notified by the central government.

Expression of Interest by PRA-regulation 36A.Contd.

- An undertaking by the PRA to the effect that it shall maintain confidentiality of the information and shall not use such information to cause an undue gain to itself or undue loss to any other person and shall comply with the requirements under sub-section (2) of section 29
- Provisional List of eligible PRAs (within 10 days of last date of submission of EOI)- to the CoC and all PRAs who submitted the EOI
- Objections for inclusion or exclusion of the names - within 5 days from the date of issue of provisional list
- Final List of PRAs within 10 days of the last date for receipt of objections
- Issue of IM, Evaluation Matrix and RFRP to all PRAs (including who have objected/contested to be PRA)- within 5 days of issue of provisional list – reg. 36B

Preservation of records by the RP- Regulation 39A

- **Circular dated 6-1-2021**
- **Physical copy for 3 years**
- **Soft Copy for 8 years**

SECTION 28 TO 30

Section 30

A Resolution Applicant



-may submit a resolution plan to RP on the basis of information memorandum

-RP examine the Resolution plan confirming the following:-

- (a) includes Insolvency resolution process cost
- (b) Repayment of OC which shall not be less than the amount which OC would get in case of Liquidation of CD
- (c) Provides management of affairs of CD
- (d) Implementation & Supervision of Resolution plan
- (e) doesn't Contravene any provision of any law
- (f) Confirms requirements Specified by Board.



RP Present the plan to COC for approval (Not less than 66%)



- Resolution applicant shall not vote at COC meeting unless he is FC
- No restrictions on who can be a resolution applicant- even include promoters of the corporate debtor. This provision would facilitate proposals from persons interested in commercially viable but insolvent businesses to rescue such entities, creating value for all stakeholders in the process.

Section	Amendment
30	<p>In section 30 of the principal Act,—</p> <p>(a) in sub-section (2), for clause (b), the following shall be substituted, namely: —</p> <p>“(b) provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than—</p> <ol style="list-style-type: none"> i. the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or ii. the amount that would have been paid to such creditors, if the amount *to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53, whichever is higher, and provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor. <p>Explanation 1.—For the removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.</p> <p>Explanation 2.—For the purposes of this clause, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of a corporate debtor—</p> <ol style="list-style-type: none"> i. where a resolution plan has not been approved or rejected by the Adjudicating Authority; ii. where an appeal has been preferred under section 61 or section 62 or such an appeal is not time barred under any provision of law for the time being in force; or iii. where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a resolution plan;”; <p>(b) in sub-section (4), after the words “feasibility and viability,”, the words, brackets and figures “the manner of distribution proposed, which may take into account the order of priority amongst creditors as laid down in sub-section (1) of section 53, including the priority and value of the security interest of a secured creditor” shall be inserted.</p>

Resolution Plan- Regulation 37

Shall provide for the measures for insolvency resolution of the CD for maximization of value of its assets

- Transfer of all or part of the assets of the CD to one or more persons
- Sale of all or part of the assets whether subject to any security interest or not
- Substantial acquisition of shares of the CD, or the merger or consolidation of the CD with one or more persons
- Cancellation or delisting of any shares of the CD
- Satisfaction or modification of any security interest
- Curing or waiving of any breach of the terms of any debt due from the CD
- Reduction in the amount payable to the creditors
- Extension of a maturity date or a change in the interest rates/terms of a debt of CD
- Amendment of constitutional documents of the CD
- Issuance of securities of the CD
- Change in portfolio of goods or services produced or rendered by the CD
- Change in technology used by the CD
- Obtaining necessary approvals from the Central and State Governments and other authorities

Mandatory Contents of Resolution Plan – regulation 38

- Amounts due to the OCs –in priority over payments to the FCs
- A statement that how it has dealt with the interests of all stakeholders, including FCs and OCs of the CD
- A statement giving details if the RA or any of its related party has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the AA at any time in the past
- The term of the plan and its implementation schedule
- The management and control of the business of the CD during its term
- Adequate means for supervising its implementation
- It shall demonstrate that-
 - It addresses the cause of default
 - It is feasible and viable
 - It has provisions for its effective implementation
 - It has provisions for the approvals required and its timeline
 - The RA has the capability to implement the plan

Approval of Resolution Plan- Sec.30, regulation 36, 37, 39

- Submission of resolution plan by the PRA in the final list
 - To the RP
 - Electronically
 - Within prescribed time in Form G
 - Alongwith an affidavit stating that it is eligible under sec. 29A
 - Alongwith an undertaking by the PRA that the information/documents provided in the plan are true and correct and discovery of any false information will render it ineligible, forfeit any refundable deposit and attract penal action under the Code
- Due Diligence by RP-regulation 36A(8)-to check the compliance of the plan with
 - Provisions of code especially sec. 25(2)(h), section 29A
 - Provisions of the CIRP regulations especially regulation 37, 38 and 39
 - Other requirement as specified in the detailed invitation for expression of interest (RFRP)

Approval of Resolution Plan- Sec.30, regulation 36, 37, 39

.....Contd.

- RP to submit the compliant resolution plan/s to the CoC for its consideration along with PUEF transactions and order/s on these transactions
- Evaluation as per evaluation matrix and approval by the CoC
- Manner of approval in case of more than one compliant plans
- Submission of approved plan to the AA alongwith form H (Compliance Certificate) and proof of receipt of performance security/guarantee (before atleast 15 days before the date of completion of CIRP)
- Deemed consent of the members of the CD

SECTION 31 TO 33

Section 31

AA to review the resolution plan sanctioned by the committee of creditors for ensuring that the resolution plan (a) meets the criteria set out in section 30(2), (b) provides for the repayment to operational creditors of at least the amount which they would have been entitled to if the corporate debtor were to be liquidated and (c) satisfies such other conditions as may be prescribed by the Insolvency and Bankruptcy Board of India criterion. The Adjudicatory Authority is also required to be satisfied that the resolution plan is approved by the committee of creditors under section 30(4) meets the requirements as referred in clauses (a) to (e) of section 30(2). Thereafter resolution plan shall be approved which shall be binding on the corporate debtor, etc. involved in the resolution plan. Further, the moratorium imposed under section 14 ceases to have effect upon approval of the plan.

SECTION	AMENDMENT
31	In section 31 of the principal Act, in sub-section (1), after the words “members, creditors,”, the words “including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed,” shall be inserted.

SECTION 31 TO 32

Section 32

APPEAL

Any appeal from an order approving the resolution plan shall be in the manner and on the grounds laid down in sub-section (3) of section 61.

SECTION	AMENDMENT
32	<p>32A. (1) Notwithstanding anything to the contrary contained in this Code or any other law for the time being in force, the liability of a corporate debtor for an offence committed prior to the commencement of the corporate insolvency resolution process shall cease, and the corporate debtor shall not be prosecuted for such an offence from the date the resolution plan has been approved by the Adjudicating Authority under section 31, if the resolution plan results in the change in the management or control of the corporate debtor to a person who was not— (a) a promoter or in the management or control of the corporate debtor or a related party of such a person; or (b) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession, reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court: Provided that if a prosecution had been instituted during the corporate insolvency resolution process against such corporate debtor, it shall stand discharged from the date of approval of the resolution plan subject to requirements of this sub-section having been fulfilled:</p> <p>Provided further that every person who was a "designated partner" as defined in clause (j) of section 2 of the Limited Liability Partnership Act, 2008, or an "officer who is in default", as defined in clause (60) of section 2 of the Companies Act, 2013, or was in any manner in charge of,</p>

SECTION	AMENDMENT
	<p>or responsible to the corporate debtor for the conduct of its business or associated with the corporate debtor in any manner and who was directly or indirectly involved in the commission of such offence as per the report submitted or complaint filed by the investigating authority, shall continue to be liable to be prosecuted and punished for such an offence committed by the corporate debtor notwithstanding that the corporate debtor's liability has ceased under this sub-section. (2) No action shall be taken against the property of the corporate debtor in relation to an offence committed prior to the commencement of the corporate insolvency resolution process of the corporate debtor, where such property is covered under a resolution plan approved by the Adjudicating Authority under section 31, which results in the change in control of the corporate debtor to a person, or sale of liquidation assets under the provisions of Chapter III of Part II of this Code to a person, who was not— (i) a promoter or in the management or control of the corporate debtor or a related party of such a person; or (ii) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court.</p>

SECTION	AMENDMENT
	<p>Explanation.—For the purposes of this sub-section, it is hereby clarified that,— (i) an action against the property of the corporate debtor in relation to an offence shall include the attachment, seizure, retention or confiscation of such property under such law as may be applicable to the corporate debtor; (ii) nothing in this sub-section shall be construed to bar an action against the property of any person, other than the corporate debtor or a person who has acquired such property through corporate insolvency resolution process or liquidation process under this Code and fulfils the requirements specified in this section, against whom such an action may be taken under such law as may be applicable. (3) Subject to the provisions contained in sub-sections (1) and (2), and notwithstanding the immunity given in this section, the corporate debtor and any person who may be required to provide assistance under such law as may be applicable to such corporate debtor or person, shall extend all assistance and co-operation to any authority investigating an offence committed prior to the commencement of the corporate insolvency resolution process."</p>

Liability for prior offences- Sec. 32A (w. e. f. 28-12-2019)

- Non obstante section
- The liability of a CD for an offence committed prior to the commencement CIRP shall cease and the CD shall not be prosecuted for such an offence after the approval of resolution plan:
 - If the resolution plan results in the change in the management or control of the CD to a person who was not-
 - A promoter or in the management or control of the CD or
 - A person with regard to whom the relevant investigating authority has, on the basis of material in its possession, reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court
(means new management)
- The CD shall stand discharged from the already instituted prosecution/s
- The directors/designated partners or any person who was directly or indirectly involved in the commission of such offence as per the report submitted or complaint filed by the Investigating Authority, shall continued to be liable to be prosecuted and punished for such an offence committed by the CD notwithstanding that the CD's liability has ceased under this sub-section
- No action shall be taken against the property of the CD in relation to an offence committed prior to the commencement of the CD if the management has changed

**INSOLVENCY AND BANKRUPTCY
BOARD OF INDIA (INSOLVENCY
RESOLUTION PROCESS FOR
CORPORATE PERSONS)
REGULATIONS, 2016-**Abridged**
[AMENDED UPTO Feb,2022]**

IBBI/2016-17/GN/REG004. - In exercise of the powers conferred under sections 5, 7, 9, 14, 15, 17, 18, 21, 24, 25, 29, 30, 196 and 208 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following Regulations, namely-

CHAPTER I PRELIMINARY

1. Short title and commencement.

- (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (2) These Regulations shall come into force on 1st December, 2016.
- (3) These Regulations shall apply to the corporate insolvency resolution process.

2. Definitions.

- (1) In these Regulations, unless the context otherwise requires-
 - (a) “applicant” means the person(s) filing an application under sections 7, 9 or 10, as the case may be;
 - (aa) **“class of creditors” means a class with at least ten financial creditors under clause (b) of sub-section (6A) of section 21 and the expression, “creditors in a class” shall be construed accordingly.**

- (b) “Code” means the Insolvency and Bankruptcy Code, 2016;
- (c) “Code of Conduct” means the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
- (d) “committee” means a committee of creditors established under section 21;
- (e) “corporate insolvency resolution process” means the insolvency resolution process for corporate persons under Chapter II of Part II of the Code;
- (f) [***]
- (g) **“electronic form” shall have the meaning assigned to it in the Information Technology Act, 2000 (21 of 2000);**
- (h) “electronic means” mean an authorized and secured computer programme which is capable of producing confirmation of sending communication to the participant entitled to receive such communication at the last electronic mail address provided by such participant and keeping record of such communication.
- (ha) “evaluation matrix” means such parameters to be applied and the manner of applying such parameters, as approved by the committee, for consideration of resolution plans for its approval;
- (hb) “fair value” means the estimated realizable value of the assets of the corporate debtor, if they were to be exchanged on the insolvency commencement date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing and where the parties had acted knowledgeably, prudently and without compulsion.

- (i) “identification number” means the Limited Liability Partnership Identification Number or the Corporate Identity Number, as the case may be;
 - (j) “insolvency professional entity” means an entity recognised as such under the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
 - (k) “liquidation value” means the estimated realizable value of the assets of the corporate debtor, if the corporate debtor were to be liquidated on the insolvency commencement date.
 - (l) “participant” means a person entitled to attend a meeting of the committee under section 24 or any other person authorised by the committee to attend the meeting;
 - (m) “registered valuer” means a person registered as such in accordance with the Companies Act, 2013 (18 of 2013) and rules made there under;
 - (n) “Schedule” means the schedule to these Regulations;
 - (o) “section” means section of the Code;
 - (p) “video conferencing or other audio and visual means” means such audio and visual facility which enables the participants in a meeting to communicate concurrently with one another and to participate effectively in the meeting.
- (2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations, but defined in the Code, shall have the meanings assigned to them in the Code.

- 2A. Record or evidence of default by Financial Creditor
- For the purposes of clause (a) of sub-section (3) of section 7 of the Code, the financial creditor may furnish any of the following record or evidence of default, namely:-
- (a) certified copy of entries in the relevant account in the bankers' book as defined in clause (3) of section 2 of the Bankers' Books Evidence Act, 1891 (18 of 1891);
- (b) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, where the period of appeal against such order has expired.

[2B. Record or evidence of transaction, debt and default by operational creditor.

The operational creditor shall, along with application under section 9, furnish copies of relevant extracts of Form GSTR-1 and Form GSTR-3B filed under the provisions of the relevant laws relating to Goods and Services Tax and the copy of e-way bill wherever applicable:

Provided that provisions of this regulation shall not apply to those operational creditors who do not require registration and to those goods and services which are not covered under any law relating to Goods and Services Tax.

2C. Submission of information along with application.

- The financial creditor or operational creditor shall, while filing application under
- section 7 or 9, as the case may be, also furnish details of his/ its—
 - (a)Permanent Account Number; and
 - (b)Email-ID.]

CHAPTER II GENERAL

3. Eligibility for resolution professional.

- (1) An insolvency professional shall be eligible to be appointed as an interim professional or a resolution professional for a corporate insolvency resolution process of a corporate debtor if he, and all partners and directors of the insolvency professional entity of which he is a partner or director, are independent of the corporate debtor.

Explanation— A person shall be considered independent of the corporate debtor, if he:

- (a) is eligible to be appointed as an independent director on the board of the corporate debtor under section 149 of the Companies Act, 2013 (18 of 2013), where the corporate debtor is a company;
- (b) is not a related party of the corporate debtor; or
- (c) is not an employee or proprietor or a partner:
 - (i) of a firm of audit [secretarial auditors] in practice or cost auditors of the corporate debtor; or
 - (ii) of a legal or a consulting firm, that has or had any transaction with the corporate debtor amounting to **[five per cent]** or more of the gross turnover of such firm, in the last three financial years.

- (1A) Where the committee decides to appoint the interim resolution professional as resolution professional or replace the interim resolution professional under section 22 or replace the resolution professional under section 27, it shall obtain the written consent of the proposed resolution professional in Form AA of the Schedule.**

- (2) An interim resolution professional or a resolution professional shall make disclosures at the time of his appointment and thereafter in accordance with the Code of Conduct.
- (3) An interim resolution professional or a resolution professional, who is a director or a partner of an insolvency professional entity, shall not continue as the interim resolution professional or resolution professional as the case may be in a corporate insolvency resolution process if the insolvency professional entity or any other partner or director of such insolvency professional entity represents any of the other stakeholders in that corporate insolvency resolution process.

4. Access to books.

- (1) Without prejudice to section 17(2)(d), the interim resolution professional or the resolution professional as the case may be, may access the books of account, records and other relevant documents and information, to the extent relevant for discharging his duties under the Code, of the corporate debtor held with-
 - (a) depositories of securities;
 - (b) professional advisors of the corporate debtor;
 - (c) information utilities;
 - (d) other registries that records the ownership of assets;
 - (e) members, promoters, partners, board of directors and joint venture partners of the corporate debtor; and
 - (f) contractual counterparties of the corporate debtor.

- (2) The personnel of the corporate debtor, its promoters or any other person associated with the management of the corporate debtor shall provide the information within such time and in such format as sought by the interim resolution professional or the resolution professional, as the case may be.
- (3) The creditor shall provide to the interim resolution professional or resolution professional, as the case may be, the information in respect of assets and liabilities of the corporate debtor from the last valuation report, stock statement, receivables statement, inspection reports of properties, audit report, stock audit report, title search report, technical officers report, bank account statement and such other information which shall assist the interim resolution professional or the resolution professional in preparing the information memorandum, getting valuation determined and in conducting the corporate insolvency resolution process.]

4A. Choice of authorised representative

- (1) On an examination of books of account and other relevant records of the corporate debtor, the interim resolution professional shall ascertain class(s) of creditors, if any.
- (2) For representation of creditors in a class ascertained under sub-regulation (1) in the committee, the interim resolution professional shall identify three insolvency professionals who are-
 - (a) not his relatives or related parties;
 - (aa) having their addresses, as registered with the Board, in the State or Union Territory**, as the case may be, which has the highest number of creditors in the class as per their addresses in the records of the corporate debtor: Provided that where such State or Union Territory does not have adequate number of insolvency professionals, the insolvency professionals having addresses in a nearby State or Union Territory, as the case may be, shall be considered;
 - (b) eligible to be resolution professional under regulation 3; and
 - (c) willing to act as authorised representative of creditors in the class.
- (3) The interim resolution professional shall obtain the consent of each insolvency professional identified under sub-regulation (2) to act as the authorised representative of creditors in the class in Form AB of the Schedule.

4B. Disclosure of change in name and address of corporate debtor.

Where a corporate debtor has changed its name or registered office address during the period of two years preceding the insolvency commencement date, the interim resolution professional or resolution professional, as the case may be, shall disclose all the former name(s) and registered office address(es) so changed along with the current name and registered office address in every communication, record, proceeding or any other document.

²⁴[4C. Process e-mail.

(1) The interim resolution professional shall open an email account and use it for all correspondences with stakeholders and in the event of his replacement by a resolution professional, shall handover the credentials of the email to him.

(2) The resolution professional shall, in case of his replacement with another resolution professional Or a liquidator, hand over the credentials of the email to the other resolution professional or the liquidator, as the case may be.]

CHAPTER III

PUBLIC ANNOUNCEMENT

6. Public announcement.

(1) An insolvency professional shall make a public announcement immediately on his appointment as an interim resolution professional.

Explanation: 'Immediately' means not later than three days from the date of his appointment.

(2) The public announcement referred to in sub-regulation (1) shall:

(a) be in Form A of the Schedule -I;

(b) be published-

(i) in one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, of the corporate debtor and any other location where in the opinion of the interim resolution professional, the corporate debtor conducts material business operations;

(ii) on the website, if any, of the corporate debtor; and

(iii) on the website, if any, designated by the Board for the purpose,

- (ba) state where claim forms can be downloaded or obtained from, as the case may be;
- (bb) offer choice of three insolvency professionals identified under regulation 4A to act as the authorised representative of creditors in each class; and]
- (c) provide the last date for submission of proofs of claim, which shall be fourteen days from the date of appointment of the interim resolution professional.
- (3) The applicant shall bear the expenses of the public announcement which may be reimbursed by the committee to the extent it ratifies them.

- **[6A. Communication to creditors.**

- The interim resolution professional shall send a communication along with a copy of public announcement made under regulation 6, to all the creditors as per the last available books of accounts of the corporate debtor through post or electronic means wherever the information for communication is available.
- Provided that where it is not possible to send a communication to creditors, the public announcement made under regulation 6 shall be deemed to be the communicated to such creditors.]

CHAPTER IV

PROOF OF CLAIMS

7. Claims by operational creditors.

- (1) A person claiming to be an operational creditor, other than workman or employee of the corporate debtor, shall **[submit claim with proof] to the interim resolution professional in** person, by post or by electronic means in Form B of the Schedule:
- Provided that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.
- (2) The existence of debt due to the operational creditor under this Regulation may be proved on the basis of-

- (a) the records available with an information utility, if any; or
- (b) other relevant documents, including -
 - (i) a contract for the supply of goods and services with corporate debtor;
 - (ii) an invoice demanding payment for the goods and services supplied to the corporate debtor;
 - (iii) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any; or
 - (iv) financial accounts; or
- (v) copies of relevant extracts of Form GSTR-1 and Form GSTR-3B filed under the provisions of the relevant laws relating to Goods and Services Tax and the copy of e-way bill wherever applicable:

Provided that provisions of this sub-clause shall not apply to those creditors who do not require registration and to those goods and services which are not covered under any law relating to Goods and Services Tax.]

8. Claims by financial creditors.

- (1) A person claiming to be a [financial creditor, other than a financial creditor belonging to a class of creditors, shall submit claim with proof] to the interim resolution professional in electronic form in Form C of the Schedule-I:
 - *Provided that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.*
- (2) The existence of debt due to the financial creditor may be proved on the basis of -
 - (a) the records available with an information utility, if any; or
 - (b) other relevant documents, including -

- (i) a financial contract supported by financial statements as evidence of the debt;
- (ii) a record evidencing that the amounts committed by the financial creditor to the corporate debtor under a facility has been drawn by the corporate debtor;
- (iii) financial statements showing that the debt has not been [paid]; or
- (iv) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any.

8A. Claims by creditors in a class.

- (1) A person claiming to be a creditor in a class shall submit claim with proof to the interim resolution professional in electronic form in Form CA of the Schedule-I.
- (2) The existence of debt due to a creditor in a class may be proved on the basis of-
 - (a) the records available with an information utility, if any; or
 - (b) other relevant documents, including any-
 - (i) agreement for sale;
 - (ii) letter of allotment;
 - (iii) receipt of payment made; or
 - (iv) such other document, evidencing existence of debt.

(3) A creditor in a class may indicate its choice of an insolvency professional, from amongst the three choices provided by the interim resolution professional in the public announcement, to act as its authorised representative.

9. Claims by workmen and employees.

(1) A person claiming to be a workman or an employee of the corporate debtor shall submit [claim with proof] to the interim resolution professional in person, by post or by electronic means in Form D of the Schedule:

- Provided that such person may submit supplementary documents or clarifications in support of the claim, on his own or if required by the interim resolution professional, before the constitution of the committee.

(2) Where there are dues to numerous workmen or employees of the corporate debtor, an authorised representative may submit one [claim with proof] for all such dues on their behalf in Form E of the Schedule.

(3) The existence of dues to workmen or employees may be proved by them, individually or collectively on the basis of –

(a) records available with an information utility, if any; or

(b) other relevant documents, including –

(i) a proof of employment such as contract of employment for the period for which such workman or employee is claiming dues;

(ii) evidence of notice demanding payment of unpaid dues and any documentary or other proof that payment has not been made; or

(iii) an order of a court or tribunal that has adjudicated upon the non-payment of a dues, if any.

9A. Claims by other creditors.

- (1) A person claiming to be a creditor, other than those covered under regulations 7, 8, 8A or 9, shall submit [its claim with proof] to the interim resolution professional or resolution professional in person, by post or by electronic means in Form F of the Schedule.
- (2) The existence of the claim of the creditor referred to in sub-section (1) may be proved on the basis of –
 - (a) the records available in an information utility, if any, or
 - (b) other relevant documents sufficient to establish the claim, including any or all of the following:-
 - (i) documentary evidence demanding satisfaction of the claim;
 - (ii) bank statements of the creditor showing non-satisfaction of claim;
 - (iii) an order of court or tribunal that has adjudicated upon non-satisfaction of claim, if any.

10. Substantiation of claims.

The interim resolution professional or the resolution professional, as the case may be, may call for such other evidence or clarification as he deems fit from a creditor for substantiating the whole or part of its claim.

11. Cost of proof.

A creditor shall bear the cost of proving the debt due to such creditor.

12. Submission of proof of claims.

- (1) Subject to sub-regulation (2), a creditor shall submit [claim with proof] on or before the last date mentioned in the public announcement.
- (2) A creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit the claim with proof to the interim resolution professional or the resolution professional, as the case may be, **on or before the ninetieth day of the insolvency commencement date.]**
- (3) Where the creditor in sub-regulation (2) is [*a financial creditor under regulation 8*], it shall be included in the committee from the date of admission of such claim:
 - Provided that such inclusion shall not affect the validity of any decision taken by the committee prior to such inclusion.

12A. Updation of claim.

A creditor shall update its claim as and when the claim is satisfied, partly or fully, from any source in any manner, after the insolvency commencement date.]

13. Verification of claims.

- (1) The interim resolution professional or the resolution professional, as the case may be, shall verify every claim, as on the insolvency commencement date, within seven days from the last date of the receipt of the claims, and thereupon maintain a list of creditors containing **names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it.**
- (2) The list of creditors shall be –
 - (a) available for inspection by the persons who submitted proofs of claim;

(b) available for inspection by members, partners, directors and guarantors of the corporate debtor or their authorised representatives;

(c) displayed on the website, if any, of the corporate debtor;

(ca) filed on the electronic Platform of the Board for dissemination on its website:

Applicable to CIRPs ongoing and commencing on or after 13.11.2020

(d) filed with the Adjudicating Authority; and

(e) presented at the first meeting of the committee.

14. Determination of amount of claim.

(1) Where the amount claimed by a creditor is not precise due to any contingency or other reason, the interim resolution professional or the resolution professional, as the case may be, shall make the best estimate of the amount of the claim based on the information available with him.

(2) The interim resolution professional or the resolution professional, as the case may be, shall revise the amounts of claims admitted, including the estimates of claims made under sub-regulation (1), as soon as may be practicable, when he comes across additional information warranting such revision.

15. Debt in foreign currency.

- The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as on the insolvency commencement date.
- *Explanation - "official exchange rate" is the reference rate published by the Reserve Bank of India or derived from such reference rates.*

CHAPTER V

COMMITTEE OF CREDITORS

16. Committee with only operational creditors.

(1) Where the corporate debtor has no financial debt or where all financial creditors are related parties of the corporate debtor, the committee shall be set up in accordance with this Regulation.

(2) The committee formed under this Regulation shall consist of members as under -

(a) eighteen largest operational creditors by value:

Provided that if the number of operational creditors is less than eighteen, the committee shall include all such operational creditors;

(b) one representative elected by all workmen **other than those workmen included under sub-clause (a)**; and

(c) one representative elected by all employees **other than those employees included under sub-clause (a)**.

(3) A member of the committee formed under this Regulation shall have voting rights in proportion of the debt due to such creditor or debt represented by such representative, as the case may be, to the total debt.

Explanation – For the purposes of this sub-regulation, ‘total debt’ is the sum of-

(a) the amount of debt due to the creditors listed in sub-regulation 2(a);

(b) the amount of the aggregate debt due to workmen under sub-regulation 2(b); and

- (c) the amount of the aggregate debt due to employees under sub-regulation 2(c).
- (4) A committee formed under this Regulation and its members shall have the same rights, powers, duties and obligations as a committee comprising financial creditors and its members, as the case may be.

16A. Authorised representative.

- (1) The interim resolution professional shall select the insolvency professional, who is the choice of the highest number of financial creditors in the class in Form CA received under sub-regulation (1) of regulation 12, to act as the authorised representative of the creditors of the respective class:

Provided that the choice for an insolvency professional to act as authorised representative in Form CA received under sub-regulation (2) of regulation 12 shall not be considered. **(Late Comers)**

- (2) The interim resolution professional shall apply to the Adjudicating Authority for appointment of the authorised representatives selected under sub-regulation (1) within two days of the verification of claims received under sub-regulation (1) of regulation 12.
- (3) Any delay in appointment of the authorised representative for any class of creditors shall not affect the validity of any decision taken by the committee.
- (4) The interim resolution professional shall provide the list of creditors in each class to the respective authorised representative appointed by the Adjudicating Authority.
- (5) The interim resolution professional or the resolution professional, as the case may be, shall provide an updated list of creditors in each class to the respective authorised representative as and when the list is updated.

Clarification: The authorised representative shall have no role in receipt or verification of claims of creditors of the class he represents. **(Acts as a postman)**

- (6) The interim resolution professional or the resolution professional, as the case may be, shall provide electronic means of communication between the authorised representative and the creditors in the class.
- (7) The voting share of a creditor in a class shall be in proportion to the financial debt which includes an interest at the rate of eight per cent per annum unless a different rate has been agreed to between the parties.
- (8) The authorised representative of creditors in a class shall be entitled to receive fee for every meeting of the committee attended by him in the following manner, namely: -

Number of creditors in the class	Fee per meeting of the committee (Rs.)
10-100	15000
101-1000	20000
More than 1000	25000

- (9) **The authorised representative shall circulate the agenda to creditors in a class, and** may seek their preliminary views on any item in the agenda to enable him to effectively participate in the meeting of the committee:
 - Provided that creditors shall have a time window of at least twelve hours to submit their preliminary views, and the said window opens at least twenty-four hours after the authorised representative seeks preliminary views:
 - Provided further that such preliminary views shall not be considered as voting instructions by the creditors.

16B. Committee with only creditors in a class.

Where the corporate debtor has only creditors in a class and no other financial creditor eligible to join the committee, the committee shall consist of only the authorised representative(s).]

17. Constitution of committee.

(1) The interim resolution professional shall file a report certifying constitution of the committee to the Adjudicating Authority within two days of the verification of claims received under sub-regulation (1) of regulation 12.

(1A) The committee and members of the committee shall discharge functions and exercise powers under the Code and these regulations in respect of corporate insolvency resolution process in compliance with the guidelines as may be issued by the Board.]

(2) The interim resolution professional shall hold the first meeting of the committee within seven days of filing the report under this regulation.

(3) Where the appointment of resolution professional is delayed, the interim resolution professional shall perform the functions of the resolution professional from the fortieth day of the insolvency commencement date till a resolution professional is appointed under section 22.

CHAPTER VI

MEETINGS OF THE COMMITTEE

18. Meetings of the committee.

(1) A resolution professional may convene a meeting of the committee as and when he considers necessary

(2) A resolution professional may convene a meeting, if he considers it necessary, on a request received from members of the committee and shall convene a meeting if the same is made by members of the committee representing at least thirty three per cent of the voting rights.

- [Explanation: For the purposes of sub-regulation (2) it is clarified that meeting (s) may be convened under this sub-regulation till the resolution plan is approved under sub-section (1) of section 31 or order for liquidation is passed under section 33 and decide on matters which do not affect the resolution plan submitted before the Adjudicating Authority.]
- (3) A resolution professional may place a proposal received from members of the committee in a meeting, if he considers it necessary and shall place the proposal if the same is made by members of the committee representing at least thirty three per cent of the voting rights.]

19. (1) Subject to this Regulation, a meeting of the committee shall be called by giving not less than five days' *notice in writing to every participant, at the address it has provided to* the IRP or resolution professional as the case may be and such notice may be sent by hand delivery, or by post but in any event, be served on every participant by electronic means in accordance with Regulation 20.

(2) The committee **may reduce** the notice period from five days to such other period of not less than **twenty-four hours**, as it deems fit: Provided that the committee may reduce the period to such other period of not less than **forty-eight hours if there is any authorised representative**.

20. Service of notice by electronic means.

(1) A notice by electronic means may be sent to the participants through e-mail as a text or as an attachment to e-mail or as a notification providing electronic link or Uniform Resource Locator for accessing such notice.

(2) The subject line in e-mail shall state the name of the corporate debtor, the place, if any, the time and the date on which the meeting is scheduled. **(Name ,place,time,date)**

(3) If notice is sent in the form of a non-editable attachment to an e-mail, such attachment shall be in the Portable Document Format or in a non-editable format together with a 'link or instructions' for recipient for downloading relevant version of the software.

(4) When notice or notifications of availability of notice are sent by an e-mail, the resolution professional shall ensure that it uses a system which produces confirmation of the total number of recipients e-mailed and a record of each recipient to whom the notice has been sent and copy of such record and any notices of any failed transmissions and subsequent re-sending shall be retained as "proof of sending".

- (5) The obligation of the resolution professional shall be satisfied when he transmits the e-mail and he shall not be held responsible for a failure in transmission beyond its control. **(Bhej diya so bhej diya)**
- (6) The notice made available on the electronic link or Uniform Resource Locator shall be readable, and the recipient should be able to obtain and retain copies and the resolution professional shall give the complete Uniform Resource Locator or address of the website and full details of how to access the document or information.
- (7) If a **participant, other than a member of the committee**, fails to provide or update the relevant e-mail address to the resolution professional, the non-receipt of such notice by such participant of any meeting shall not invalidate the decisions taken at such meeting.

21. Contents of the notice for meeting.

- (1) The notice shall inform the participants of the venue, the time and date of the meeting and of the option available to them to participate through video conferencing or other audio and visual means, and shall also provide all the necessary information to enable participation through video conferencing or other audio and visual means.
- (2) The notice of the meeting shall provide that a participant may attend and vote in the meeting either in person or through an authorised representative:
- *Provided that such participant shall inform the resolution professional, in advance of the meeting, of the identity of the authorised representative who will attend and vote at the meeting on its behalf.*

- (3) The notice of the meeting shall contain the following-
- (i) a list of the matters to be discussed at the meeting;
 - (ii) a list of the issues to be voted upon at the meeting; and
 - (iii) copies of all documents relevant to the matters to be discussed and the issues to be voted upon at the meeting.
- (4) The notice of the meeting shall-
- (a) state the process and manner for voting by electronic means and the time schedule, including the time period during which the votes may be cast;
 - (b) provide the login ID and the details of a facility for generating password and for keeping security and casting of vote in a secure manner; and
 - (c) provide contact details of the person who will address the queries connected with the electronic voting.

22. Quorum at the meeting.

- (1) A meeting of the committee shall be quorate if members of the committee representing at least thirty three percent of the voting rights are present either in person or by video conferencing or other audio and visual means:
- Provided that the committee may modify the percentage of voting rights required for quorum in respect of any future meetings of the committee.

- (2) Where a meeting of the committee could not be held for want of quorum, unless the committee has previously decided otherwise, the meeting shall automatically stand adjourned at the same time and place on the next day.
- (3) In the event a meeting of the committee is adjourned in accordance with sub-regulation (2), the adjourned meeting shall be quorate with the members of the committee attending the meeting.

23. Participation through video conferencing.

- (1) The notice convening the meetings of the committee shall provide the participants an option to attend the meeting through video conferencing or other audio and visual means in accordance with this Regulation.
- (2) The resolution professional shall make necessary arrangements to ensure uninterrupted and clear video or audio and visual connection.
- (3) The resolution professional shall take due and reasonable care-
 - (a) to safeguard the integrity of the meeting by ensuring sufficient security and identification procedures;
 - (b) to ensure availability of proper video conferencing or other audio and visual equipment or facilities for providing transmission of the communications for effective participation of the participants at the meeting;
 - (c) to record proceedings and prepare the minutes of the meeting;
 - (d) to store for safekeeping and marking the physical recording(s) or other electronic recording mechanism as part of the records of the corporate debtor;

- (e) to ensure that no person other than the intended participants attends or has access to the proceedings of the meeting through video conferencing or other audio and visual means; and
- (f) to ensure that participants attending the meeting through audio and visual means are able to hear and see, if applicable, the other participants clearly during the course of the meeting:
 - Provided that the persons, who are differently abled, may make request to the resolution professional to allow a person to accompany him at the meeting.
- (4) Where a meeting is conducted through video conferencing or other audio and visual means, the scheduled venue of the meeting as set forth in the notice convening the meeting, which shall be in India, shall be deemed to be the place of the said meeting and all recordings of the proceedings at the meeting shall be deemed to be made at such place.

24. Conduct of meeting.

- (1) The resolution professional shall act as the chairperson of the meeting of the committee.
- (2) At the commencement of a meeting, the resolution professional shall take a roll call when every participant attending through video conferencing or other audio and visual means shall state, for the record, the following, -
 - (a) his name;
 - (b) whether he is attending in the capacity of a member of the committee or any other participant;
 - (c) whether he is representing a member or group of members;

- (d) the location from where he is participating;
 - (e) that he has received the agenda and all the relevant material for the meeting; and
 - (f) that no one other than him is attending or has access to the proceedings of the meeting at the location of that person.
- (3) After the roll call, the resolution professional shall inform the participants of the names of all persons who are present for the meeting and confirm if the required quorum is complete.
 - (4) The resolution professional shall ensure that the **required quorum is present throughout the meeting.**
 - (5) From the commencement of the meeting till its conclusion, no person other than the participants and any other person whose presence is required by the resolution professional shall be allowed access to the place where meeting is held or to the video conferencing or other audio and visual facility, without the permission of the resolution professional.
 - (6) The resolution professional shall ensure that minutes are made in relation to each meeting of the committee and such minutes shall disclose the particulars of the participants who attended the meeting in person, through video conferencing, or other audio and visual means.
 - (7) The resolution professional shall circulate the minutes of the meeting to all participants by electronic means **within forty eight hours** of the said meeting.

CHAPTER VII

VOTING BY THE COMMITTEE

25. Voting by the committee.

- (1) The actions listed in section 28(1) shall be considered in meetings of the committee.
- (2) Any action other than those listed in section 28(1) requiring approval of the committee may be considered in meetings of the committee.
- (3) The resolution professional shall take a vote of the members of the committee present in the meeting, on any item listed for voting after discussion on the same.]
- (4) At the conclusion of a vote at the meeting, the resolution professional shall announce the decision taken on items along with the names of the members of the committee who voted for or against the decision, or abstained from voting.
- (5) The resolution professional shall-
 - (a) circulate the minutes of the meeting by electronic means to all members of the committee and the authorised representative, if any, within forty-eight hours of the conclusion of the meeting; and
 - (b) seek a vote of the members who did not vote at the meeting on the matters listed for voting, by electronic voting system in accordance with regulation 26 where the voting shall be kept open for at least twenty-four hours from the circulation of the minutes.

(6) The authorised representative shall circulate the minutes of the meeting received under sub-regulation (5) to creditors in a class and announce the voting window at least twenty four hours before the window opens for voting instructions and keep the voting window open for at least twelve hours.] **12-24-12**

25A. Voting by Authorised Representative.

- The authorised representative shall cast his vote in respect of each financial creditor or on behalf of all financial creditors he represents in accordance with the provisions of subsection (3) or sub-section (3A) of section 25A, as the case may be. **(More than 50% means 100% as per Sub Section 3 and Individual votes to be considered for 3A)**

26. Voting through electronic means.

(1) The resolution professional shall provide each member of the committee the means to exercise its vote by either electronic means or through electronic voting system in accordance with the provisions of this Regulation.

Explanation- For the purposes of these Regulations-

- (a) the expressions “voting by electronic means” or “electronic voting system” means a “secured system” based process of display of electronic ballots, recording of votes of the members of the committee and the number of votes polled in favour or against, such that the voting exercised by way of electronic means gets registered and counted in an electronic registry in a centralized server with adequate cyber security;
- (b) the expression “secured system” means computer hardware, software, and procedure that –

- (i) are reasonably secure from unauthorized access and misuse;
 - (ii) provide a reasonable level of reliability and correct operation;
 - (iii) are reasonably suited to perform the intended functions; and
 - (iv) adhere to generally accepted security procedures.
- (3) At the end of the voting period, the voting portal shall forthwith be blocked.
- (4) At the conclusion of a vote held under this Regulation, the resolution professional shall announce and make a written record of the summary of the decision taken on a relevant agenda item along with the names of the members of the committee who voted for or against the decision, or abstained from voting.
- (5) The resolution professional shall circulate a copy of the record made under sub-regulation (4) to all participants by electronic means within twenty four hours of the conclusion of the voting.

CHAPTER VIII

CONDUCT OF CORPORATE INSOLVENCY RESOLUTION PROCESS

27. Appointment of professionals.

- The resolution professional shall within [seven days of his appointment, but not later than forty-seventh day from the insolvency commencement date], appoint two registered valuers to determine the fair value and the liquidation value of the corporate debtor in accordance with regulation 35:

- (2) The interim resolution professional or the resolution professional, as the case may be, may appoint any professional, in addition to registered valuers under sub-regulation (1), to assist him in discharge of his duties in conduct of the corporate insolvency resolution process, if he is of the opinion that the services of such professional are required and such services are not available with the corporate debtor.
- (3) The interim resolution professional or the resolution professional, as the case may be, shall appoint a professional under this regulation on an arm's length basis following an objective and transparent process

Provided that the following persons shall not be appointed , namely:

- (a) a relative of the resolution professional;
 - (b) a related party of the corporate debtor;
 - (c) an auditor of the corporate debtor at any time during the period of five years preceding the insolvency commencement date; or
 - (d) a partner or director of the insolvency professional entity of which the resolution professional is a partner or director.]
- (4) The invoice for fee and other expenses incurred by a professional appointed under this regulation shall be raised in the name of the professional and be paid directly into the bank account of such professional.

28. Transfer of debt due to creditors.

(1) In the event a creditor assigns or transfers the debt due to such creditor to any other person during the insolvency resolution process period, both parties shall provide the interim resolution professional or the resolution professional, as the case may be, the terms of such assignment or transfer and the identity of the assignee or transferee.

(2) The resolution professional shall notify each participant and the Adjudicating Authority of any resultant change in the committee within two days of such change.

29. Sale of assets outside the ordinary course of business.

(1) The resolution professional may sell unencumbered asset(s) of the corporate debtor, other than in the ordinary course of business, if he is of the opinion that such a sale is necessary for a better realization of value under the facts and circumstances of the case:

- Provided that the book value of all assets sold during corporate insolvency resolution process period in aggregate under this sub-regulation shall not exceed ten percent of the total claims admitted by the interim resolution professional.
- (2) A sale of assets under this Regulation shall require the [approval of the committee by a vote of sixty-six per cent of voting share of the members
- (3) A bona fide purchaser of assets sold under this Regulation shall have a free and marketable title to such assets notwithstanding the terms of the constitutional documents of the corporate debtor, shareholders' agreement, joint venture agreement or other document of a similar nature.

30. Assistance of local district administration.

- The interim resolution professional or the resolution professional, as the case may be, may make an application to the Adjudicating Authority for an order seeking the assistance of the local district administration in discharging his duties under the Code or these Regulations.

30 A. Withdrawal of application.

- (1) An application for withdrawal under section 12A may be made to the Adjudicating Authority –
 - (a) before the constitution of the committee, by the applicant through the interim resolution professional;
 - (b) after the constitution of the committee, by the applicant through the interim resolution professional or the resolution professional, as the case may be:
- **Provided that where the application is made under clause (b) after the issue of invitation for expression of interest under regulation 36A, the applicant shall state the reasons justifying withdrawal after issue of such invitation.**

- (2) The application under sub-regulation (1) shall be made in Form FA of the Schedule-I accompanied by a bank guarantee-
 - (a) towards estimated expenses incurred on or by the interim resolution professional for purposes of regulation 33, till the date of filing of the application under clause (a) of sub-regulation (1); or
 - (b) towards estimated expenses incurred for purposes of clauses (aa), (ab), (c) and (d) of regulation 31, till the date of filing of the application under clause (b) of sub-regulation (1).
- (3) Where an application for withdrawal is under clause (a) of sub-regulation (1), the interim resolution professional shall submit the application to the Adjudicating Authority on behalf of the applicant, within three days of its receipt.
- (4) Where an application for withdrawal is under clause (b) of sub-regulation (1), the committee shall consider the application, within seven days of its receipt.
- (5) Where the application referred to in sub-regulation (4) is approved by the committee with ninety percent voting share, the resolution professional shall submit such application along with the approval of the committee, to the Adjudicating Authority on behalf of the applicant, within three days of such approval.
- (6) The Adjudicating Authority may, by order, approve the application submitted under sub-regulation (3) or (5).

(7) Where the application is approved under sub-regulation (6), the applicant shall deposit an amount, towards the actual expenses incurred for the purposes referred to in clause (a) or clause (b) of sub-regulation (2) till the date of approval by the Adjudicating Authority, as determined by the interim resolution professional or resolution professional, as the case may be, within three days of such approval, in the bank account of the corporate debtor, failing which the bank guarantee received under sub-regulation (2) shall be invoked, without prejudice to any other action permissible against the applicant under the Code.

CHAPTER IX

INSOLVENCY RESOLUTION PROCESS COSTS

31. Insolvency resolution process costs.

“Insolvency resolution process costs” under Section 5(13)(e) shall mean-

(a) amounts due to suppliers of essential goods and services under Regulation 32;

(aa) fee payable to authorised representative under 39[sub-regulation (8)] of regulation 16A;

(ab) out of pocket expenses of authorised representative for discharge of his functions under [section 25A];

(b) amounts due to a person whose rights are prejudicially affected on account of the moratorium imposed under section 14(1)(d); **(Landlord who did not receive rent)**

²**[(ba) fee payable to the Board under regulation 31A;]**

- (c) expenses incurred on or by the interim resolution professional to the extent ratified under Regulation 33;
- (d) expenses incurred on or by the resolution professional fixed under Regulation 34; and
- (e) other costs directly relating to the corporate insolvency resolution process and approved by the committee.

- **³[31A. Regulatory Fee**

(1) A regulatory fee calculated at the rate of 0.25 per cent of the realisable value to creditors under the resolution plan approved under section 31, shall be payable to the Board, where such realisable value is more than the liquidation value:

- Provided that this sub-regulation shall be applicable where resolution plan is approved under section 31, on or after 1st October 2022.

(2) A regulatory fee calculated at the rate of one per cent of the cost being booked in insolvency resolution process costs in respect of hiring any professional or other services by the interim resolution professional or resolution professional, as the case may be, for assistance in a corporate insolvency resolution process, shall be payable to the Board, in the manner as specified in clause (cb) of sub-regulation (2) of regulation (7) of Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.]

32. Essential supplies.

The essential goods and services referred to in section 14(2) shall mean-

- (1) electricity;
- (2) water;
- (3) telecommunication services; and
- (4) information technology services, to the extent these are not a direct input to the output produced or supplied by the corporate debtor. Illustration- Water supplied to a corporate debtor will be essential supplies for drinking and sanitation purposes, and not for generation of hydro-electricity.

33. Costs of the interim resolution professional.

- (1) The applicant shall fix the expenses to be incurred on or by the interim resolution professional.
- (2) The Adjudicating Authority shall fix expenses where the applicant has not fixed expenses under sub-regulation (1).
- (3) The applicant shall bear the expenses which shall be reimbursed by the committee to the extent it ratifies.
- (4) The amount of expenses ratified by the committee shall be treated as insolvency resolution process costs.

- Explanation. - For the purposes of this regulation, “expenses” include the fee to be paid to the interim resolution professional, fee to be paid to insolvency professional entity, if any, and fee to be paid to professionals, if any, and other expenses to be incurred by the interim resolution professional.

34. Resolution professional costs.

- The committee shall fix the expenses to be incurred on or by the resolution professional and the expenses shall constitute insolvency resolution process costs.
- Explanation. - For the purposes of this regulation, “expenses” include the fee to be paid to the resolution professional, fee to be paid to insolvency professional entity, if any, and fee to be paid to professionals, if any, and other expenses to be incurred by the resolution professional.

34 A. Disclosure of Costs.

- The interim resolution professional or the resolution professional, as the case may be, shall disclose item wise insolvency resolution process costs in such manner as may be required by the Board.
- **⁷[34B. Fee to be paid to interim resolution professional and resolution professional.**
(1) The fee of interim resolution professional or resolution professional, under regulation 33 and 34, shall be decided by the applicant or committee in accordance with this regulation.

(2) The fee of the interim resolution professional or the resolution professional, appointed on or after 1st October 2022, shall not be less than the fee specified in clause 1 for the period specified in clause 2 of Schedule-II:

• Provided that the applicant or the committee may decide to fix higher amount of fee for the reasons to be recorded, taking into consideration market factors such as size and scale of business operations of corporate debtor, business sector in which corporate debtor operates, level of operating economic activity of corporate debtor and complexity related to process.

(3) After the expiry of period mentioned in clause 2 of Schedule-II, the fee of the interim resolution professional or resolution professional shall be as decided by the applicant or committee, as the case may be.

(4) For the resolution plan approved by the committee on or after 1st October 2022, the committee may decide, in its discretion, to pay performance-linked incentive fee, not exceeding five crore rupees, in accordance with clause 3 and clause 4 of Schedule-II or may extend any other performance-linked incentive structure as it deems necessary.

(5) The fee under this regulation may be paid from the funds, available with the corporate debtor, contributed by the applicant or members of the committee and/or raised by way of interim finance and shall be included in the insolvency resolution process cost.]

**CHAPTER X
RESOLUTION PLAN**

35. Fair value and Liquidation value.

(1) Fair value and liquidation value shall be determined in the following manner:-

(a) the two registered valuers appointed under regulation 27 shall submit to the resolution professional an estimate of the fair value and of the liquidation value computed in accordance with internationally accepted valuation standards, after physical verification of the inventory and fixed assets of the corporate debtor;

[(b) if the two estimates of a value in an asset class are significantly different, or on receipt of a proposal to appoint a third registered valuer from the committee of creditors, the resolution professional may appoint a third registered valuer for an asset class for submitting an estimate of the value computed in the manner provided in clause (a).

Explanation.- For the purpose of clause (b),

(i) “asset class” means the definition provided under the Companies (Registered Valuers and Valuation) Rules, 2017;

(ii) “significantly different” means a difference of twenty-five per cent. in liquidation value under an asset class and the same shall be calculated as $(L1-L2)/L1$, where,

- L1= higher valuation of liquidation value L2= lower valuation of liquidation value.]

(c) the average of the two closest estimates of a value shall be considered the fair value or the liquidation value, as the case may be.

- (2) **After the receipt of resolution plans in accordance with the Code and these regulations,** the resolution professional shall provide the fair value and the liquidation value to every member of the committee in electronic form, on receiving an undertaking from the member to the effect that such member shall maintain confidentiality of the fair value and the liquidation value and shall not use such values to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29:
- (3) The resolution professional and registered valuers shall maintain confidentiality of the fair value and the liquidation value.”

35A. Preferential and other transactions.

- (1) **On or before the seventy-fifth day** of the insolvency commencement date, the resolution professional shall **form an opinion** whether the corporate debtor has been subjected to any transaction covered under sections 43, 45, 50 or 66.
- (2) Where the resolution professional is of the opinion that the corporate debtor has been subjected to any transactions covered under sections 43, 45, 50 or 66, he shall make a **determination on or before the one hundred and fifteenth day** of the insolvency commencement date,

(3) Where the resolution professional makes a determination under sub-regulation (2), he shall apply to the Adjudicating Authority for appropriate relief on or before the **one hundred and thirtieth day** of the insolvency commencement date.] -75-115-130

- [(3A) The resolution professional shall forward a copy of the application to the prospective resolution applicant to enable him to consider the same while submitting the resolution plan within the time initially stipulated.]
- [(4) The creditors shall provide to the resolution professional, relevant extract from the audits of the corporate debtor, conducted by the creditors such as stock audit, transaction audit, forensic audit, etc.]

36. Information memorandum.

(1) (1) Subject to sub-regulation (4), the **resolution professional** shall submit the information memorandum in electronic form to each member of the committee **within two weeks of his appointment, but not later than fifty-fourth day** from the insolvency commencement date, whichever is earlier.]

(2) The information memorandum shall contain the following details of the corporate debtor-

- (a) [assets and liabilities with such description, as on the insolvency commencement date, as are generally necessary for ascertaining their values.
- Explanation: 'Description' includes the details such as date of acquisition, cost of acquisition, remaining useful life, identification number, depreciation charged, book value, ⁹⁰[geographical coordinates of fixed assets] and any other relevant details.]
- (b) the latest annual financial statements;
- (c) audited financial statements of the corporate debtor for the last two financial years and provisional financial statements for the current financial year made up to a date **not earlier than fourteen days from the date of the application;**
- (d) a list of creditors containing the names of creditors, the amounts claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims;

- (e) particulars of a debt due from or to the corporate debtor with respect to related parties;
 - (f) details of guarantees that have been given in relation to the debts of the corporate debtor by other persons, specifying which of the guarantors is a related party;
 - (g) the names and addresses of the members or partners holding at least one per cent stake in the corporate debtor along with the size of stake;
 - (h) details of all material litigation and an ongoing investigation or proceeding **initiated by Government and statutory authorities;(Private litigation not covered?)**
 - (i) the number of workers and employees and liabilities of the corporate debtor towards them;
 - (j) [***]
 - (k) [***]
 - (l) other information, which the resolution professional deems relevant to the committee.
- (3) A member of the committee may request the resolution professional for further information of the nature described in this Regulation and the resolution professional shall provide such information to all members within reasonable time if such information has a bearing on the resolution plan.

⁹²**[(3A) The creditors shall provide to the resolution professional the latest financial statements and other relevant financial information of the corporate debtor available with them.]**

- (4) The resolution professional shall share the information memorandum after receiving an undertaking from a member of the committee [***] to the effect that such member or resolution applicant shall maintain confidentiality of the information and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29.

36A. Invitation for expression of interest.

- (1) The resolution professional shall publish **brief particulars of the invitation for expression of interest** in Form G of the Schedule -I at the earliest, **not later than sixtieth day** from the insolvency commencement date, from interested and eligible prospective resolution applicants to submit resolution plans.
- (2) The resolution professional shall publish Form G-
 - (i) in one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, of the corporate debtor and any other location where in the opinion of the resolution professional, the corporate debtor conducts material business operations;
 - (ii) on the website, if any, of the corporate debtor;
 - (iii) on the website, if any, designated by the Board for the purpose; and
 - (iv) in any other manner as may be decided by the committee.
- (3) The Form G in the Schedule-I shall -
 - (a) state where the **detailed invitation for expression of interest can** be downloaded or obtained from, as the case may be; and
 - (b) provide the last date for submission of expression of interest which shall not be less than fifteen days from the date of issue of detailed invitation.
- (4) The detailed invitation referred to in sub-regulation (3) shall-

- (a) specify the criteria for prospective resolution applicants, as approved by the committee in accordance with clause (h) of sub-section (2) of section 25;
 - (b) state the ineligibility norms under section 29A to the extent applicable for prospective resolution applicants;**(daagi ummeedwar sampark na karein)**
 - (c) provide such basic information about the corporate debtor as may be required by a prospective resolution applicant for expression of interest; and
 - (d) not require payment of any fee or any non-refundable deposit for submission of expression of interest.
- [(4A) Any modification in the invitation for expression of interest may be made in the manner as the initial invitation for expression of interest was made: Provided that such modification shall not be made more than once.
- (5) A prospective resolution applicant, who meet the requirements of the invitation for expression of interest, may submit expression of interest within the time specified in the invitation under clause (b) of sub-regulation (3). **(shall not be less than fifteen days from the date of issue of detailed invitation.)**
 - (6) The expression of interest received after the time specified in the invitation under clause (b) of sub-regulation (3) shall be rejected.
- ³[(7) An expression of interest shall be unconditional and be accompanied by-
- (a) an undertaking by the prospective resolution applicant that it meets the criteria specified by the committee under clause (h) of sub-section (2) of section 25;**(Complexity and scale of operations)**
 - (b) relevant records in evidence of meeting the criteria under clause (a);
 - (c) an undertaking by the prospective resolution applicant that it does not suffer from any ineligibility under section 29A to the extent applicable;

- (d) relevant information and records to enable an assessment of ineligibility under clause (c);
 - (e) an undertaking by the prospective resolution applicant that it shall intimate the resolution professional forthwith if it becomes ineligible at any time during the corporate insolvency resolution process;
 - (f) an undertaking by the prospective resolution applicant that every information and records provided in expression of interest is true and correct and discovery of any false information or record at any time will render the applicant ineligible to submit resolution plan, forfeit any refundable deposit, and attract penal action under the Code; and
 - (g) an undertaking by the prospective resolution applicant to the effect that it shall maintain confidentiality of the information and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29.
- (8) The resolution professional shall conduct due diligence based on the material on record in order to satisfy that the prospective resolution applicant complies with-
- (a) the provisions of clause (h) of sub-section (2) of section 25;
 - (b) the applicable provisions of section 29A, and
 - (c) other requirements, as specified in the invitation for expression of interest.
- (9) The resolution professional may seek any clarification or additional information or document from the prospective resolution applicant for conducting due diligence under sub-regulation (8).

- (10) The resolution professional shall issue a provisional list of eligible prospective resolution applicants **within ten days of the last date for submission of expression of interest** to the committee and to all prospective resolution applicants who submitted the expression of interest.
- (11) Any objection to inclusion or exclusion of a prospective resolution applicant in the provisional list referred to in sub-regulation (10) may be made with supporting documents within five days from the date of issue of the provisional list.
- (12) On considering the objections received under sub-regulation (11), the resolution professional shall issue the final list of prospective resolution applicants within ten days of the last date for receipt of objections, to the committee.

36B. Request for resolution plans.

- (1) The resolution professional shall issue the information memorandum, evaluation matrix and a request for resolution plans, within five days of the date of issue of the provisional list under sub-regulation (10) of regulation 36A to -
- (a) every prospective resolution applicant in the provisional list; and
 - (b) every prospective resolution applicant who has contested the decision of the resolution professional against its non-inclusion in the provisional list.
- (2) The request for resolution plans shall detail each step in the process, and the manner and purposes of interaction between the resolution professional and the prospective resolution applicant, along with corresponding timelines.

- (3) The request for resolution plans shall allow prospective resolution applicants a minimum of thirty days to submit the resolution plan(s).
- (4) The request for resolution plans shall not require any non-refundable deposit for submission of or along with resolution plan.
- (4A) The request for resolution plans shall require the resolution applicant, in case its resolution plan is approved under sub-section (4) of section 30, to provide a **performance security** within the time specified therein and such performance security shall stand forfeited if the resolution applicant of such plan, after its approval by the Adjudicating Authority, fails to implement or contributes to the failure of implementation of that plan in accordance with the terms of the plan and its implementation schedule.
- Explanation I. – For the purposes of this sub-regulation, “performance security” shall mean security of such nature, value, duration and source, as may be specified in the request for resolution plans with the approval of the committee, having regard to the nature of resolution plan and business of the corporate debtor.
 - Explanation II. – A **performance security may be specified in absolute terms** such as guarantee from a bank for Rs. X for Y years **or in relation to one or more variables such as the term of the resolution plan, amount payable to creditors under the resolution plan, etc.**
- (5) Any modification in the request for resolution plan or the evaluation matrix issued under sub-regulation (1), shall be deemed to be a fresh issue and shall be subject to timeline under sub-regulation (3). **(30 days from change)**

Provided that such modification shall not be made more than once.

- (6) The resolution professional may, with the approval of the committee, extend the timeline for submission of resolution plans.
- (6A) If the resolution professional, does not receive a resolution plan in response to the request under this regulation, he may, with the approval of the committee, issue request for resolution plan for sale of one or more of assets of the corporate debtor.**

(7) The resolution professional may, with the approval of the committee, re-issue request for resolution plans, if the resolution plans received in response to an earlier request are not satisfactory, subject to the condition that the request is made to all prospective resolution applicants in the final list:

Provided that provisions of sub-regulation (3) shall not apply for submission of resolution plans under this sub-regulation.

[36C. Strategy for marketing of assets of the corporate debtor.

(1) The resolution professional shall prepare a strategy for marketing of the assets of the corporate debtor in consultation with the committee, where the total assets as per the last available financial statements exceed one hundred crore rupees and may prepare such strategy in other cases.

(2) Decision of implementing such strategy along with its cost shall be subject to the approval of the committee.

(3) The member(s) of committee may also take measures for marketing of the assets of the corporate debtor.]

37. Resolution plan.

• A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximization of value of its assets, including but not limited to the following: -

(a) transfer of all or part of the assets of the corporate debtor to one or more persons;

(b) sale of all or part of the assets whether subject to any security interest or not;

(ba) restructuring of the corporate debtor, by way of merger, amalgamation and demerger;]

(c) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;

(ca) cancellation or delisting of any shares of the corporate debtor, if applicable;]

(d) satisfaction or modification of any security interest;

(e) curing or waiving of any breach of the terms of any debt due from the corporate debtor;

(f) reduction in the amount payable to the creditors;(Concept of Hair Cut)

- (g) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;
- (h) amendment of the constitutional documents of the corporate debtor;
- (i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;
- (j) change in portfolio of goods or services produced or rendered by the corporate debtor;
- (k) change in technology used by the corporate debtor; and
- (l) obtaining necessary approvals from the Central and State Governments and other authorities.
- [(m) sale of one or more assets of corporate debtor to one or more successful resolution applicants submitting resolution plans for such assets; and manner of dealing with remaining assets]**

38. Mandatory contents of the resolution plan.

(1) The amount payable under a resolution plan -

- (a) to the operational creditors shall be paid in priority over financial creditors; and
- (b) to the financial creditors, who have a right to vote under sub-section (2) of section 21 and did not vote in favour of the resolution plan, shall be paid in priority over financial creditors who voted in favour of the plan.**(Fufa)**
- (1A) A resolution plan shall include a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors, of the corporate debtor.**(Kaddu kaise kata,kaise bata)**
- (1B) A resolution plan shall include a statement giving details if the resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past.

(2) A resolution plan shall provide:

(a) the term of the plan and its implementation schedule;

(b) the management and control of the business of the corporate debtor during its term; and

(c) adequate means for supervising its implementation.

(3) A resolution plan shall demonstrate that –

(a) it addresses the cause of default;

(b) it is feasible and viable;

(c) it has provisions for its effective implementation;

(d) it has provisions for approvals required and the timeline for the same; and

(e) the resolution applicant has the capability to implement the resolution plan.

39. Approval of resolution plan.

(1) A prospective resolution applicant in the final list may submit resolution plan or plans prepared in accordance with the Code and these regulations to the resolution professional electronically within the time given in the request for resolution plans under regulation 36B along with

(a) an affidavit stating that it is eligible under section 29A to submit resolution plans;

(c) an undertaking by the prospective resolution applicant that every information and records provided in connection with or in the resolution plan is true and correct and discovery of false information and record at any time will render the applicant ineligible to continue in the corporate insolvency resolution process, forfeit any refundable deposit, and attract penal action under the Code.

(1A) The resolution professional may, if envisaged in the request for resolution plan-

(a) allow modification of the resolution plan received under sub-regulation (1), but not more than once; or

(b) use a challenge mechanism to enable resolution applicants to improve their plans.

(1B) The committee shall not consider any resolution plan-

(a) received after the time as specified by the committee under regulation 36B; or

(b) received from a person who does not appear in the final list of prospective resolution applicants; or

(c) does not comply with the provisions of sub-section (2) of section 30 and sub-regulation (1).].

(2) The resolution professional shall submit to the committee all resolution plan which comply with the requirements of the Code and regulations made there under along with the **details of following transactions, if any, observed, found or determined by him: -**

(a) preferential transactions under section 43;

(b) undervalued transactions under section 45;

(c) extortionate credit transactions under section 50; and

(d) fraudulent transactions under section 66, and the orders, if any, of the adjudicating authority in respect of such transactions.

(3) The committee shall-

(a) evaluate the resolution plans received under sub-regulation (2) as per evaluation matrix;

(b) record its deliberations on the feasibility and viability of each resolution plan; and

(c) vote on all such resolution plans simultaneously.

(3A) Where only one resolution plan is put to vote, it shall be considered approved if it receives requisite votes.

(3B) Where two or more resolution plans are put to vote simultaneously, the resolution plan, which receives the highest votes, but not less than requisite votes, shall be considered as approved:

Provided that where two or more resolution plans receive equal votes, but not less than requisite votes, the committee shall approve any one of them, as per the tie-breaker formula announced before voting:

Provided further that where none of the resolution plans receives requisite votes, the committee shall again vote on the resolution plan that received the highest votes, subject

Voting Outcome	% of votes in favour of		Status of approval
	Plan A	Plan B	
1	55	60	No Plan is approved, as neither of the Plans received requisite votes. The committee shall vote again on Plan B, which received the higher votes, subject to the timelines under the Code.
2	70	75	Plan B is approved, as it received higher votes, which is not less than requisite votes.
3	75	75	The committee shall approve either Plan A or Plan B, as per the tie-breaker formula announced before voting.

- (4) The resolution professional shall endeavour to submit the resolution plan approved by the committee to the Adjudicating Authority at least fifteen days before the maximum period for completion of corporate insolvency resolution process under section 12, along with a compliance certificate in [Form H of the Schedule –I and the evidence of receipt of performance security required under sub-regulation (4A) of regulation 36B.]
- (5) The resolution professional shall forthwith send a copy of the order of the Adjudicating Authority approving or rejecting a resolution plan to the participants and the resolution applicant.
- (6) A provision in a resolution plan which would otherwise require the consent of the members or partners of the corporate debtor, as the case may be, under the terms of the constitutional documents of the corporate debtor, shareholders' agreement, joint venture agreement or other document of a similar nature, shall take effect notwithstanding that such consent has not been obtained.
- (7) No proceedings shall be initiated against the interim resolution professional or the resolution professional, as the case may be, for any actions of the corporate debtor, prior to the insolvency commencement date.
- (8) A person in charge of the management or control of the business and operations of the corporate debtor after a resolution plan is approved by the Adjudicating Authority, may make an application to the Adjudicating Authority for an order seeking the assistance of the local district administration in implementing the terms of a resolution plan.
- (9) A creditor, who is aggrieved by non-implementation of a resolution plan approved under sub-section (1) of section 31, may apply to the Adjudicating Authority for directions. **(Me Lord Mujhe Halwa nahin mila)**

39A. Preservation of records.

The interim resolution professional or the resolution professional, as the case may be, shall preserve a physical (3 years) as well as an electronic copy (8 years) of the records relating to corporate insolvency resolution process of the corporate debtor as per the record retention schedule as may be communicated by the Board in consultation with Insolvency Professional Agencies.

39B. Meeting liquidation cost.

- (1) While approving a resolution plan under sub-section (4) of section 30 or deciding to liquidate the corporate debtor under sub-section (2) of section 33, the committee may make a best estimate of the amount required to meet liquidation costs, in consultation with the resolution professional, in the event an order for liquidation is passed under section 33.
- (2) The committee shall make a best estimate of the value of the liquid assets available to meet the liquidation costs, as estimated in sub-regulation (1).
- (3) Where the estimated value of the liquid assets under sub-regulation (2) is less than the estimated liquidation costs under sub-regulation (1), the committee shall approve a plan providing for contribution for meeting the difference between the two.
- (4) The resolution professional shall submit the plan approved under sub-regulation (3) to the Adjudicating Authority while filing the approval or decision of the committee under section 30 or 33, as the case may be.

Explanation.- For the purposes of this regulation, 'liquidation costs' shall have the same meaning as assigned to it in clause (ea) of sub-regulation (1) of regulation (2) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- **[39BA. Assessment of Compromise or Arrangement.**

(1) While deciding to liquidate the corporate debtor under section 33, the committee shall examine whether to explore compromise or arrangement as referred to under sub - regulation (1) of regulation 2B of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016 and the resolution professional shall submit the committee's recommendation to the Adjudicating Authority while filing application under section 33.

(2) Where a recommendation has been made under sub-regulation (1), the resolution professional and the committee shall keep exploring the possibility of compromise or arrangement during the period the application to liquidate the corporate debtor is pending before the Adjudicating Authority.]

39C. Assessment of sale as a going concern.

- (1) While approving a resolution plan under section 30 or deciding to liquidate the corporate debtor under section 33, the committee may recommend that the liquidator may first explore sale of the corporate debtor as a going concern under clause (e) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 or sale of the business of the corporate debtor as a going concern under clause (f) thereof, if an order for liquidation is passed under section 33.
- (2) Where the committee recommends sale as a going concern, it shall identify and group the assets and liabilities, which according to its commercial considerations, ought to be sold as a going concern under clause (e) or clause (f) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- (3) The resolution professional shall submit the recommendation of the committee under sub regulations (1) and (2) to the Adjudicating Authority while filing the approval or decision of the committee under section 30 or 33, as the case may be."

39D. Fee of the liquidator

While approving a resolution plan under section 30 or deciding to liquidate the corporate debtor under section 33, the committee may, in consultation with the resolution professional, fix the fee payable to the liquidator, if an order for liquidation is passed under section 33, for –

- (a) the period, if any, used for compromise or arrangement under section 230 of the Companies Act, 2013;
- (b) the period, if any, used for sale under clauses (e) and (f) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016; and
- (c) the balance period of liquidation.]

40. Extension of the corporate insolvency resolution process period.

- (1) The committee may instruct the resolution professional to make an application to the Adjudicating Authority under section 12 to extend the insolvency resolution process period.
- (2) The resolution professional shall, on receiving an instruction from the committee under this Regulation, make an application to the Adjudicating Authority for such extension.

40A. Model time-line for corporate insolvency resolution process.

The following Table presents a model timeline of corporate insolvency resolution process on the assumption that the interim resolution professional is appointed on the date of commencement of the process and the time available is hundred and eighty days:

Table

Section / Regulation	Description of Activity	Norm	Latest Timeline
Section 16(1)	Commencement of CIRP and appointment of IRP		T
Regulation 6(1)	Public announcement inviting claims	Within 3 Days of Appointment of IRP	T+3
Section 15(1)(c) / Regulations 6(2)(c) and 12 (1)	Submission of claims	For 14 Days from Appointment of IRP	T+14
Regulation 12(2)	Submission of claims	Up to 90th day of commencement	T+90
Regulation 13(1)	Verification of claims received under regulation 12(1)	Within 7 days from the receipt of the claim	T+21
	Verification of claims received under regulation 12 (2)		
Section 21(6A) (b) / Regulation 16A	Application for appointment of AR	Within 2 days from verification of claims received under regulation 12(1)	T+23
	Report certifying constitution of CoC		T+23

Section / Regulation	Description of Activity	Norm	Latest Timeline
Section 22(1) / Regulation 19(2)	1st meeting of the CoC	Within 7 days of filing of the report certifying constitution of the CoC, but with five days' notice.	T+30]
Section 22(2)	Resolution to appoint RP by the CoC	In the first meeting of the CoC	T+30
Section 16(5)	Appointment of RP	On approval by the AA	
Regulation 17(3)	IRP performs the functions of RP till the RP is appointed.	If RP is not appointed by 40th day of commencement	T+40
Regulation 27	Appointment of valuer	Within 7 days of appointment of RP, but not later than 47th day of commencement.	T+47]
Section 12(A) / Regulation 30A	Submission of application for withdrawal of application admitted	Before issue of EoI	W
	CoC to dispose of the application	Within 7 days of its receipt or 7 days of constitution of CoC, whichever is later.	W + 7
	Filing application of withdrawal, if approved by CoC with 90% majority	Within 3 days of approval by CoC	W + 10

Section / Regulation	Description of Activity	Norm	Latest Timeline
Regulation 35A	RP to form an opinion on preferential and other transactions	Within 75 days of the commencement	T + 75
	RP to make a determination on preferential and other transactions	Within 115 days of Commencement	T + 115
	RP to file applications to AA for appropriate relief	Within 135 days of Commencement	T + 135
Regulation 36 (1)	Submission of IM to CoC	Within 2 weeks of appointment of RP, but not later than 54th day of Commencement	T+54
Regulation 36A	Publish Form G		
	Invitation of EoI	Within 75 days of Commencement	
	Submission of EoI	At least 15 days from issue of EoI (Assume 15 days)	T + 90
	Provisional List of RAs by RP	Within 10 days from the last day of receipt of EoI	T + 100
	Submission of objections to provisional list	For 5 days from the date of provisional list	T + 105
	Final List of RAs by RP	Within 10 days of the receipt of Objections	T + 115

Section / Regulation	Description of Activity	Norm	Latest Timeline
Regulation 36B	Issue of RFRP, including Evaluation Matrix and IM	Within 5 days of the issue of the provisional list	T + 105
	Receipt of Resolution Plans	At least 30 days from issue of RFRP (Assume 30 days)	T + 135
Regulation 39(4)	Submission of CoC approved Resolution Plan to AA	As soon as approved by the CoC	T + 165
Section 31(1)	Approval of resolution plan by AA		T=180

AA: Adjudicating Authority; AR: Authorised Representative; CIRP: Corporate Insolvency Resolution Process; CoC:

Committee of Creditors; EoI: Expression of Interest; IM: Information Memorandum; IRP: Interim Resolution Professional; RA: Resolution Applicant; RP: Resolution Professional; RFRP: Request for Resolution Plan.

40B Filing of Forms.

(1) The insolvency professional, interim resolution professional or resolution professional, as the case may be, shall file the Forms, along with the enclosures thereto, on an electronic platform of the Board, as per the timelines stipulated against each Form, in the table below: -

Form No.	Period covered and scope	To be filed By	Timeline
1	2	3	4
IP 1	Pre-Assignment: This includes consent to accept assignment as IRP / RP, the details of IP and the Applicant, the details of the person which will undergo the process, terms of consent, terms of engagement, etc.	IP	Within three days of signing of Form-2 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 or Form-AA of the Regulations, as the case may be.
CIRP 1	From Commencement of CIRP till Issue of Public Announcement: This includes details of IRP, CD, and the Applicant; admission of application by AA; public announcement; details of suggested Authorised	IRP	Within seven days of making the Public Announcement under section 13.

Form No.	Period covered and scope	To be filed By	Timeline
CIRP 2	<p>From Public Announcement till confirmation / replacement of IRP: This includes details of Authorised Representative selected by IRPs for a class of creditors; taking over management of the CD; receipt and verification of claims; constitution of CoC, first meeting of CoC; confirmation / replacement of IRP; applications seeking cooperation of management (if any); expenses incurred on or by IRP; relationship of IRP with the CD, Financial Creditors and Professionals; support services taken from IPE; non compliances with the provisions of the Code and other laws applicable to the CD; etc.</p>	IRP	Within seven days of confirmation/ replacement of IRP under section 22.
CIRP 3	<p>From Appointment of RP till issue of IM to Members of CoC: This includes details of RP; details of registered valuers; handing over of records of CD by IRP to RP; taking over management of the CD; applications seeking cooperation of management (if any); details in IM; non-compliances with the provisions of the</p>	RP	Within seven days of issue of IM to members of CoC under regulation 36.

Form No.	Period covered and scope	To be filed By	Timeline
CIRP 4	<p>From Issue of IM till issue of RFRP: This includes expression of interest; RFRP and modification thereof; evaluation matrix and modification thereof; non-compliances with the provisions of the Code and other laws applicable to the CD; etc.</p>	RP	<p>Within seven days of the issue of RFRP under regulation 36B</p>
CIRP 5	<p>From Issue of RFRP till completion of CIRP: This includes updated list of claimants; updated CoC; details of the resolution applicants; details of resolution plans received details of approval or rejection of resolution plans by CoC; application filed with AA for approval of resolution plan; details of resolution plan approved by the AA; initiation of liquidation, if applicable; expenses incurred on or by RP; appointment of professionals and the terms of appointment; relationship of the RP with the CD, Financial Creditors, and Professionals; support services taken from IPE; non-compliances with the provisions of the Code and other laws applicable to the CD; etc.</p>	RP	<p>Within seven days of the approval or rejection of the resolution plan under section 31 or issue of</p>

Form No.	Period covered and scope	To be filed By	Timeline
CIRP 6	<p>Event Specific: This includes:</p> <ul style="list-style-type: none"> a. Filing of application in respect of preferential transaction, undervalued transaction, fraudulent transaction, and extortionate transaction; b. Raising interim finance; c. Commencement of insolvency resolution process of guarantors of the CD; d. Extension of period of CIRP and exclusion of time; e. Premature closure of CIRP (appeal, settlement, withdrawal, etc.); f. Request for liquidation before completion of CIRP; and g. Non implementation of resolution plan, as approved by the AA. 	IRP or RP, as the case may be.	Within seven days of the occurrence of the relevant event.

- (2) The Board shall make available the Forms on the electronic platform and may modify them from time to time.
- (3) The insolvency professional or interim resolution professional or resolution professional, as the case may be, shall ensure that the Forms and its enclosures filed under this regulation are accurate and complete.
- (4) The filing of a Form under this regulation after due date of submission, whether by correction, updating or otherwise, shall be accompanied by a fee of five hundred rupees per Form for each calendar month of delay after 1st October, 2020.

Example: A Form is required to be filed by 30th October, 2020. It shall be filed along with a fee as under:

IT FILED ON	FEE (IN RUPEES)
29th October, 2020	0
30th October, 2020	0
31st October, 2020	500
Any day in November, 2020	1000
Any day in December, 2020	1500

(5) (1) The insolvency professional or interim resolution professional or resolution professional, as the case may be, shall be liable to any action which the Board may take as deemed fit under the Code or any regulation made there under, including refusal to issue or renew Authorization for Assignment, for-

- (i) failure to file a form along with requisite information and records;
- (ii) inaccurate or incomplete information or records filed in or along with a form;
- (iii) delay in filing the form.]

5[(1A) Where any activity stated in column (2) of table below is not complete by the date specified therein, the interim resolution professional or resolution professional, as the case may be, shall file Form CIRP 7 within three days of the said date, and continue to file Form CIRP 7, every 30 days, until the said activity remains incomplete-:

Clarification: Only one Form CIRP 7 shall be filed at any time whether one or more activity is not complete by the specified date.

Illustration (a) If public announcement is not made by T+3rd day, Form CIRP 7 shall be filed by T+6th day. Thereafter, if public announcement is made on T+16th day, no further Form CIRP 7 will be filed. However, if public announcement is not made till T+33rd day, Form CIRP 7 shall be filed on T+36th day.

(b) If public announcement is not made by T+3rd day, Form CIRP 7 shall be filed by T+6th day. Thereafter, if public announcement is made on T+16th day, no further Form CIRP 7 will be filed. However, if RP is not appointed by T+30th day, though Form CIRP 7 becomes due by T+33rd day, it shall be filed on 30th day from the filing of first Form CIRP 7, that is, on T+36th day.

(c) If public announcement is not made by T+3rd day, Form CIRP 7 shall be filed by T+6th day. Thereafter, if either public announcement is not made till T+33rd day or RP is not appointed by T+30th day, Form CIRP 7 shall be filed on T+36th day.]

[(1B) The resolution professional shall file Form CIRP 8 intimating details of his opinion and determination under regulation 35A, on or before the one hundred and fortieth day of the insolvency commencement date:

Provided that the filing of Form CIRP 8 shall not become due unless a period of thirty days has elapsed from the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2021.]

(2) The Board shall make available the Forms on the electronic platform and may modify them from time to time. (3) The insolvency professional or interim resolution professional or resolution professional, as the case may be, shall ensure that the Forms and its enclosures filed under this regulation are accurate and complete.

[(4)The filing of a Form under this regulation after due date of submission, whether by correction,

(5) The insolvency professional or interim resolution professional or resolution professional, as the case may be, shall be liable to any action which the Board may take as deemed fit under the Code or any regulation made thereunder, including refusal to issue or renew Authorisation for Assignment, for- (i) failure to file a form along with requisite information and records; (ii) inaccurate or incomplete information or records filed in or along with a form; (iii) delay in filing the form.

40C. Special provision relating to time-line.

Notwithstanding the time-lines contained in these regulations, but subject to the provisions in the Code, the period of lockdown imposed by the Central Government in the wake of Covid-19 outbreak shall not be counted for the purposes of the time-line for any activity that could not be completed due to such lockdown, in relation to a corporate insolvency resolution process.

[40D. Decision for liquidation.

(1) The committee while considering the liquidation of the corporate debtor may consider factors including but not limited to non-operational status for preceding three years, goods produced or service offered or technology employed being obsolete, absence of any assets, lack of any intangible assets or factors which bring value as a going concern over and above the physical assets like brand value, intellectual property, accumulated losses, depreciation, investments that are yet to mature.

(2) Such consideration may be recorded and submitted in the application for liquidation submitted by the

SCHEDULE-I
FORM A
PUBLIC ANNOUNCEMENT

(Under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

FOR THE ATTENTION OF THE CREDITORS OF [NAME OF CORPORATE DEBTOR]

RELEVANT PARTICULARS	
1	Name of corporate debtor
2	Date of incorporation of corporate debtor
3	Authority under which corporate debtor is incorporated / registered
4	Corporate Identity No. / Limited Liability Identification No. of corporate debtor
5	Address of the registered office and principal office (if any) of corporate debtor
6	Insolvency commencement date in respect of corporate debtor
7	Estimated date of closure of insolvency resolution process

RELEVANT PARTICULARS

8	Name and registration number of the insolvency professional acting as interim resolution professional	
9	Address and e-mail of the interim resolution professional, as registered with the Board	
10	Address and e-mail to be used for correspondence with the interim resolution professional	
11	Last date for submission of claims	
12	Classes of creditors, if any, under clause (b) of sub-section (6A) of section 21, ascertained by the interim resolution professional	Name the class(es)
13	Names of Insolvency Professionals identified to act as Authorised Representative of creditors in a class (Three names for each class)	1. 2. 3.
14	(a) Relevant Forms and (b) Details of authorized representatives are available at	Web link:..... Physical Address:.....

Notice is hereby given that the National Company Law Tribunal has ordered the commencement of a corporate insolvency resolution process of the [name of the corporate debtor] on [insolvency commencement date].

The creditors of [name of the corporate debtor], are hereby called upon to submit their claims with proof on or

before
[insert the date falling fourteen days from the appointment of the interim resolution professional]
to the

Interim resolution professional at the address mentioned against entry No. 10.

The financial creditors shall submit their claims with proof by electronic means only. All other creditors may

submit the claims with proof in person, by post or by electronic means.

A financial creditor belonging to a class, as listed against the entry No. 12, shall indicate its choice of authorised

representative from among the three insolvency professionals listed against entry No.13 to act as authorised

representative of the class [specify class] in Form CA.

Submission of false or misleading proofs of claim shall attract penalties.

Name and Signature of Interim Resolution Professional :

Date and Place :

FORM AA

WRITTEN CONSENT TO ACT AS RESOLUTION PROFESSIONAL

(Under Regulation 3(1A) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

From

[Name of the insolvency professional]

[Registration number of the insolvency professional]

[Address of the insolvency professional registered with the Board]

To

The Committee of Creditors

[name of corporate debtor]

Subject: Written Consent to act as resolution professional.

I, [name], an insolvency professional enrolled with [name of insolvency professional agency] and registered with the

Board, note that the committee proposes to appoint me as resolution professional under section 22(3)(a) / 22(3)(b) /

27(2) of the Code for corporate insolvency resolution process of [name of the corporate debtor].

2. In accordance with regulation 3(1A) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution

Process for Corporate Persons) Regulations, 2016, I hereby give consent to the proposed appointment.

3. I declare and affirm as under: -

a. I am registered with the Board as an insolvency professional.

b. I am not subject to any disciplinary proceedings initiated by the Board or the Insolvency Professional Agency.

c. I do not suffer from any disability to act as a resolution professional.

d. I am eligible to be appointed as resolution professional of the corporate debtor under regulation 3 and other applicable provisions of the Code and regulations.

e. I shall make the disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016:

f.

S.NO	ROLE AS	No. of Processes on the date of Consent
1	Interim Resolution Professional	
2	Resolution Professional of a. Corporate Debtors b. Individuals	
3	Liquidator of a. Liquidation Processes b. Voluntary Liquidation Processes	
4	Bankruptcy Trustee	
5	Authorised Representative	
6	Any other (Please state)	

FORM AB

WRITTEN CONSENT TO ACT AS AUTHORISED REPRESENTATIVE

(Under Regulation 4A(3) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

From

[Name of the insolvency professional]

[Registration number of the insolvency professional]

[Registered address of the insolvency professional]

To

The Interim Resolution Professional

[name of corporate debtor]

Subject: Written Consent to act as authorized representative.

I, [name], an insolvency professional enrolled with [name of insolvency professional agency] and registered with the Board, note that you have proposed to appoint me as the authorized representative of financial creditors in a class [specify class] in the corporate insolvency resolution process of [name of the corporate debtor].

2. In accordance with regulation 4(A) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, I hereby give my consent to the proposed appointment.

3. I declare and affirm as under: -

a. I am registered with the Board as an insolvency professional.

b. I am not subject to any disciplinary proceedings initiated by the Board or the Insolvency Professional Agency.

c. I do not suffer from any disability to act as an authorized representative.

d. I shall not canvass with the creditors to indicate their choice in my favour in Form CA.

e. I am having the following processes in hand:

S.NO	ROLE AS	No. of Processes on the date of Consent
1	Interim Resolution Professional	
2	Resolution Professional of a. Corporate Debtors b. Individuals	
3	Liquidator of a. Liquidation Processes b. Voluntary Liquidation Processes	
4	Bankruptcy Trustee	
5	Authorised Representative	
6	Any other (Please state)	

**¹³⁸[SCHEDULE-I]
FORM B**

PROOF OF CLAIM BY OPERATIONAL CREDITORS EXCEPT WORKMEN AND EMPLOYEES

(Under Regulation 7 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

[Date]

To
The Interim Resolution Professional / Resolution Professional
[Name of the Insolvency Resolution Professional / Resolution Professional]
[Address as set out in public announcement]

From
[Name and address of the operational creditor]

Subject: Submission of proof of claim.

Madam/Sir,

[Name of the operational creditor], hereby submits this proof of claim in respect of the corporate insolvency resolution process in the case of [name of corporate debtor]. The details for the same are set out below:

PARTICULARS	
1.	NAME OF OPERATIONAL CREDITOR
2.	IDENTIFICATION NUMBER OF OPERATIONAL CREDITOR (IF AN INCORPORATED BODY PROVIDE IDENTIFICATION NUMBER AND PROOF OF INCORPORATION. IF A PARTNERSHIP OR INDIVIDUAL PROVIDE IDENTIFICATION RECORDS* OF ALL THE PARTNERS OR THE INDIVIDUAL)

¹³⁸ Substituted by Notification No. IBBI/2022-23/GN/REG091, dated 13th September, 2022 (w.e.f. 13-09-2022)
Before substitution the words stood as –“Schedule”.

PARTICULARS		
3.	ADDRESS AND EMAIL ADDRESS OF OPERATIONAL CREDITOR FOR CORRESPONDENCE	
4.	TOTAL AMOUNT OF CLAIM (INCLUDING ANY INTEREST AS AT THE INSOLVENCY COMMENCEMENT DATE)	
5.	DETAILS OF DOCUMENTS BY REFERENCE TO WHICH THE DEBT CAN BE SUBSTANTIATED.	
6.	DETAILS OF ANY DISPUTE AS WELL AS THE RECORD OF PENDENCY OR ORDER OF SUIT OR ARBITRATION PROCEEDINGS	
7.	DETAILS OF HOW AND WHEN DEBT INCURRED	
8.	DETAILS OF ANY MUTUAL CREDIT, MUTUAL DEBTS, OR OTHER MUTUAL DEALINGS BETWEEN THE CORPORATE DEBTOR AND THE CREDITOR WHICH MAY BE SET-OFF AGAINST THE CLAIM	
9.	¹³⁹ [DETAILS OF: a. any security held, the value of security and its date, or any retention of title arrangement in respect of goods or properties to which the claim refers]	
10.	DETAILS OF THE BANK ACCOUNT TO WHICH THE AMOUNT OF THE CLAIM OR ANY PART THEREOF CAN BE TRANSFERRED PURSUANT TO A RESOLUTION PLAN	
11.	LIST OF DOCUMENTS ATTACHED TO THIS PROOF OF CLAIM IN ORDER TO PROVE THE	

¹³⁹Substituted by Notification No. IBBI/2019/20/GN/REG-052, dated 27th November, 2019 (w.e.f. 28.11.2019). Before substitution, it stood as under: "DETAILS OF ANY RETENTION OF TITLE ARRANGEMENTS IN RESPECT OF GOODS OR PROPERTIES TO WHICH THE CLAIM REFERS]"

PARTICULARS	
EXISTENCE AND NON-PAYMENT OF CLAIM DUE TO THE OPERATIONAL CREDITOR	
Signature of operational creditor or person authorised to act on his behalf <i>[Please enclose the authority if this is being submitted on behalf of an operational creditor]</i>	
Name in BLOCK LETTERS	
Position with or in relation to creditor	
Address of person signing	

*PAN number, passport, AADHAAR Card or the identity card issued by the Election Commission of India

¹⁴⁰DECLARATION

I, *[Name of claimant]*, currently residing at *[insert address]*, hereby declare and state as follows:-

1. *[Name of corporate debtor]*, the corporate debtor was, at the insolvency commencement date, being theday of20....., actually indebted to me in the sum of Rs. *[insert amount of claim]*.
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: *[Please list the documents relied on as evidence of claim]*.
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:

¹⁴⁰Substituted by Notification No. IBBI/ 2017-18/GN/REG030, dated 27th March, 2018 (w.e.f. 01-04-2018) for Affidavit and Verification.

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim].

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, *[Name]* the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this day of, 20...

(Signature of the claimant)

[Note: In the case of company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary and in the case of other entities, an officer authorised for the purpose by the entity].

¹⁴¹**[SCHEDULE-I]** ¹⁴²**[FORM C]**

SUBMISSION OF CLAIM BY FINANCIAL CREDITORS

(Under Regulation 8 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

[Date]

From

[Name and address of the financial creditor, including address of its registered office and principal office]

To

The Interim Resolution Professional / Resolution Professional

[Name of the Insolvency Resolution Professional / Resolution Professional]

[Address as set out in public announcement]

Subject: Submission of claim and proof of claim.

Madam/Sir,

¹⁴¹ Substituted by Notification No. IBBI/2022-23/GN/REG091, dated 13th September, 2022 (w.e.f. 13-09-2022)
Before substitution the words stood as –“Schedule”.

¹⁴²Substituted by Notification No. IBBI/2020-21/GN/REG070, dated 15th March, 2021 (w.e.f. 15.03.2021).

[Name of the financial creditor], hereby submits this claim in respect of the corporate insolvency resolution process of [name of corporate debtor]. The details for the same are set out below:

Relevant Particulars		
(1)	(2)	(3)
1.	Name of the financial creditor	
2.	Identification number of the financial creditor (If an incorporated body, provide identification number and proof of incorporation. If a partnership or individual provide identification records* of all the partners or the individual)	
3.	Address and email address of the financial creditor for correspondence	
4.	Details of claim, if it is made against corporate debtor as principal borrower: (i) Amount of claim (ii) Amount of claim covered by security interest, if any (Please provide details of security interest, the value of the security, and the date it was given) (iii) Amount of claim covered by guarantee, if any (Please provide details of guarantee held, the value of the guarantee, and the date it was given) (iv) Name and address of the guarantor(s)	
5.	Details of claim, if it is made against corporate debtor as guarantor: (i) Amount of claim (ii) Amount of claim covered by security interest, if any (Please provide details of security interest, the value of the security, and the date it was given) (iii) Amount of claim covered by guarantee, if any (Please provide details of guarantee held, the value of the guarantee, and the date it was given) (iv) Name and address of the principal borrower	
6.	Details of claim, if it is made in respect of financial debt covered under clauses (h) and (i) of sub-section (8) of section 5 of the Code, extended by the creditor: (i) Amount of claim	

[Please enclose the authority if this is being submitted on behalf of the financial creditor]
Name in BLOCK LETTERS
Position with or in relation to creditor
*PAN, passport, AADHAAR Card or the identity card issued by the Election Commission of India. Address of person signing

DECLARATION

I, [Name of claimant], currently residing at [insert address], do hereby declare and state as follows:

1. [Name of corporate debtor], the corporate debtor was, at the insolvency commencement date, being the.....day of.....20....., actually indebted to me for a sum of Rs. [insert amount of claim].
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: [Please list the documents relied on as evidence of claim].
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:
[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim].
5. I undertake to update my claim as and when the claim is satisfied, partly or fully, from any source in any manner, after the insolvency commencement date.
6. I am / I am not a related party of the corporate debtor, as defined under section 5 (24) of the Code.
7. I am eligible to join committee of creditors by virtue of proviso to section 21 (2) of the Code even though I am a related party of the corporate debtor.

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, [Name] the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this day of, 20....

(Signature of claimant)

[Note: In the case of company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary/designated partner and in the case of other entities, an officer authorised for the purpose by the entity.]

FORM CA
SUBMISSION OF CLAIM BY FINANCIAL CREDITORS IN A CLASS
(Under Regulation 8A of the Insolvency and Bankruptcy (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

[Date]

From

[Name and address of the financial creditor, including address of its registered office and principal office]

To

The Interim Resolution Professional / Resolution Professional

[Name of the Insolvency Resolution Professional / Resolution Professional]

[Address as set out in public announcement]

Subject: Submission of claim and proof of claim.

Madam/Sir,

[Name of the financial creditor], hereby submits this claim in respect of the corporate insolvency resolution process of [name of corporate debtor]. The details for the same are set out below:

RELEVANT PARTICULARS	
1.	Name of the financial creditor
2.	Identification number of the financial creditor (If an incorporated body, provide identification number and proof of incorporation. If a partnership or individual, provide identification records of all the partners or the individual)
3.	Address and e-mail address of the financial creditor for correspondence.
4.	Total amount of claim (in Rs.)

5.	Details of documents by reference to which the debt can be substantiated	
6.	Details of how and when debt incurred	
7.	Details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim	
8.	Details of any security held, the value of the security, and the date it was given	
9.	Details of the bank account to which the amount of the claim or any part thereof can be transferred pursuant to a resolution plan	
10.	List of documents attached to this claim in order to prove the existence and non-payment of claim due	
11.	Name of the insolvency professional who will act as the Authorised representative of creditors of the class	

Signature of financial creditor or person authorised to act on its behalf by the Election Commission
 [Please enclose the authority if this is being submitted on behalf of the financial creditor]

Name in BLOCK LETTERS **DECLARATION**

I, [Name of claimant], currently residing at [insert address], do hereby declare and state as Position with or in relation to creditor follows:

I, [Name of corporate debtor], the corporate debtor was, at the insolvency commencement Address of person signing date, being the day of 20, actually indebted to me for a sum of Rs. [insert amount of claim].

2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: [Please list the documents relied on as evidence of claim].
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:
[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim].
5. I am /I am not a related party of the corporate debtor, as defined under section 5 (24) of the Code.
6. I am eligible to give voting instruction to the authorized representative by virtue of proviso to section 21 (2) of the Code even though I am a related party of the corporate debtor.

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, [Name] the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this ... day of, 20...

(Signature of claimant)

[Note: In the case of company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary/designated partner and in the case of other entities, an officer authorized for the purpose by the entity.]

¹⁴³**[SCHEDULE-I] FORM D**

PROOF OF CLAIM BY A WORKMAN OR AN EMPLOYEE

¹⁴³ Substituted by Notification No. IBBI/2022-23/GN/REG091, dated 13th September, 2022 (w.e.f. 13-09-2022)
Before substitution the words stood as –“Schedule”.

(Under Regulation 9 of the Insolvency and Bankruptcy (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

[Date]

To
The Interim Resolution Professional / Resolution Professional
[Name of the Insolvency Resolution Professional / Resolution Professional]
[Address as set out in public announcement]

From
[Name and address of the workman / employee]

Subject: Submission of proof of claim.

Madam/Sir,

[Name of the workman / employee], hereby submits this proof of claim in respect of the corporate insolvency resolution process in the case of [name of corporate debtor]. The details for the same are set out below:

PARTICULARS		
1.	NAME OF WORKMAN / EMPLOYEE	
2.	PANNUMBER, PASSPORT, THE IDENTITY CARD ISSUED BY THE ELECTION COMMISSION OF INDIA OR AADHAAR CARD OF WORKMAN / EMPLOYEE	
3.	ADDRESS AND EMAIL ADDRESS (IF ANY) OF WORKMAN / EMPLOYEE FOR CORRESPONDENCE	
4.	TOTAL AMOUNT OF CLAIM (INCLUDING ANY INTEREST AS AT THE INSOLVENCY COMMENCEMENT DATE)	
5.	DETAILS OF DOCUMENTS BY REFERENCE TO WHICH THE CLAIM CAN BE SUBSTANTIATED	
6.	DETAILS OF ANY DISPUTE AS WELL AS THE RECORD OF PENDENCY OR ORDER OF SUIT OR ARBITRATION PROCEEDINGS	

PARTICULARS		
7.	DETAILS OF HOW AND WHEN CLAIM AROSE	
8.	DETAILS OF ANY MUTUAL CREDIT, MUTUAL DEBTS, OR OTHER MUTUAL DEALINGS BETWEEN THE CORPORATE DEBTOR AND THE CREDITOR WHICH MAY BE SET-OFF AGAINST THE CLAIM	
9.	DETAILS OF THE BANK ACCOUNT TO WHICH THE AMOUNT OF THE CLAIM OR ANY PART THEREOF CAN BE TRANSFERRED PURSUANT TO A RESOLUTION PLAN	
10.	LIST OF DOCUMENTS ATTACHED TO THIS PROOF OF CLAIM IN ORDER TO PROVE THE EXISTENCE AND NON-PAYMENT OF CLAIM	
Signature of workman / employee or person authorised to act on his behalf DUE TO THE OPERATIONAL CREDITOR <i>[Please enclose the authority if this is being submitted on behalf of an operational creditor]</i>		
Name in BLOCK LETTERS		
Position with or in relation to creditor		
Address of person signing		

¹⁴⁴**[DECLARATION]**

I, *[Name of claimant]*, currently residing at *[insert address]*, do hereby declare and state as follows:-

¹⁴⁴Substituted by Notification No. IBBI/ 2017-18/ GN/ REG030, dated 27th March 2018 (w.e.f. 01-04-2018) for Affidavit and Verification.

1. *[Name of corporate debtor]*, the corporate debtor was, at the insolvency commencement date, being the day of 20, actually indebted to me in the sum of Rs. *[insert amount of claim]*.
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: *[Please list the documents relied on as evidence of claim]*.
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:
[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim].

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, *[Name]* the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this day of, 20...

(Signature of claimant).]

¹⁴⁵*[Schedule-I]* FORM E

PROOF OF CLAIM SUBMITTED BY AUTHORISED REPRESENTATIVE OF WORKMEN AND EMPLOYEES

(Under Regulation 9 of the Insolvency and Bankruptcy (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

¹⁴⁵ Substituted by Notification No. IBBI/2022-23/GN/REG091, dated 13th September, 2022 (w.e.f. 13-09-2022)
Before substitution the words stood as –“Schedule”.

[Date]

To
The Interim Resolution Professional / Resolution Professional,
[Name of the Insolvency Resolution Professional / Resolution Professional]
[Address as set out in public announcement]

From
[Name and address of the duly authorised representative of the workmen / employees]

Subject: Submission of proofs of claim.

Madam/Sir,

I, [name of authorised representative of the workmen / employees], currently residing at [address of authorised representative of the workmen / employees], on behalf of the workmen and employees employed by the above named corporate debtor and listed in Annexure A, solemnly affirm and say:

1. That the above named corporate debtor was, at the insolvency commencement date, being the _____ day of _____ 20_, justly truly indebted to the several persons whose names, addresses, and descriptions appear in the Annexure A below in amounts severally set against their names in such Annexure A for wages, remuneration and other amounts due to them respectively as workmen or/ and employees in the employment of the corporate debtor in respect of services rendered by them respectively to the corporate debtor during such periods as are set out against their respective names in the said Annexure A.
2. That for which said sums or any part thereof, they have not, nor has any of them, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim.]

Deponent

ANNEXURE

1. Details of Employees/ Workmen

S No.	NAME OF EMPLOYEE/WORKMAN	IDENTIFICATION NUMBER (PAN NUMBER, PASSPORT OR AADHAAR CARD)	TOTAL AMOUNT DUE (RS.)	PERIOD OVER WHICH MOUNT DUE	A
1.					
2.					
3.	Particulars of how debt was incurred by the corporate debtor, including particulars of any dispute as well as the record of pendency of suit or arbitration proceedings (if any).				
4.	Particulars of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim.				

ATTACHMENTS:

¹⁴⁶[Documents relied as evidence as proof of debt and as proofs of non-payment of debt.]

¹⁴⁷[DECLARATION

I, [*Name of claimant*], currently residing at [*insert address*], do hereby declare and state as follows:-

1. [*Name of corporate debtor*], the corporate debtor was, at the insolvency commencement date, being theday of20....., actually indebted to me in the sum of Rs. [*insert amount of claim*].
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: [*Please list the documents relied on as evidence of claim*].
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.

¹⁴⁶Substituted by Notification No. IBBI/ 2017-18/ GN/ REG030, dated 27th March, 2018 (w.e.f. 01-04-2018).

¹⁴⁷Substituted by Notification No. IBBI/ 2017-18/ GN/ REG030, dated 27th March, 2018 (w.e.f. 01-04-2018) for Affidavit and Verification.

4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim].

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, *[Name]* the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this day of, 20...

(Signature of the claimant)]

¹⁴⁸**[FORM F]**

PROOF OF CLAIM BY CREDITORS (OTHER THAN FINANCIAL CREDITORS AND OPERATIONAL CREDITORS)

[Under Regulation 9A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016]

Date

To

The Interim Resolution Professional / Resolution Professional

[Name of the Insolvency Resolution Professional / Resolution Professional]

[Address as set out in public announcement]

From

[Name and address of the creditor]

Subject: Submission of proof of claim.

Madam / Sir,

¹⁴⁸Inserted by Notification No. IBBI/2017-18/GN/REG013, dated 16th August, 2017 (w.e.f. 16-8-2017).

I, [Name of the creditor], hereby submit the following proof of claim in respect of the corporate insolvency resolution process in the case of [name of corporate debtor]. The details of the same are set out below:

PARTICULARS

1.	Name of the creditor	
2.	Identification number of the creditor (If an incorporated body corporate, provide identification number and proof of incorporation. If a partnership or individual, provide identification record* of all partners or the individuals)	
3.	Address and email address of the creditor for correspondence	
4.	Description of the claim (Including the amount of the claim as at the insolvency commencement date)	
5.	Details of documents by reference to which claim can be substantiated	
6.	Details of how and when the claim arose	
7.	Details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim	
8.	Details of: a.any security held, the value of security and its date, or b.retention title arrangement in respect of goods or properties to which the claim refers	
* PAN,	Passport, AADHAAR or the identity card issued by the Election Commission of India	
9.	Details of bank account to which the amount of the claim or any part thereof can be transferred pursuant to a resolution plan	
10.	List of documents attached to this claim in order to prove the existence and non-satisfaction of claim due to the creditor	

¹⁴⁹**[DECLARATION]**

I, *[Name of claimant]*, currently residing at *[insert address]*, do hereby declare and state as follows:-

1. *[Name of corporate debtor]*, the corporate debtor was, at the insolvency commencement date, being the day of 20....., actually indebted to me in the sum of Rs. *[insert amount of claim]*.
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: *[Please list the documents relied on as evidence of claim]*.
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim].

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, *[Name]* the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this day of, 20...

(Signature of the claimant)

¹⁴⁹Subs. by Notification No. IBBI/ 2017-18/ GN/ REG030, dated 27th March, 2018 (w.e.f. 01-04-2018) for Affidavit and Verification.

[Note: In the case of company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary and in the case of other entities, an officer authorised for the purpose by the entity].]

¹⁵⁰**[FORM F]**
APPLICATION FOR WITHDRAWAL OF CORPORATE INSOLVENCY RESOLUTION PROCESS
[Under Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016]

[Date]

To
The Adjudicating Authority

[Through the Interim Resolution Professional / Resolution Professional]
[name of corporate debtor]

Subject: Withdrawal of Application admitted for corporate insolvency resolution process of [name of corporate debtor]

1. [Name of applicant], had filed an application bearing [particulars of application, i.e. diary number/ case number] on [Date of filing] before the Adjudicating Authority under [Section 7 / Section 9/ Section 10] of the Insolvency and Bankruptcy Code, 2016. The said application was admitted by the Adjudicating Authority on [date] bearing [case number].

2. I hereby withdraw the application bearing [particulars of application, i.e. diary number/ case number] filed by me before the Adjudicating Authority under [Section 7 / Section 9/Section 10] of the Insolvency and Bankruptcy Code, 2016.

3. I attach the required bank guarantee as per sub-regulation (2) of regulation 30A.

(Signature of the applicant)

Date:
Place:

[Note: In the case of company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary/designated partner and in the case of other entities, an officer authorised for the purpose by the entity].]

¹⁵¹**[FORM G]**
INVITATION FOR EXPRESSION OF INTEREST FOR
[NAME OF CORPORATE DEBTOR] OPERATING IN [INDUSTRY TYPE] AT
[LOCATION(S)]
(Under Regulation 36A(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

¹⁵⁰ Substituted by Notification No. IBBI/2019-20/GN/REG048, dated 25th July, 2019 (w.e.f. 25-07-2019).

¹⁵¹ Substituted by Notification No. IBBI/2022-23/GN/REG093, dated 16th September, 2022 (w.e.f. 16-09-2022).

RELEVANT PARTICULARS	
1.	Name of the corporate debtor along with PAN/ CIN/ LLP No.
2.	Address of the registered office
3.	URL of website
4.	Details of place where majority of fixed assets are located
5.	Installed capacity of main products/ services
6.	Quantity and value of main products/ services sold in last financial year
7.	Number of employees/ workmen
8.	Further details including last available financial statements (with schedules) of two years, lists of creditors, relevant dates for subsequent events of the process are available at:
9.	Eligibility for resolution applicants under section 25(2)(h) of the Code is available at:
10.	Last date for receipt of expression of interest
11.	Date of issue of provisional list of prospective resolution applicants
12.	Last date for submission of objections to provisional list
13.	Process email id to submit EOI

Signature of the Resolution Professional
Registration Number of the Resolution Professional
Registered Address of the Resolution Professional
For (Name of the Corporate Debtor)
(Date and Place)]

**FORM H
COMPLIANCE CERTIFICATE**

(Under Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

I, [Name of the resolution professional], an insolvency professional enrolled with [name of insolvency professional agency] and registered with the Board with registration number [registration number], am the resolution professional for the corporate insolvency resolution process (CIRP) of [name of the corporate debtor (CD)].

2. The details of the CIRP are as under:

Sl. No.	Particulars	Description
1	Name of the CD	
2	Date of Initiation of CIRP	
3	Date of Appointment of IRP	
4	Date of Publication of Public Announcement	
5	Date of Constitution of CoC	
6	Date of First Meeting of CoC	
7	Date of Appointment of RP	
8	Date of Appointment of Registered Valuers	
9	Date of Issue of Invitation for EoI	
10	Date of Final List of Eligible Prospective Resolution Applicants	
11	Date of Invitation of Resolution Plan	
12	Last Date of Submission of Resolution Plan	
13	Date of Approval of Resolution Plan by CoC	
14	Date of Filing of Resolution Plan with Adjudicating Authority	
15	Date of Expiry of 180 days of CIRP	
16	Date of Order extending the period of CIRP	
17	Date of Expiry of Extended Period of CIRP	
18	Fair Value	
19	Liquidation value	
20	Number of Meetings of CoC held	

3.I have examined the Resolution Plan received from Resolution Applicant (.....) and approved by Committee of Creditors (CoC) of [Name of the corporate debtor].

4. I hereby certify that-

(i) the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 (Code), the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and does not contravene any of the provisions of the law for the time being in force.

(ii) the Resolution Applicant (.....) has submitted an affidavit pursuant to section 30(1) of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.

(iii)the said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code andthe CIRP Regulations made thereunder. The Resolution Plan has been approved by [state the number of votes bywhich Resolution Plan was approved by CoC] % of voting share of financial creditors after considering itsfeasibility and viability and other requirements specified by the CIRP Regulations.

(iv)The voting was held in the meeting of the CoC on [state the date of meeting] where all the members of theCoC were present.

or

I sought vote of members of the CoC by electronic voting system which was kept open at least for 24 hours as per the regulation 26.

[strike off the part that is not relevant]

5. The list of financial creditors of the CD [state the name of CD] being members of the CoC and distribution of voting share among them is as under:

Sl. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)

6. The Resolution Plan includes a statement under regulation 38(1A) of the CIRP Regulations as to how it has dealt with the interests of all stakeholders in compliance with the Code and regulations made thereunder.

¹⁵²7. The amounts provided for the stakeholders under the Resolution Plan is as under:

(Amount in Rs. lakh)

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21				
		(b) Other than (a)				
	¹⁵² Substituted by Notification No. IBBI/2019-20/GN/REG/052 dated 27 th Nov., 2019 (w.e.f. 28.11.2019).	(a)	82			

above:

		(i) who did not vote in favour of the resolution Plan				
		(ii) who voted in favour of the resolution plan				
		Total[(a) + (b)]				
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21				
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan				
		(ii) who voted in favour of the resolution plan				
		Total[(a) + (b)]				
3	Operational Creditors	(a) Related Party of Corporate Debtor	83			
		(b) Other than (a) above:				

		(i) Government (ii) Workmen (iii) Employees (iv)				
		Total[(a) + (b)]				
4	Other debts and dues					
Grand Total						

*If there are sub-categories in a category, please add rows for each sub-category.

Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV.]

8. The interests of existing shareholders have been altered by the Resolution plan as under:

Sl. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share (%) held before CIRP	Voting Share (%) held after CIRP
9. The compliance of the Resolution Plan is as under:					

Section of the Code	Equity Preference Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
/ Regulation No.			
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?		
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?		
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?		
¹⁵³ Section 30(2)	Whether the Resolution Plan-		
¹⁵³ Substituted by Notification No. IBBI/2019-20/GN/REG/052, dated 27 th November, 2019 (w.e.f. 28-11-2019).	(a) provides for the payment of insolvency resolution process costs? 84 (b) provides for the payment to the operational creditors? (c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?		

	(d) provides for the management of the affairs of the corporate debtor? (e)provides for the implementation and supervision of the resolution plan? (f)contravenes any of the provisions of the law for the timebeing in force?]		
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?		
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?		
¹⁵⁴ [***]			
¹⁵⁵ [Regulation38 (1)]	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?]		
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?		
¹⁵⁶ [Regulation 38(1B)]	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. (ii)If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?]		
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule? (b)for the management and control of the business of the corporate debtor during its term? (c) adequate means for supervising its implementation?		
¹⁵⁴ Omitted by Notification No. IBBI/2019-20/GN/REG/075 dated 14 th July, 2021 (w.e.f. 14-07-2021). ¹⁵⁵ Substituted by Notification No. IBBI/2019-20/GN/REG/048, dated 25 th July, 2019 (w.e.f. 25-07-2019). ¹⁵⁶ Substituted by Notification No. IBBI/2019-20/GN/REG/040 dated 24 th January, 2019 (w.e.f. 24-01-2019). ¹⁵⁷ Substituted by Notification No. IBBI/2019-20/GN/REG/040 dated 24 th January, 2019 (w.e.f. 24-01-2019).	Whether the Resolution Plan demonstrates the (b) it is feasible and viable? (c) it has provisions for its effective implementation? (d)it has provisions for approvals required and the timeline for the same? (e)the resolution applicant has the capability to implement the resolution plan?		
39(2)	Whether the RP has filed applications in respect of transactions		

10. The CIRP has been conducted as per the timeline indicated as under:

Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date	
Section 16(1)	Commencement of CIRP and Appointment of IRP	T	T	
Regulation 6(1)	Publication of Public Announcement	T+3		
Section 15(1)(c) / Regulation 12 (1)	Submission of Claims	T+14		
Regulation 13(1)	Verification of Claims	T+21		
Section 26(6A) / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	T+23		
Regulation 17(1)	Filing of Report Certifying Constitution of CoC	T+23		
Section 22(1) and regulation 17(2)	First Meeting of the CoC	T+30		
Regulation 35A	Determination of fraudulent and other transactions	T+115		
Regulation 27	Appointment of two Registered Valuers	T+47		
[¹⁵⁸ Regulation 36 (1)	Submission of Information Memorandum to CoC	T+54]		
Regulation 36A	Invitation of EoI	T+75		
11. The time frame proposed for obtaining relevant approvals is as under:				
Sl. No.	Nature of Approval	Name of applicable Law	Name of Authority who will grant Approval	When to be obtained
	Publication of Form G			T+75
	Provisional List of Resolution Applicants			T+100
	Final List of Resolution Applicants			T+115
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and			T+105
1	Information Memorandum to Resolution Applicants			
2				
Section 30(6) / Regulation 39(4)	Submission of CoC approved Resolution Plan			T+165
12. The Resolution Plan is not subject to any contingency.				
The Resolution Plan is subject to the following contingencies (Elaborate the contingencies)				T+80
i.....				
ii.....				

¹⁵⁸Substituted by Notification No. IBBI/2019-20/GN/REG048, dated 25th July, 2019 (w.e.f. 25-07-2019).

13. Following are the deviations / non-compliances of the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made or circulars issued thereunder (If any deviation/ non-compliances were observed, please state the details and reasons for the same):

Sl. No.	Deviation/Non-compliance observed	Section of the Code / Regulation No. / Circular No.	Reasons	Whether rectified or not
1				
2				
3				

14. The Resolution Plan is being filed days before the expiry of the period of CIRP provided in section 12 of the Code.

- ¹⁵⁹[14A. Whether the resolution professional has, in accordance with regulation 35A,-
 (a) applied to the Adjudicating Authority on or before the one hundred and thirty-fifth day of the insolvency commencement date: Yes / No
 (b) filed Form CIRP 8 with the Board on or before the one hundred and fortieth day of the insolvency commencement date: Yes / No]

15. Provide details of section 66 or avoidance application filed / pending.

Sl. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order
1	Preferential transactions under section 43			
2	Undervalued transactions under section 45			
¹⁶⁰ 15A	¹⁵⁹ The Committee has approved a plan providing for contribution under regulation 39B as under: a. Estimated liquidation cost: Rs..... b. Estimated liquid assets available: Rs..... c. Over-estimation ^{Contribution} required to be made: Rs..... d. Financial creditor wise contribution is as under: under section 66.			

¹⁵⁹Inserted by Notification No. IBBI/2021-22/GN/REG075, dated 14th July, 2021 (w.e.f. 14-07-2021).

¹⁶⁰Substituted by Notification No. IBBI/2019-20/GN/REG048, dated 25th July, 2019 (w.e.f. 25-07-2019).

Sl. No.	Name of financial creditor	Amount to be contributed (Rs.)
1		
2		
..		
Total		

15B. The committee has recommended under regulation 39C as under:

- a. Sale of corporate debtor as a going concern: Yes / No
b. Sale of business of corporate debtor as a going concern: Yes / No

The details of recommendation are available with the resolution professional.

15C. The committee has fixed, in consultation with the resolution professional, the fee payable to the liquidator during the liquidation period under regulation 39D.]

16. I (Name of Resolution Professional) hereby certify that the contents of this certificate are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.

(Signature)

Name of the Resolution Professional:

IP Registration No:

Address as registered with the Board:

Email id as registered with the Board:

Date:

Place:]

¹⁶¹[Schedule-II

(Under Regulation 34B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

Minimum Fixed Fee.

1. Minimum fixed fee as per the table -1 below shall be paid to the interim resolution professional or the resolution professional, as the case may be, for the period mentioned in clause 2:

Table-1: Minimum Fixed Fee Structure

Quantum of Claims Admitted	Minimum Fee Per Month (Rs. lakh)
(i) Less than or equal to Rs. 50 crore	1.00
(ii) More than Rs.50 crore but less than or equal to Rs.500 crore	2.00

¹⁶¹ Inserted by Notification No. IBBI/2022-23/GN/REG091, dated 13th September, 2022 (w.e.f. 13-09-2022)

(iii) More than Rs.500 crore but less than or equal to Rs.2,500 crore	3.00
(iv) More than Rs.2,500 crore but less than or equal to Rs.10,000 crore	4.00
(v) More than Rs.10,000 crore	5.00

Period for minimum fixed fee.

2.The minimum fixed fee shall be applicable for the period, from appointment as interim resolution professional or resolution professional, till the time of –

- (a) submission of application for approval of resolution plan under section 30;
 - (b) submission of application to liquidate the corporate debtor under section 33;
 - (c) submission of application for withdrawal under section 12A; or
 - (d) order for closure of corporate insolvency resolution process;
- whichever is earlier.

Performance-linked incentive fee for timely resolution.

3.In cases where resolution plan is submitted to the Adjudicating Authority within the time period given in table-2 from the insolvency commencement date, performance-linked incentive fee as per table-2 may be paid to the resolution professional, after approval of such resolution plan by the Adjudicating Authority on commencement of payment to creditors by the resolution applicant.

Table-2: Performance-linked incentive fee for timely resolution

Time period from insolvency commencement date	Fee as % of Realisable Value
(i) Less than or equal to 165 days	1.00
(ii) More than 165 days but less than or equal to 270 days	0.75
(iii) More than 270 days but less than or equal to 330 days	0.50
(iv) More than 330 days	0.00

Performance-linked incentive fee for value maximisation.

4. The performance-linked incentive fee for value maximisation may be paid to the resolution professional at the rate of one per cent of the amount by which the realisable value is higher than the liquidation value, after approval of the resolution plan by Adjudicating Authority on commencement of payment to creditors by the resolution applicant.

Explanation: For the purposes of clause 3 and clause 4, “realisable value” means the amount payable to creditors in the resolution plan approved under section 31.

Illustration -

A corporate debtor having liquidation value of twenty crore rupees was resolved and the realisable value to creditors was one hundred crore rupees. The resolution plan was submitted to the Adjudicating Authority on 170th day from the insolvency commencement date. The committee has decided to pay the performance-linked incentive fees under clause 3 and 4.

In this case, fee payable to the resolution professional shall be as under:

- (i) Performance-linked incentive fee for timely resolution: 0.75% of Rs. 100 crore = Rs.75 lakh, and
- (ii) Performance-linked incentive fee for value maximisation: 1.00% of Rs. 80 crore (Rs.100 crore – Rs.20 crore) = Rs.80 lakh.]

(Dr. M. S. Sahoo)

Chairperson

Insolvency and Bankruptcy Board of India

Period Specified Under the Code for Performance of Acts by IBBI

Section	Matter	Period in Days
16(4)	To recommend the name of an insolvency professional to the adjudication authority against whom no disciplinary proceeding are pending	10 Days
22(4) and (5)	To confirm the name of the resolution professional to be appointed in place of Interim Resolution Professional	10 Days
34(6)	Proposing the name of another insolvency professional when the Adjudicating Authority decides to replace the resolution profession	10 Days
82(2)	To communicate to the Adjudicating Authority in writing either (a) confirmation of the appointment of the resolution professional who filed an application under sub-section (1) of section 82, or (b) rejection of the appointment of the resolution professional who filed an application under sub-section (1) of section 82 and nominate a resolution professional suitable suitable for the fresh start process.	No period specified
82(40)	To nominate a resolution professional within ten days of receiving the direction issued by the adjusting Authority under sub-section (3) of section 82.	10 days
97(2)	To confirm the appointment of the resolution professional or reject the appointment of the resolution professional and nominating another resolution professional for the insolvency resolution process.	7 Days
98(3)	To recommend the name of the resolution professional to the adjudicating Authority against whom no disciplinary proceeding are pending.	10 Days

Section	Matter	Period in Days
98(6)	To send a communication either (a) confirming appointment of the nominated resolution professional and recommend a new resolution of professional.	10 days
125(2)	To confirm the appointment of the proposed insolvency professional as the bankruptcy trustee for the bankruptcy process, or reject the appointment of the proposed insolvency professional as the bankruptcy trustee and nominate another bankruptcy trustee for the bankruptcy process.	10 Days
125(4)	To Nominate a bankruptcy trustee.	10 days
145(5)	To recommended a bankruptcy trustee for replacement against whom no disciplinary proceeding are pending.	10 days
146(3)	To recommended another bankruptcy trustee as a replacement	10 days
147(3)	Recommended a bankruptcy trustee as a replacement.	10 days

Section	Matters	Period in Days	Applicable on
7(4),9,10	Ascertainment of Default By NCLT from date of receipt of application	14	NCLT
7,9,10	Removal of Defect in application by applicant from receipts of notice from NCLT	7	Applicant
7,9	Communication of Order of admission to FC and CD, and Order of Rejection to FC only by NCLT	7	NCLT
8,9,10	Reply of Demand Notice by CD to OC	10	CD
12	Time Limit for completion of CIRP	180+90	RP
16	Appointment of IRP by NCLT from insolvency commencement date	14	NCLT
17	Providing info. To COC by IRP/RP from request from COC	7	IRP/RP
22,37	Convening of First Meeting of COC from the date of constitution of COC by IRP/Liquidator	7	IRP, Liquidator
38	Collection of claims by liquidator from Liquidation commencement date	30	Liquidator
38	Withdrawal or variation of claim by creditor from the date of Submission	14	creditor
40	Communication of Decision by Liquidator of acceptance or rejection of claim	7	Liquidator
42	Appeal agt. Decision of Liquidator to NCLT by Creditor	14	Creditor
54	Forwarding of Copy of Dissolution Order by NCLT to ROC	7	NCLT
56	Time period for completion of Fast Track	90+45	RP
59	Approval by Creditors of Resolution passed for Voluntary Dissolution by members of company from date of passing resolution	7	creditors

59	Intimation of passing of Resolution/Approval of Resolution by company to ROC and Board of Directors	7	Company
59	Copy of Dissolution Order by NCLT to ROC	14	NCLT
61, 181	Appeal to NCLAT agt. Order of NCLT, appeal to DRAT agt. Order of DRT	30+15	Aggrieved Person
62, 182	Appeal to SC agt. Order of NCLAT, Appeal to SC agt. Order of DRAT	45+15	Aggrieved Person
64, 183	Power of President/Chairperson of NCLT,NCLAT/DRT, DRAT to extend time period to dispose of application upto 10 days If application is not disposed off or order is not passed in specified time in the code. Note: In Section 183, Power of Extension is given to Chairperson of DRAT only	10	If application is not disposed off or order is not passed in specified time in the code, President /Chairman may extend the period upto 10 days

FRESH START PROCESS			
83	Examination of Application of Fresh Start by RP from his appointment	10	RP
83	Providing further information by Debtor or any other person as requested by RP from date request	7	Debtor
84	Passing of Order on application for Fresh Start by NCLT	14	NCLT
85	Copy of Order passed u/s 84 to Creditors by NCLT	7	NCLT
85	Period of Moratorium under Fresh Start from the date of admission of application	180	
86	Objection agt. NCLT order by Creditors under Fresh Start to RP	10	Creditor
86	Examination of Objection and decision thereon by RP	10	RP
87	Challenge application by Debtor or Creditor agt. Decision of RP u/s 86 to NCLT	10	Debtor/creditor
87	Decision by NCLT on challenge application u/s 87	14	NCLT
91	Revocation of order passed u/s 84 by NCLT on application by RP on following grounds: i) change in financial circumstances of debtor and hence becomes ineligible; or ii) non-compliance by the debtor of the restrictions imposed u/s 85(3); or iii) if the debtor has acted in a mala fide manner and has willfully failed to comply with the provisions of this Chapter	14	NCLT
92	Submission of final list of qualifying debts by RP to NCLT	7	RP

INSOLVENCY RESOLUTION PROCESS			
95	Period for payment of debts by debtor from service of notice of demand	14	debtor
99	Examination of application u/s 94,95 and submission of report by RP	10	RP
99	Further information by Debtor or any other person as requested by RP	7	Debtor / creditor
100	Order by AA on application u/s 94,95 from the date of submission of report by RP	14	AA
100	Copy of order passed to creditor	7	AA
101	Moratorium period from the date of admission of application	180	
102	Publication of notice by AA from passing of order of insolvency u/s 100	7	AA
102	Period for submission of claims by creditors from the date of publication	21	Creditor
104	Preparation of list of creditor by RP from the date of publication	30	RP
106	Submission of repayment plan with his report to AA from the last date of submission of claims	21	RP
106	Convening Meeting of creditors from the date of submission of report	14 -28	RP
107	Notice period for meeting of creditor	Atleast 14 days	RP
108	Adjournment of meeting	Not more than 7 days at a time	RP
117	Forwarding of following documents by RP to parties bound by repayment plan: a) a notice that the repayment plan has been fully implemented; b) copy of a report prepared RP summarising all receipts and payments	14+7	RP

BANKRUPTCY ORDER FOR INDIVIDUALS AND PARTNERSHIP FIRMS			
126	Passing of bankruptcy order by AA from confirmation or nomination by IBBI	14	AA
126	Copy of bankruptcy order to bankrupt , creditors,BT by AA from passing order	7	AA
129	Submission of statement of financial position to BT by bankrupt from BCD	7	Bankrupt
130	Notice to creditor by AA from BCD	10	AA
130	Issue of public notice inviting claims from BCD	10	AA
131	Registration of claims by creditors with BT from publication of Notice	7	Creditors
132	Preparation of list of creditors by BT from BCD on the basis of: i) application u/s 118, ii) ii) Statement of affairs filed by bankrupt u/s 125 and iii) iii) claims recd. u/s 130	14	BT
133	Convening of meeting of creditors by BT from BCD	21	BT
134	Adjournment of meeting	Not more than 7 days at a time	BT
137	Approval of report of BT by COC from receipt of report	7	Creditors
138	Application to AA for discharge order by BT	1 year or with in 7 days from approval by creditors, whichever is earlier	BT

145	Appointment of BT in replacement by AA	14	AA
145	Notice of appointment to bankrupt by BT from his appointment	7	BT
146	Appointment of BT by AA in case of resignation	14	AA
146,147	Notice of appointment to bankrupt by New BT(New BT appointed in case of replacement/vacancy)	7	BT
150	Notice by bankrupt for increase in income or acquisition of property	7	Bankrupt
159	Notice by BT to bankrupt for after acquired property from the date of knowledge	15	BT
161	Period for taking decision by BT regarding disclaimer of onerous property	7	BT
162	Objection agt. Disclaim of lease hold interest by interest person from receipt of notice	14	Interested person
171	Notice to creditors for submission of proof of debt from preparation of list of creditors	14	BT
172	Right to sell secured property with the permission of AA if creditors does not submit proof of security with in	30	Creditor
201	Ack. Of application for registration of IPA by IBBI	7	IBBI
201	Communication of rejection order to IPA	15	IBBI
210	Ack. Of application for registration of IU by IBBI	7	IBBI
Eighth schedule	Period for making Reference to NCLT by company in respect of appeal, reference or inquiry stands abated under SICA RPEAL ACT	180	Company

MODEL TIME-LINE FOR THE CORPORATE INSOLVENCY RESOLUTION PROCESS

- The IBBI (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2018 has introduced a model time-line for the corporate insolvency resolution process (“CIRP”) as per the provisions of the Insolvency and Bankruptcy Code, 2016 and the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The said time-line assumes that the interim resolution professional is appointed on the date of the commencement of the CIRP.
- For the purposes of the time-line, the following abbreviations have been used: AA: Adjudicating Authority; AR: Authorised Representative; CIRP: Corporate Insolvency Resolution Process; COC: Committee of Creditors; EOI: Expression of Interest; IM: Information Memorandum; IRP: Interim Resolution Professional; RA: Resolution Applicant; RP: Resolution Professional; and RFRP: Request for Resolution Plan.

SECTION / REGULATION	DESCRIPTION OF ACTIVITY	NORM	LATEST TIMELINE
Section 16(1)	Commencement of CIRP and appointment of IRP	T
Regulation 6(1)	Public announcement inviting claims	Within 3 days of Appointment of IRP	T+3
Section 15(1)(c)/Regulations 6(2)(c) and 12(1)	Submission of Claims	For 14 days from Appointment of IRP	T+14
Regulation 12(2)	Submission of Claims	Up to 90 th day of commencement	T+90
Regulation 13(1)	Verification of claims received under regulation 12(1)	Within 7 days from the receipt of the claim	T+21
	Verification of claims received under regulation 12(2)		T+97
Section 21(6A)(b)/Regulation 16A Regulation 17(1)	Application for appointment of AR	Within 2 days from verification of claims received under regulation 12(1)	T+23
	Report certifying constitution of COC		T+23

SECTION / REGULATION	DESCRIPTION OF ACTIVITY	NORM	LATEST TIMELINE
Section 22/Regulation 19(2)	1 st meeting of the COC	Within 7 days of filing the report certifying constitution of the COC, but with 5 days notice	T+30
Section 22(2)	Resolution to appoint RP by the COC	In the first meeting of the COC	T+30
Section 16(5)	Appointment of RP	On approval by the AA-
Regulation 17(3)	IRP performs the functions of RP till the RP is appointed	If RP is not appointed by 40 th day of commencement	T+40
Regulation 27	Appointment of valuer	Within 7 days of appointment of RP, but not later than 47 th day of commencement	T+47
Section 12(A)/Regulation 30A	Submission of application for withdrawal of application admitted	Before issue of EOI	W
	COC to dispose of the application	Within 7 days of its receipt or 7 days of constitution of COC, whichever is later	W+7
	Filing application of withdrawal, if approved by COC with 90% majority voting, by RP to AA	Within 3 days of approval by COC	W+10

SECTION / REGULATION	DESCRIPTION OF ACTIVITY	NORM	LATEST TIMELINE
Regulation 35A	RP to form an opinion on preferential and other transaction	Within 75 days of the commencement	T+75
	RP to make a determination on preferential and other transaction	Within 115 days of commencement	T+115
	RP to file applications to AA for appropriate relief	Within 135 days of commencement	T+135
Regulation 36(1)	Submission of IM to COC	Within 2 weeks of appointment of RP, but not later than 54 th day of commencement	T+54
Regulation 36A	Publish Form G	Within 75 days of commencement	T+54
	Invitation of EOI		
	Submission of EOI	At least 15 days from issue of EOI (Assume 15 days)	T+90
	Provisional list of RAs by RP	Within 10 days from the last day of receipt of EOI	T+100
	Submission of objections to provisional list	For 5 days from the date of provisional list	T+105
	Final list of RAs by RP	Within 10 days of the receipt of objection	

SECTION / REGULATION	DESCRIPTION OF ACTIVITY	NORM	LATEST TIMELINE
Regulation 36B	Issue of RFRP, including Evaluation Matrix and IM	Within 5 days of the issue of the provisional list	T+105
	Receipt of Resolutions Plans	At least 30 days from issue of RFRP (Assume 30 days)	T+135
Regulation 39(4)	Submission of COC approved resolution plan to AA	As soon as approved by the COC	T+165
Section 31(1)	Approval of resolution plan by AA		T=180

Insolvency Resolution Process for MSME

PRE-PACKAGED INSOLVENCY RESOLUTION
PROCESS

Sections 54A to 54P

Preamble

Ordinance passed on 4th Apr., 2021 to amend principle Act, The Insolvency and Bankruptcy Code, 2016.
IBBI notified PPIRP Regulations and applicable from 4th Apr., 2021.

Purpose : COVID-19 pandemic has impacted businesses, financial markets and economies all over the world, including India, and has impacted the business operations of micro, small and medium enterprises and exposed many of them to financial distress;

The Government has taken several measures to mitigate the distress including increasing the minimum amount of default for initiation of corporate insolvency resolution process to one crore rupees, suspending filing of CIRP for one year beginning from 25th March 2020 to 24th Mar., 2021.

- MSME Sectors contributes significantly to the GDP, employment in the country .It is necessary to consider & address the specific requirements of MSMEs relating to the resolution of their insolvency, due to the unique nature of their businesses and simpler corporate structures.
- It is necessary to provide quicker IRP to MSME ensuring quicker & cost-effective and value maximizing outcomes for all the stakeholders, in a manner which is least disruptive to the continuity of their businesses and which preserves jobs;

In view of this a the principal code is amended to add process called Pre-Packed Insolvency Process for CD classified as MSME.

New/ Amendment to Definitions:

Following are new/ amendment to definitions :

1. Proviso added to section 4 (Applicability of CIRP), at present CIRP is applicable when default is min of Rs 1 Cr.

Proviso added is that **CG will prescribe** applicable limit amount separately for MSME & which **shall not be more than Rs 1 Crs.**

On 4th Apr., 2021 CG have prescribed this amt : Min Rs 10 Lacs

2. Base Resolution Plan means a resolution plan provided by the **corporate debtor** under clause (c) of sub-section (4) of section 54A.

Definitions where the word CIRP is appearing, the word PPIRP is added in all relevant sections and amended accordingly. (Details can be seen section wise)

All forms under this regulations start with 'P'

ELIGIBILITY (Sec 54 A)

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graph TD; A[ELIGIBILITY (Sec 54 A)] --- B[MSME U/S 7(1) of MSME Development Act, 2006]; A --- C[DEFAULT as per Sec 4 OF IBC]; A --- D[Approval from unrelated FCs (66%)];
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MSME U/S 7(1)
of MSME
Development
Act, 2006

DEFAULT as
per Sec 4 OF
IBC

Approval from
unrelated FCs
(66%)

New/ Amendment to Definitions:

Following are new/ amendment to definitions :

1. Proviso added to section 4 (Applicability of CIRP), at present CIRP is applicable when default is min of Rs 1 Cr.

Proviso added is that **CG will prescribe** applicable limit amount separately for MSME & which **shall not be more than Rs 1 Crs.**

On 9th Apr., 2021 CG have prescribed this amt : Min Rs 10 Lacs

2. Base Resolution Plan means a resolution plan provided by the **corporate debtor** under clause (c) of sub-section (4) of section 54A.

Definitions where the word CIRP is appearing, the word PPIRP is added in all relevant sections and amended accordingly. (Details can be seen section wise)

All forms under this regulations start with 'P'

Further the limit of investment and turnover for Medium category has been enhanced vide notification date 26th Jun 2020.

Classification	Micro	Small	Medium
Manufacturing & Services	Investment ≤ Rs. 1 Cr. And Turnover ≤ 5 Cr.	Investment ≤ Rs. 10 Cr. And Turnover ≤ 50 Cr.	Investment ≤ Rs. 50 Cr. And Turnover ≤ 250 Cr.

- In case of Upward change, enterprise will maintain its prevailing status till expiry of one year from the close of the Financial year of registration.
- In case of Reverse-Graduation, Enterprise will continue in its present category till the closure of the financial year.
- Benefit of the changed status only w.e.f 1st April of the F.Y. following the year in which such change took place.

COMPOSITE CRITERIA OF INVESTMENT & TURNOVER FOR CLASSIFICATION

- 1) A composite criterion of investment and turnover shall apply for classification of an enterprise as micro, small or medium.
- 2) If an enterprise crosses the ceiling limits specified for its present category in either of the two criteria of investment or turnover, it will cease to exist in that category and be placed in the next higher category but no enterprise shall be placed in the lower category unless it goes below the ceiling limits specified for its present category in both the criteria of investment as well as turnover.
- 3) All units with Goods and Services Tax Identification Number (GSTIN) listed against the same Permanent Account Number (PAN) shall be collectively treated as one enterprise and the turnover and investment figures for all of such entities shall be seen together and only the aggregate values will be considered for deciding the category as micro, small or medium enterprise.

CALCULATION OF INVESTMENT IN PLANT AND MACHINERY OR EQUIPMENT

- 1) The calculation of investment in plant and machinery or equipment will be linked to the Income Tax Return (ITR) of the previous years filed under the Income Tax Act.
- 2) In case of a new enterprise, where no prior ITR is available, the investment will be based on self-declaration of the promoter of the enterprise and such relaxation shall end after the 31st March of the financial year in which it files its first ITR. The expression “plant and machinery or equipment” of the enterprise, shall have the same meaning as assigned to the plant and machinery in the Income Tax Rules, 1962 and shall include all tangible assets (other than land and building, furniture and fittings).
- 3) The purchase (invoice) value of a plant and machinery or equipment, whether purchased first hand or second hand, shall be taken into account excluding Goods and Services Tax (GST), on self-disclosure basis, if the enterprise is a new one without any ITR.

CALCULATION OF INVESTMENT IN PLANT AND MACHINERY OR EQUIPMENT

- 5) The Depreciated value (WDV) of a plant and machinery or equipment, Will be considered for the existing /Running units having ITR and Balance sheet.
- 6) The cost of certain items specified in the Explanation I to sub-section (1) of section 7 of the Act shall be excluded from the calculation of the amount of investment in plant and machinery

Explanation I to sub-section (1) of section 7:

Explanation 1.—For the removal of doubts, it is hereby clarified that in calculating the investment in plant and machinery,

- Cost of pollution control,
- Research and development,
- Industrial safety devices and
- Such other items as may be specified, by notification, shall be excluded.

CALCULATION OF TURNOVER

- 1) Exports of goods or services or both, shall be excluded while calculating the turnover of any enterprise whether micro, small or medium, for the purposes of classification.
- 2) Information as regards turnover and exports turnover for an enterprise shall be linked to the Income Tax Act or the Central Goods and Services Act (CGST Act) and the GSTIN. The turnover related figures of such enterprise which do not have PAN will be considered on self-declaration basis for a period up to 31st March, 2021 and thereafter, PAN and GSTIN shall be mandatory.

Default amount is Rs 10 Lakhs Minimum.

Not undergoing CIRP or 3 years not completed from last CIRP /PPIRP as on the Initiation date.

No Liquidation order has been passed.

DEFAULT

MCA NOTIFICATION Dated 9th April, 2021

ten lakh rupees as the minimum amount of default

Section 4 of IBC

shall not be more than one crore rupees

Applicability U/s 54A Continued

CD is eligible to submit a resolution plan under section 29A

(29A says who is not eligible to be RA i.e Undischarged Insolvent, wilful defaulter, control is with such a person whose a/c is NPA, convicted for any offence punishable with imprisonment, disqualified director, prohibited by SEBI, is a promoter of inordinate transactions, etc)

Name of Resolution Professional (IRP/RP) is **proposed & approved : Section 54A (2) (e)**

FCs not less than 10% in value of total debt may propose name of RP and FC representing 66% of total debt shall approve such proposal with terms of appointment of RP in form P3.

Regulation :

Serve notice of meeting to all FCs (except Related Party) at least 5 days before meeting unless a shorter time is agreed by all of them. Form P2 (Indicate, date , time, venue, list of creditors with amount due)

The financial creditors who are not related parties of the corporate debtor and have not less than ten per cent. of the value of the total financial debt of such creditors may propose names of insolvency professionals for the purposes of clause (e) of sub-section (2) of section 54A

Where there are no FCs or FCs are related parties. COC shall be of OC and above provision will be applicable to OC meeting (*mutatis mutandis*)

Applicability U/s 54A Continued

Declaration by Directors/ Partners of CD: Section 54A (2) (f)

Majority of Directors/Partners of CD have made declaration in Form P6 stating :

- (i) that the CD shall file an application for initiating PPIRP within a definite time period **not exceeding ninety days**;
- (ii) that the PPIRP is not being initiated to defraud any person; and
- (iii) the name of the IP proposed and approved to be appointed as resolution professional under clause (e) of Sub Sec 2 of sec. 54A

Members of CD have passed SR approving the filing of an application for initiating PPIRP.

CD to submit following information to FC : Section 54A (4)

- Copy of SR passed by members of CD
- Declaration of Directors/ Partners in form P6.
- Base resolution plan which conforms to the requirements referred to in section 54K, and such other conditions as may be specified and
- Such other information and documents as may be specified

CD shall obtain approval from its FC, not being its related parties, representing **not less than sixty-six per cent. in value of the financial debt due to such creditors, for the filing of an application for initiating PPIRP in form P4 .**

Where CD does not have FC or FC are related parties, approval of OC shall be obtained as per this section.

(Section 54A (3))

FC's Approval [Section 54 A (3)]



The corporate debtor shall obtain an approval from its financial creditors, not being its related parties, representing not less than **sixty-six per cent.** in value of the financial debt due to such creditors, for the filing of an application for initiating pre-packaged insolvency resolution process, in such form as may be specified



Provided that where a corporate debtor does not have any financial creditors, not being its related parties, the approval under this subsection shall be provided by such persons **as may be specified.**

Prior to FC's approval CD must provide them [Sec 54A(4)]

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graph TD; A["Prior to FC's approval CD must provide them [Sec 54A(4)]"] --- B["Declaration (Form P6)"]; A --- C["Special Resolution"]; A --- D["Base resolution plan"]; A --- E["Other documents as may be specified"];
```

Declaration
(Form P6)

Special
Resolution

Base
resolution
plan

Other
documents
as may be
specified

NO UNRELATED FC'S

REGULATION 14(8)

Where the corporate debtor has no financial debt or where all financial creditors are related parties, the applicant shall convene a meeting of operational creditors, who are not related parties of the corporate debtor and provisions of sub-regulations (1) to (7) shall *mutatis mutandis* apply.

Committee with only operational creditors (REG. 25)

(1) Where the corporate debtor has no financial debt or all financial creditors are related parties, the committee shall consist of operational creditors, being not related to the corporate debtor, as under:-

- (a) ten largest operational creditors by value, and if the number of operational creditors is less than ten, the committee shall include all such operational creditors;
- (b) one representative elected by all workmen other than those workmen included under clause (a); and
- (c) one representative elected by all employees other than those employees included under clause(a).

COMMITTEE WITH ONLY CREDITORS IN A CLASS.(Reg. 24)

Where the corporate debtor has only creditors in a class and no other financial creditor who are not related parties of the corporate debtor, the committee shall consist of only the authorised representative(s).

The authorised representative of creditors in a class shall be entitled to receive fee for every meeting of the committee attended by him in the following manner, namely:-

<u>Numbers of Creditors</u>	<u>Fee per meeting</u>
10-100	15,000
101-1000	20,000
More than 1000	25,000

CONDITIONS [Sec 54A (2)]



- no CIRP or PPIRP during 3 years



- no undergoing CIRP



- no liquidation order



- eligible under Sec. 29A



- FC's proposed IP(66%)



- Majority of directors/ partners declaration



- Special Resolution or resolution by three fourth of partners

Declaration By Majority Of Directors Or Partners [Sec. 54A(2)(f)]

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graph TD; A[Declaration By Majority Of Directors Or Partners [Sec. 54A(2)(f)]] --- B[File PPIRP application within time not exceeding 90 days]; A --- C[PPIRP not to defraud any person]; A --- D[Name of IP proposed and approved];
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File PPIRP application within time not exceeding 90 days

PPIRP not to defraud any person

Name of IP proposed and approved

Appointment of Resolution Professional and his duties before initiation of PPIRP - Section 54B (1)

RP shall have following duties from the date of his appointment done u/s 54A (2) (e), following are the duties:

- (a) Prepare a report in Form P8, confirming whether the corporate debtor meets the requirements of section 54A, and the base resolution plan conforms to the requirements referred to in clause (c) of sub-section (4) of section 54A; (i.e. base resolution plan which conforms to the requirements referred to in section 54K)
- (b) File such reports and other documents, with the Board, as may be specified; and
- (c) Perform such other duties as may be specified.

Above responsibilities of IP shall cease on

- Application for initiating PPIRP is admitted or rejected by AA as the case may be. OR
- CD failed to initiate application to AA i.e. NCLT with in 90 days from the date of resolution of Directors u/s 54A (2) (f)

Fees payable to RP for duties u/s 54B (1) as above to be born by CD in case CD could not initiate PPIRM or application **is initiated else ???** it shall form part of PPIRM process cost. (Regulation 8).

CD will maintain separate bank account for this fees & expenses to be incurred by IP from time to time, operated by IP.

DUTIES OF PROPOSED IP (BEFORE PPIRP SEC 54B)

Prepare a report in Form P8,

file such reports and other documents, with the Board, as may be specified

perform such other duties as may be specified.



DUTY OF PROPOSED IP CEASES

- CD Fails to submit application for PPIRP within prescribed time period
- Application for PPIRP admitted or rejected

Initiation of PPIRP for CD - Section 54C

If conditions U/s 54A are fulfilled, CD can initiate application under PPIRP

(1) Application can be filed in **Form 1** accompanied with affidavit, documents or records as referred in Annexures therein, in electronic form, along with a **fee of rupees fifteen thousand**.

There are three parts in Form 1, first part is about details of applicant and CD, second part is of IP, third part is for details of creditors / debt.

Where electronic facility is not available or data is of bulk size, **can submit in USB**.

(2) The corporate applicant under sub-rule (1) shall **serve a copy of the application to the Board** by registered post or speed post or by hand or by electronic means, before filing it with the Adjudicating Authority.

(3) The application shall be filed before the Adjudicating Authority in accordance with rules 20, 21, 22, 23, 24 and 26 of the National Company Law Tribunal Rules, 2016

(4) A corporate applicant shall inform the Adjudicating Authority about the filing of any winding up petition against the corporate debtor after becoming aware about such filing.

Applicant along with application shall furnish, copy of SR passed, approval of 66% FC, consent of IP in form P1 AND A DECLARATION OF REGARDING EXISTENCE OF ANY TRANSACTION THOSE OF AVOIDANCE NATURE ETC. **AA with in 14 days to accept**, if it is complete or reject the application, before rejection 7 days time will be given to applicant for corrections if any.

PPIRP Commencement date is a date of order passed by AA accepting the application.

Section 54D : PPIRP to **be completed with in 120 days** from **PPIRM CD**.

Preliminary information Memorandum

- Made by CD

PPIRP Cost

- Interim finance and the costs incurred thereof;
- RP Fees and expenses incurred by RP for conducting the PPIRP during the PPIRP Period;
- Costs incurred by the RP in running the business of the corporate debtor as a going concern - where management is vested with RP;
- Any costs incurred at the expense of the Government to facilitate the PPIRP; and
- Any other costs as may be specified (by IBBI);

Pre packaged ICD

- Admission on application of PPIRP

PPIRP period

- Period beginning from the pre-packaged insolvency commencement date and ending on the date on which an order for approval of resolution plan or termination of PPIRP or initiation of CIRP, is passed by the Adjudicating Authority

Effect of admission/acceptance of application by AA U/s 54C : Section 54E, 54D, 54G

Section 54E:

The Adjudicating Authority shall, on the pre-packaged insolvency commencement date, along with the order of admission under section 54C -

1. Declare moratorium period, section 14 shall apply *mutatis mutandis*.
2. Appoint RP as named in the application by CD **or** based on recommendation by Board if DC is pending against proposed RP.
3. RP so appointed to cause public announcement with in 2 days from CD, in Form 9 in the manner/sent to –
 - every creditor listed in Form P2;
 - sent to information utilities; and
 - published on the website, if any, of the corporate debtor and the Board

Section 54 G:

- CD within **2 days** of Commencement Date submit list of claims (as updated as on the date of submission) to RP in form P10 And preliminary information memorandum (PIM) containing information relevant for formulating a resolution plan.
- If submitted list of claims or preliminary information memorandum PIM is misleading every Director or person providing such misleading information shall be liable to every person who sustained loss due to such misleading information and shall be liable to pay compensation to all such person, if information is submitted without the knowledge of person he will not liable for action. Person who sustained loss may move to competent court for seeking compensation of loss sustained.
- Submit Base Resolution plan by CD to RP with **in 2 days** of Commencement Date. RP to present this plan to COC. (Section 54K)

Section 54D:

1. Max time limit to complete PPIRP is 120 Days from CD
2. RP shall submit Resolution Plan to AA as approved by COC with in 90 days from CD.
3. Where COC did not approve Resolution Plan within period of 90 days, RP on the expiry of 90 days shall file an application with AA to terminate PPIRP process.

Base Resolution Plan

- Plan provided by CD

Fee payable to the IP proposed to be appointed as **RP** to perform duties before initiation of PPIRP shall form part of **PPIRP Costs**

Initiation of PPIRP for CD - Section 54C

If conditions U/s 54A are fulfilled, CD can initiate application under PPIRP

(1) Application can be filed in **Form 1** accompanied with affidavit, documents or records as referred in Annexures therein, in electronic form, along with a **fee of rupees fifteen thousand**.

There are three parts in Form 1, first part is about details of applicant and CD, second part is of IP, third part is for details of creditors / debt.

Where electronic facility is not available or data is of bulk size, **can submit in USB**.

(2) The corporate applicant under sub-rule (1) shall **serve a copy of the application to the Board** by registered post or speed post or by hand or by electronic means, before filing it with the Adjudicating Authority.

(3) The application shall be filed before the Adjudicating Authority in accordance with rules 20, 21, 22, 23, 24 and 26 of the National Company Law Tribunal Rules, 2016

(4) A corporate applicant shall inform the Adjudicating Authority about the filing of any winding up petition against the corporate debtor after becoming aware about such filing.

Applicant along with application shall furnish, copy of SR passed, approval of 66% FC, consent of IP in form P1 AND A DECLARATION OF REGARDING EXISTENCE OF ANY TRANSACTION THOSE OF AVOIDANCE NATURE ETC. **AA with in 14 days to accept**, if it is complete or reject the application, before rejection 7 days time will be given to applicant for corrections if any.

PPIRP Commencement date is a date of order passed by AA accepting the application.

Section 54D : PPIRP to **be completed with in 120 days** from **PPIRM CD**.

Duties and Powers of Resolution Professional : Section 54F

Duties :

1. Confirm the list of claims submitted by CD in Form P10, Based on the records of the corporate debtor and other relevant material available on record, the RP shall confirm the details received in **Form P10**. The RP shall inform every creditor regarding its claims, as confirmed by him, and seek objections, if any.
2. A creditor may submit objection along with supporting documents to the RP **within seven days** from the receipt of communication under sub-regulation. The RP may call for such other evidence or clarification as he deems fit from a creditor for substantiating the whole or part of its claim.
3. The RP shall **consider every objection** received and modify the claim of the creditor, if required.
4. The resolution professional shall maintain a list of claims in Form P10 and update it as and when required
5. Form 10 shall be available for inspection by the creditors, members, partners, directors and guarantors of the corporate debtor, displayed on the website, if any, of the corporate debtor, filed with the Board on electronic platform; and presented at the meetings of the committee, as and when updated.
6. Where amt of claim is not precise, RP to make best estimate. Debt in FE to be valued on considering exchange rate on the date of CD date.
7. If any debt is transferred or assigned both crs and party to whom debt was assigned will confirm to RP.
8. Monitor management of the affairs of the corporate debtor. If any breach inform COC
9. Constitute COC ; convene and attend COC meeting. Appoint **two** Reg Value **with in 3 days** of his appointment.
10. Prepare Information Memo **within 14 days** from CD on the basis of PIM and other relevant information,
11. File application with AA for avoidance/ fraudulent/ wrongful trading of transactions. **By 60th Day** of CDD

Duties and Powers of Resolution Professional : Section 54F,

Powers: As per section 54F

1. Access to books and records kept by CD & maintained at IU or Govt Authorities or any other person.
2. Attend meetings of BoD/Partners
3. Appoint accounts/ legal or other professionals. Two Reg Values within 3 days of CD.
4. Collect all information relating to the assets, finances and operations & payments for previous **2 years of CD** of the corporate debtor for determining the financial position of the corporate debtor and the existence of any transactions that may be within the scope of provisions relating to avoidance of transactions under Chapter III or VI. Prepare list of Assets & Liabilities **as on Initiation Date**.
5. Financial institutions of CD , employees of CD and BoD of CD shall provide all information and support to RP
6. The fees of RP and any expenses incurred by him for conducting the same shall be determined in such manner as may be specified. Provided that the **COC may impose limits** and conditions on such fees and expenses. Provided further that the fees and expenses for the **period prior to the constitution of COC shall be subject to ratification by it**. The fees and expenses referred to in sub-section (6) shall be borne in such manner as may be specified.

Section 54H: During PPIRP **control of CD shall remain with the BoD/Partners of CD**, they shall endeavor to protect and preserve value of CD & manage operations as going concern. *(This is not in a case for CIRP, control vests with IRP/RP)*

Section 54J : *COC at any time with 66% voting can resolve to vest the management with RP. On such resolution RP to submit application to AA. If AA is of opinion that management should be given to RP, it will order as such.*

Committee of Creditors - Section 54 I

1. Based on list of claims submitted to RP by CD in forgoing sections, RP to form COC within **7 Days** from CD. COC so formed will get altered on the basis of updated claim list, decisions taken based on existing COC will not affect due to such alterations.
2. **First COC to be held within 7 Days of COC formation.** Provision of section 21 will apply (except sub sec 1)
3. Where the corporate debtor has **only creditors in a class** and no other financial creditor who are not related parties of the corporate debtor, the committee shall consist of only the authorised representative(s). Of class of creditors.
4. Where CD has only OC, COC will be of ten largest OC, one rep of workmen, one rep of employees.
5. Voting rights of such COC will be in the ratio of total debt of CD. Total debt = Debts due to OC+ Workmen+ Empl.
6. Any change in composition of COC shall be informed to all Creditors **within 2 days** of change.
7. RP can call meeting of COC as and when required. Creditors representing 33% of voting right can inform RP to call Meeting
8. Notice of meeting to be given to all creditors before 3 days of meeting, this time can be reduced to 24hrs (48 hrs where there are representatives in COC), notice may be sent by e-mail text or attachment. Subject line of mail will be name of CD, place, date and time of meeting.
9. Quorum : **33% of voting** physically or video /visual media. **COC may modify this quorum in future meetings**
10. Adjournment : Same time, place on the next day. Shall be **quorate** with members attending it.
11. RP to chair the meeting. **RP to ensure that required quorum is present throughout the meeting.**

Committee of Creditors - Section 54 I

Committee with creditors in a class.

(1) The RP shall provide the list of creditors in each class to the respective authorised representative **within three days** of the commencement of the process. Or updated list as and when updated.

Clarification.- The authorised representative shall have no role in receipt or confirmation of claims of creditors of the class he represents.

(2) The RP shall provide electronic means of communication between the authorised representative and the creditors in the class.

(3) The voting share of a creditor in a class shall be in proportion to the financial debt which includes an interest at the rate of **eight per cent** per annum unless a different rate has been agreed to between the parties.

(4) The authorised representative shall circulate the agenda to creditors in a class and may seek their preliminary views on any item in the agenda to enable him to effectively participate in the meeting of the committee:

Provided that creditors shall have a time window of at least twelve hours to submit their preliminary views, and the said window opens at least twenty-four hours after the authorised representative seeks preliminary views

Provided further that such preliminary views shall not be considered as voting instructions by the creditors.

(5) RP to circulate the minutes of the meeting by electronic means to all members of the committee and authorised representative, **within twenty-four** hours of the conclusion of the meeting; and seek a vote of the members who did not vote at the meeting on the matters listed for voting, by electronic voting system in accordance with regulation 37 where the voting shall be kept open for at least twenty-four hours from the circulation of the minutes.

(6) The authorised representative shall circulate the minutes of the meeting received under sub-regulation (4) to creditors in a class and announce the voting window at least twenty-four hours before the window opens for voting instructions and keep the voting window open for at least twelve hours.

APPLICATION FOR PPIRP (RULE 4)

Form 1 under
Rule 4(1)

Fee- Rs.
15,000/-

Serve to Board

Along with application CD must provide:

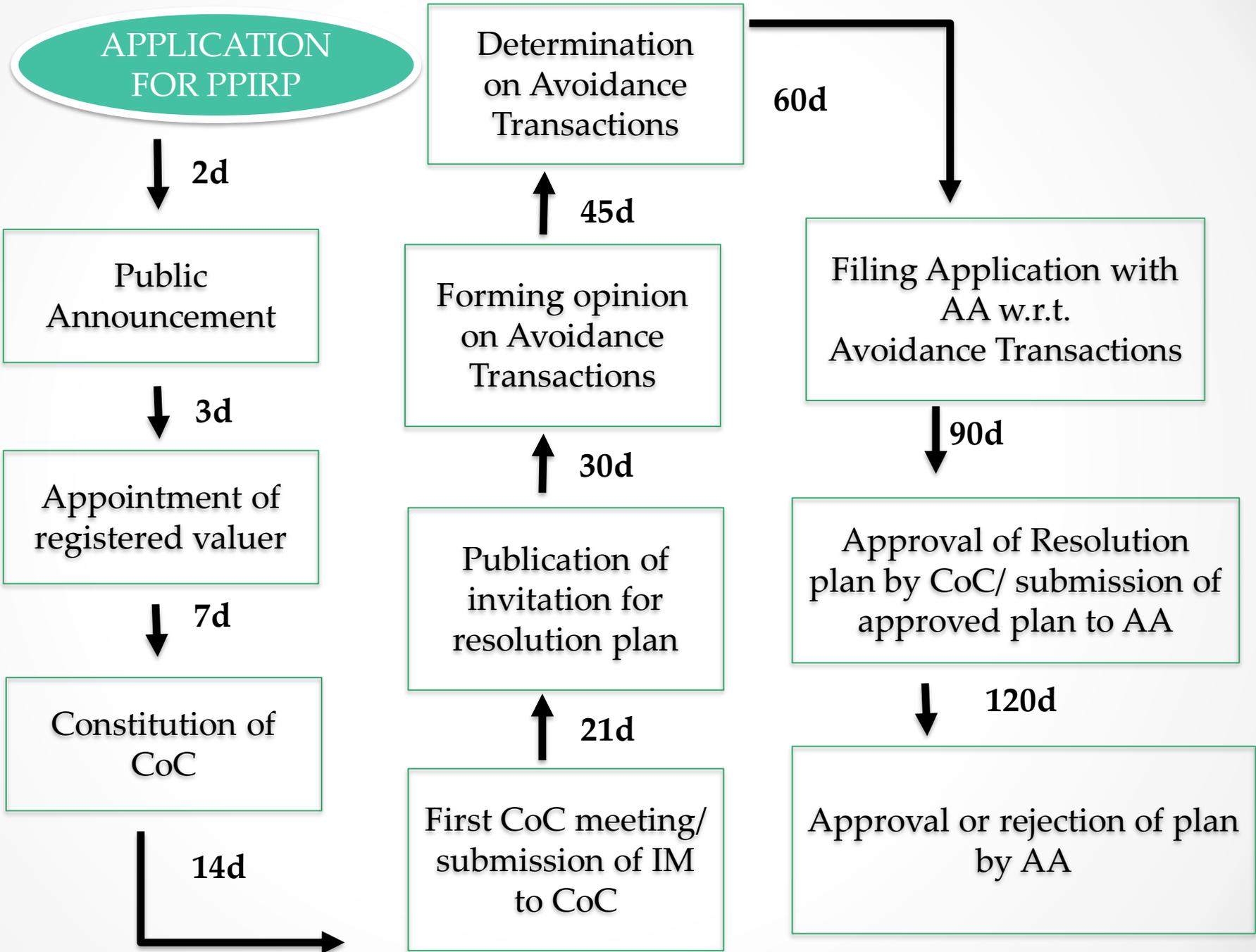
Declaration, special resolution or resolution, approval of FC, Name and written consent of IP (Form P5) and his report Form P8, Declaration regarding existence of any PUFEE transactions, Audited Financial statements for last two years, provisional financial statement for current year,

Review and consideration of Base Resolution plan by COC - Section 54K,

1. CD shall submit Base Resolution Plan (BRP) to RP **within 2 days** of Commencement date. RP to present this to COC.
2. COC may give an opportunity to CD to revise BRP before it's approval or calling of RA from prospective resolutions applicants. Section 30 shall be applicable (Submission of Resolution plan)
3. COC will approve the BRP for submission to the Adjudicating **Authority if it does not impair** any claims owed by the corporate debtor to the operational creditors.
4. If COC does not approve the BRP due to the fact that it impairs claims of OC or due to any other reason, RP will shall invite Resolution plan from prospective RA to compete with BRP. Call within 21 days from CD in P 11
5. RP will provide evaluation matrix and other information to prospective applicants as approved by COC.
6. On receipt of Resolution plan , RP to confirm whether such plans confirm the req of sec 30 (2).
7. The resolution professional shall present to the COC, for its evaluation, resolution plans **which conform to the requirements referred** to in sub-section (2) of section 30. COC to select one amongst the presented.
8. The selected resolution plan shall compete with BRP, and finalized resolution plan shall be approved by COC with 66% with such terms and conditions of COC. RP to apply with AA with COC approved Resolution Plan.
9. If COC does not approve BRP or any other resolution plan, RP to file application with AA to terminate the PPIRP process.
10. When BRP is approved by COC with impairing OC, COC may require promoters to dilute shareholding etc. If rejected reason for such rejection to be recorded by COC.

Explanations: CD may submit BRP individually or with any other applicant. Impairment of claims of OC means reduction of their confirmed claims.

**INITIATION
OF
PRE-
PACKAGED
INSOLVENCY
RESOLUTION
PROCESS**



INVITATION FOR RESOLUTION PLANS (Reg. 43)

the resolution professional shall publish brief particulars of the invitation for resolution plans in Form P11

The Form P11 shall state where the invitation for resolution plans can be downloaded or obtained from, as the case may be

The Form P11 shall provide the last date for submission of resolution plan which shall not be less than fifteen days

It shall includes:

not require any non-refundable deposit for submission of or along with resolution plan.

- (i) the basis for evaluation;
- (ii) basis for considering a resolution plan significantly better than another resolution plan;
- (iii) tick size; and
- (iv) the manner of improving a resolution plan; and

Approval of Resolution Plan

CD shall submit the Base Resolution Plan ("BP") to RP and RP submit to COC (within 2 days of commencement of PPIRP)

BRP is paying for all OC

COC may approve BRP

If CoC does not approve the Base Resolution Plan

CoC to evaluate the plans presented by RP and select the best resolution plan (assume "X")

RP shall invite plan for competition with BRP

RP to submit approved plan to Adjudicating Authority which may, by order, either:

- Approve the Plan
- Reject the Plan and terminate PPIRP

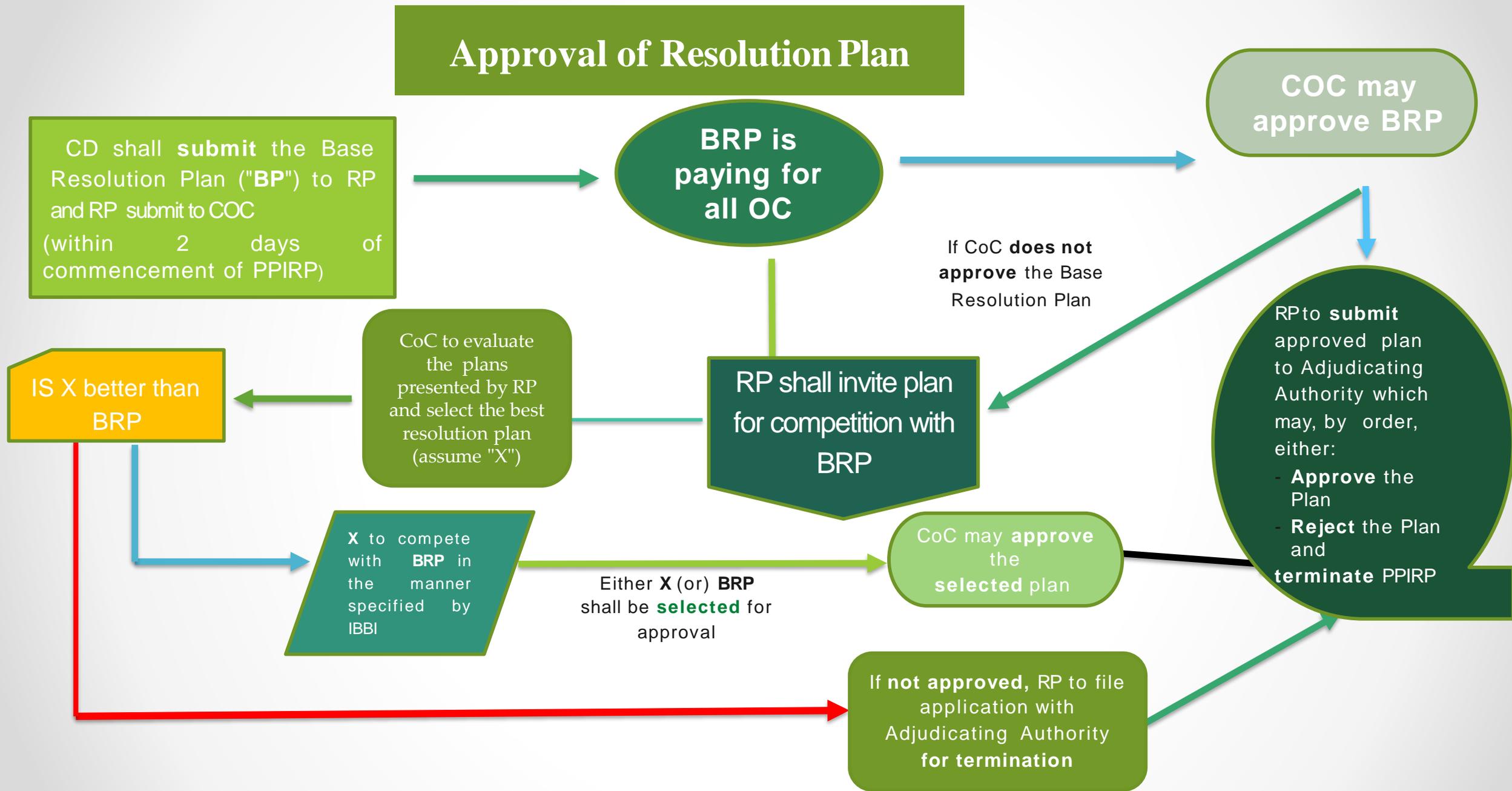
IS X better than BRP

X to compete with BRP in the manner specified by IBBI

Either X (or) BRP shall be selected for approval

CoC may approve the selected plan

If not approved, RP to file application with Adjudicating Authority for termination



Swiss Challenge method:

- a bidding process, wherein a bidder (original bidder) makes an unsolicited bid to the auctioneer.
- Once approved, the auctioneer then seeks counter proposals against the original bidder's proposal and chooses the best amongst all options (including the original bid).
- The original bidder in most cases is granted the “right to first refusal”.
- If the original bidder agrees to match its offer to the challenging proposal, the bid is awarded to him, else it is awarded to the challenging bidder. The process is generally used in public procurement

Continue..

- In the Report of the Sub-Committee of the Insolvency Law Committee on Pre-packaged Insolvency Resolution Process, it was noted that swiss challenge is a time-tested mechanism and has proven to be highly effective in value maximization and ensuring transparency of the process
- RBI has on 1st September 2016 issued Guidelines on Sale of Stressed Assets by Banks. Under the Guidelines, Swiss challenge method is envisaged to be introduced for sale of stressed assets as well.
- The banks have also resorted to the Swiss challenge to offload their stressed assets under the SARFAESI Act, 2002.

Approval / Rejection of Resolution plan by AA - Section 54L, 54M

1. If Resolution plan conforms to the conditions u/s 30 (2) & if resolution plan has provisions for its effective implementation, AA shall approve the Resolution plan within 30 days by order.
2. Approved resolution plan shall be binding on all stakeholders. Moratorium shall cease. RP shall forward all records of PPIRP process to Board to record database.
3. Where resolution plan does not satisfy conditions as above, AA will reject the Resolution Plan within 30 days and shall pass order u/s 54N (Termination of PPIRP)
4. On passing of order u/s 54N, AA shall pass order U/s 33 (Liquidation of CD), PPIRP cost shall be part of Liquidation cost.
5. **Section 54 M:** Appeal against rejection of PPIRP order as above may be made U/s 61 (3) .
6. COC may terminate the PPIRP at any time with 66% voting. **Cost of PPIRP shall be born by CD**
7. COC may with 66% vote can terminate PPIRP and initiate CIRP under Chapter II if CD is eligible for this. On such decision of COC RP to file application with AA. AA within 30 days shall pass an order terminating PPRIP and passing process under CIRP. Such order shall be considered an order u/s 7. Shall pass order appointing RP subject to written consent of RP and fulfillment of conditions. Shall declare the PPIRP cost shall be a part of CIRP cost.
8. CIRP commencement date shall be considered as date of such order (As above)

Jurisprudence:

- *Bank of Baroda v. Mandhana Industries Ltd*

Hon'ble NCLT-Mumbai Bench on an application by one of the resolution applicants expressly ordered the RP to conduct Swiss Challenge under CIRP. It may be mentioned that the applicant emerged as the successful resolution applicant and the resolution plan was approved vide order dated 30th November, 2018.

- *Saket Tex Dye Private Limited v. Kailash T. Shah,*

Hon'ble NCLT-Mumbai Bench rejected the use of Swiss challenge method during the CIRP due to absence of it being expressly provided under CIRP Regulations and the same being proposed by the applicant post approval of resolution plan by CoC .

AA may impose penalty (1lakh to 1 Cr.)

Sec. 65(3)

Sec. 67A

Fraudulent or with malicious intent

Intent to defraud any person

Officer of CD manages its affairs with intent to defraud creditors or for any fraudulent purpose

TERMINATION OF PPIRP BY AA

- No resolution plan approved by CoC within 90 days

- CoC reject selected Resolution plan

- AA reject Resolution plan

- CoC resolved to terminate PPIRP (66%)

- CoC resolved to initiate CIRP(66%)

- Where AA ordered for vesting of management of CD with RP and the CoC approved a resolution plan which does not result in change in management or control of CD

LIQUIDATIO
N

(CoC cannot
decide for
liquidation in
PPIRP)

Section 54N (4)

AA satisfied that CoC approved plan
not comply with Sec 30(2)

Section 54L (4)(b)

Where AA ordered for vesting of management of CD with
RP and the CoC approved a resolution plan which does not
result in change in management or control of CD

Section 33(3)

Where a resolution plan approved under
PPIRP is contravened by the CD

Switch to CIRP (SEC. 54-0)

CoC at any time after initiation of PPIRP but before approval of resolution plan by 66% vote may resolve to initiate CIRP (Only if CD eligible for CIRP)

RP to intimate AA of the decision taken by CoC to initiate CIRP against the CD

AA shall, by order:

- Terminate the PPIRP
- Appoint RP under PPIRP as IRP for the CIRP
- Declare that PPIRP costs shall be included in IRP Costs

Order of AA shall be deemed to be order of admission u/s 7 & CIRP shall commence from date of such order

FORM P1
WRITTEN CONSENT
 (Under regulation 7(1) of the Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021)

[Date]

To
 The Adjudicating Authority
 [_____ Bench]

From
 [Name of the insolvency professional]
 [Registration number of the insolvency professional]
 [Address of the insolvency professional registered with the Board]

Subject: Written consent in the matter of [name of corporate debtor]

1. I, [name], an insolvency professional enrolled with [name of insolvency professional agency] and registered with the Board. I have been proposed for appointment-
 - (i) as the interim resolution professional under section 54O of the Insolvency and Bankruptcy Code, 2016 for corporate insolvency resolution process of [name of the corporate debtor].
 - OR
 - (ii) resolution professional under sections 54A or 27 of the Insolvency and Bankruptcy Code, 2016 for the pre-packaged insolvency resolution process of [name of the corporate debtor].

{strike off the part which is not relevant}
2. I hereby give consent to the proposed appointment.
3. I have the following processes in hand:-

Sl. No.	Role as	Number of processes on the date of consent
I	II	III
1	Interim Resolution Professional	
2	Resolution Professional in- a. Insolvency resolution processes for corporate persons b. Pre-packaged insolvency resolution processes c. Insolvency resolution processes for individuals	
3	Liquidator of- a. Liquidation Processes b. Voluntary Liquidation Processes	
4	Bankruptcy Trustee	
5	Authorised Representative	
6	Any other (Please state)	

Double click on form to open the pdf version

FORM P2
LIST OF CREDITORS OF [NAME OF CORPORATE DEBTOR]
 (Under regulation 14 of the Insolvency and Bankruptcy Board of India (Pre-packaged
 Insolvency Resolution Process) Regulations, 2021)

AS ON [DATE]
 (Amount in ₹)

List of financial creditors (unrelated)			
I	II	III	IV
Sl. No.	Name of creditor	Amount of claim	% of claim
1			
2			
3			
List of financial creditors (related)			
Sl. No.	Name of creditor	Amount of claim	% of claim
1			
2			
3			
List of operational creditors (unrelated)			
Sl. No.	Name of creditor	Amount of claim	% of claim
1			
2			
3			
List of operational creditors (related)			
Sl. No.	Name of creditor	Amount of claim	% of claim
1			
2			
3			
List of other creditors (unrelated)			
Sl. No.	Name of creditor	Amount of claim	% of claim
1			
2			
3			
List of other creditors (related)			
Sl. No.	Name of creditor	Amount of claim	% of claim
1			
2			
3			

[For Corporate Applicant]

(Signature)

Name of person submitting information
 Relationship with corporate debtor

FORM P3

APPROVAL OF TERMS OF APPOINTMENT OF RESOLUTION PROFESSIONAL
(Under regulation 14(5) of the Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021)

1. The meeting of financial creditors, who are not related parties of the corporate debtor, was held on [date of meeting] at [time of meeting] at [venue of meeting] for proposing and approving the name of resolution professional for pre-packaged insolvency resolution process of [name of corporate debtor].
2. The list of creditors in Form P2 was provided with the notice of said meeting.
3. The details of creditor(s) present in the said meeting are enclosed as Annexure-A.
4. [Name of creditor(s)], having % of debt*, proposed the name of [name of proposed resolution professional], having registration number [registration number] for appointment as resolution professional for the pre-packaged insolvency resolution process of [name of corporate debtor].
5. The following creditor(s) have approved the appointment of [name of proposed resolution professional], having registration number [registration number] for appointment as resolution professional for the pre-packaged insolvency resolution process of [name of corporate debtor].

Sl. No.	Name of creditor(s)	Amount of debt*	Percentage of debt*	Vote		
				Assent	Dissent	Abstain
I	II	III	IV	V	VI	VII
1						
2						
3						
Total						

6. The above-mentioned creditor(s), also approved the following terms of appointment of the [name of proposed resolution professional]:-

Sl. No.	Particulars	Fee (Amount in ₹)	Remarks
I	II	III	IV
1	Fee payable to the resolution professional for performing duties under sub-section (1) of section 54B		
2	Fee payable to the resolution professional and expenses to be incurred by him for conducting the process under section 54F		
3	Fee payable to the resolution professional and expenses to be incurred by him in case management of the corporate debtor is vested with him under section 54J		

7. That [name of creditor], is duly authorised to sign this Form on behalf of all the / assenting creditor(s) mentioned in Table in para 5.

[Name of creditor]

(Signature)

[NAME IN BLOCK LETTERS]

[Designation]

**Debt means aggregate financial debt owed to the financial creditors who are not related parties of the corporate debtor.*

(Please modify the form suitably where the creditors are operational creditor(s))

FORM P4

**APPROVAL FOR INITIATING PRE-PACKAGED INSOLVENCY RESOLUTION
PROCESS OF [NAME OF CORPORATE DEBTOR]**
(Under regulation 14(7) of the Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021)

1. The meeting of financial creditors, who are not related parties of the corporate debtor, was held on [date of meeting] at [time of meeting] at [venue of meeting] for approving the initiation of pre-packaged insolvency resolution process in respect of [Name of corporate debtor].
2. Following document(s) was/were enclosed with the notice of said meeting:-
 - a. list of creditors in Form P2;
 - b. copy of declaration by members/partners in Form P6;
 - c. copy of members' special resolution or partners' resolution, as the case may be;
 - d. base resolution plan; and
 - e. other relevant information or document, if any.
3. The details of creditor(s) present in the said meeting are enclosed herewith as Annexure-A.
4. The following creditor(s) have approved the initiation of pre-packaged insolvency resolution process in respect of [name of corporate debtor].

Sl. No.	Name of creditor(s)	Amount of debt*	Percent of debt*	Vote		
				Assent	Dissent	Abstain
I	II	III	IV	V	VI	VII
1						
2						
3						
Total						

5. That [name of creditor], is duly authorised to sign this Form on behalf of all the / assenting creditor(s) mentioned in Table above.

[Name of creditor]

Signature
[NAME IN BLOCK LETTERS]
[Designation]

*Debt means aggregate financial debt owed to the financial creditors who are not related parties of the corporate debtor.

(Please modify the form suitably where the creditors are operational creditor(s))

FORM P5
WRITTEN CONSENT TO ACT AS AUTHORISED REPRESENTATIVE
(Under regulation 15(ii) of the Insolvency and Bankruptcy Board of India (Pre-packaged
Insolvency Resolution Process) Regulations, 2021)

From
[Name of the insolvency professional]
[Registration number of the insolvency professional]
[Registered address of the insolvency professional]

To
[Name of resolution professional], the resolution professional of pre-packaged insolvency
resolution process of [name of corporate debtor]

Subject: Written Consent to act as an authorised representative.

1. I, [name], an insolvency professional enrolled with [name of insolvency professional agency] and registered with the Board, note that you have proposed to appoint me as the authorised representative of financial creditors in a class [specify class] in the pre-packaged insolvency resolution process of [name of the corporate debtor].
2. I hereby give my consent for the proposed appointment.
3. I am having the following processes in hand:-

Sl. No.	Role as	Number of processes on the date of consent
I	II	III
1	Interim Resolution Professional	
2	Resolution Professional in- a. Insolvency resolution processes for corporate persons b. Pre-packaged insolvency resolution processes c. Insolvency resolution processes for individuals	
3	Liquidator of- a. Liquidation Processes b. Voluntary Liquidation Processes	
4	Bankruptcy Trustee	
5	Authorised Representative	
6	Any other (Please state)	

FORM P6
DECLARATION BY DIRECTOR/PARTNERS
(Under regulation 16(1) of the Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021)

[Date]

To
The Adjudicating Authority
[_____ Bench]

Subject: Declaration for initiating pre-packaged insolvency resolution process in respect of [name of corporate debtor].

We,-

Sl. No.	Name and Designation	Director Identification Number	Address
I	II	III	IV
1			
2			
3			

representing majority among the directors/partners of the [name of the corporate debtor] "Corporate Debtor" having [Identification Number] and having registered office at [Address], declare and affirm as under:-

- i. The corporate debtor shall file an application for initiating pre-packaged insolvency resolution process within [insert number of days].
- ii. The pre-packaged insolvency resolution process is not being initiated to defraud any person;
- iii. The creditors have approved the name of [name of insolvency professional], having registration number [registration number], in the meeting of creditors convened under clause (e) of sub-section (2) of section 54A read with regulation 8 of the Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021, held on [date of meeting].

iv. The details of the corporate debtor

Sl. No.	Title	Details
I	II	III
1	Name of the corporate debtor	
2	Registered address of the corporate debtor	
3	Date of incorporation of the corporate debtor	

FORM P7
DECLARATION REGARDING EXISTENCE OF AVOIDANCE TRANSACTION(S)
(Under regulation 16(2) of the Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021)

[Date]

To
The Adjudicating Authority
[_____ Bench]

Subject: Declaration regarding existence of avoidance transaction in respect of [name of corporate debtor].

I, [name], a managing director/chairperson/designated partner/partner [director, if there is no managing director and chairperson] of the [name of the corporate debtor] ("Corporate Debtor") having [Identification Number] having registered office at [Address], declare and affirm as under:-
{*strike off the part which is not relevant*}

i. the corporate debtor has not been subject to any transaction within the meaning and scope of Chapter III or Chapter VI of the Insolvency and Bankruptcy Code, 2016 (Code).

OR

ii. the corporate debtor has been subject to following transaction(s) within the meaning and scope of Chapter III or Chapter VI of the Code:-

Sl. No	Transaction with	Section (43/45/ 50/66)	Amount involved (in Rs.)	Remarks, if any
I	II	III	IV	V
1				
2				
3				

A note providing detail(s) of above-mentioned transaction(s) along-with relevant document(s) is enclosed as Annexure-A.

Place:
Date:

(Signature)
Name
Designation
DIN
Address

111111

FORM P9
PUBLIC ANNOUNCEMENT
(Under regulation 19(2) of the Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021)

FOR THE ATTENTION OF THE CREDITORS OF [NAME OF CORPORATE DEBTOR]

Notice is hereby given that the Adjudicating Authority, ____ Bench has ordered for the commencement of pre-packaged insolvency resolution process for [name of the corporate debtor] on [pre-packaged insolvency commencement date].

RELEVANT PARTICULARS		
I	II	III
1	Name of corporate debtor	
2	Former name(s), if changed in last two years	
3	Date of incorporation of corporate debtor	
4	Authority under which corporate debtor is incorporated / registered	
5	Identification number	
6	Address of the registered office and principal office (if any) of corporate debtor	
7	Pre-packaged insolvency commencement date	
8	Name and registration number of the resolution professional	
9	Address and e-mail of the resolution professional, as registered with the Board	
10	Address and e-mail to be used for correspondence with the resolution professional	
11	List of claims shall be made available from [insert date] at:	

(Signature)
Name and of resolution professional:

Date:
Place:

FORM P10
LIST OF CLAIMS
(Under regulation 20 of the Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021)

As on _____
(Amount in ₹)

Sl. No.	Category of creditor	Summary of claims		Amount of contingent claims	Details in Annexure	Remarks, if any
		No. of claims	Amount			
I	II	III	IV	V	VI	VII
1	Secured financial creditors belonging to any class of creditors				1	
2	Unsecured financial creditors belonging to any class of creditors				2	
3	Secured financial creditors (other than financial creditors belonging to any class of creditors)				3	
4	Unsecured financial creditors (other than financial creditors belonging to any class of creditors)				4	
5	Operational creditors (Workmen)				5	
6	Operational creditors (Employees)				6	
7	Operational creditors (Government dues)				7	
8	Operational creditors (other than Workmen, Employees and Government dues)				8	
9	Other creditors, if any, (other than financial creditors and operational creditors)				9	
Total						

[For Corporate Debtor] Signature	OR	[For Resolution Professional] Signature
-------------------------------------	----	--

FORM P11
INVITATION FOR RESOLUTION PLANS
(Under regulation 43 of the Insolvency and Bankruptcy (Pre-packaged Insolvency Resolution Process) Regulations, 2021)

RELEVANT PARTICULARS		
I	II	III
1	Name of the corporate debtor	
2	Former name(s), if changed in last two years	
3	Date of incorporation of corporate debtor	
4	Authority under which corporate debtor is incorporated / registered	
5	Identification number	
6	Address of the registered office and principal office (if any) of corporate debtor	
7	Pre-packaged insolvency commencement date	
8	Date of invitation for resolution plans	
9	Eligibility for resolution applicants	
10	Norms of ineligibility applicable under section 29A	
11	Basis for evaluation (including details related to significant improvement and tick size)	
12	Manner of obtaining 'invitation of resolution plan', basis for evaluation (including details related to significant improvement and tick size), information memorandum and further information	
13	Last date for submission of resolution plans	
14	Manner of submitting resolution plans to resolution professional	
15	Estimated date for submission of resolution plan to the Adjudicating Authority for approval	
16	Name and registration number of the resolution professional	
17	Name, address and e-mail of the resolution professional, as registered with the Board	
18	Address and email to be used for correspondence with the resolution professional	
19	Further details are available at or with	
20	Date of publication of Form	

(Signature)
Name of the resolution professional
Registration number
Registered address

Date:
Place:

FORM P12
COMPLIANCE CERTIFICATE
(Under regulation 49 (1) of the Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021]

I, [Name of the resolution professional], am the resolution professional for the pre-packaged insolvency resolution process (PPIRP) of [name of the corporate debtor].

2. The details of the pre-packaged insolvency resolution process

Sl. No.	Particulars	Description
I	II	III
1	Name of the corporate debtor	
2	Date of commencement of PPIRP	
3	Date of appointment of resolution professional	
4	Date of publication of public announcement	
5	Date of constitution of committee	
6	Date of first meeting of committee	
7	Date of appointment of registered valuers	
8	Date of submission of base resolution plan	
9	Date of invitation of resolution plans from third party resolution applicant, if applicable	
10	Date of inviting corporate debtor to improve its resolution plan, if applicable	
11	Date of issue of invitation for resolution plan (if applicable)	
12	Last date of submission of resolution plan	
13	Date of approval of resolution plan by committee	
14	Date of filing of resolution plan with Adjudicating Authority	
15	Date of expiry of one hundred and twenty days of PPIRP	
16	Fair value	
17	Liquidation value	
18	Number of meetings of committee held	

3. I have examined the resolution plan received from corporate debtor/third party resolution applicant (.....) and approved by the committee of [Name of the corporate debtor].

4. I hereby certify that-

- a. the said resolution plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 (Code), the Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021 and does not contravene any of the provisions of the law for the time being in force.
- b. the corporate debtor/third party resolution applicant (.....) has submitted an affidavit pursuant to section 30(1) of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the

FORM P13
APPLICATION FOR TERMINATION OF PRE-PACKAGED INSOLVENCY
RESOLUTION PROCESS
(Under regulation 49(4) of the Insolvency and Bankruptcy Board of India (Pre-packaged
Insolvency Resolution Process) Regulations, 2021)

[Date]

To
The Adjudicating Authority
[_____ Bench]

From
[Name of the insolvency professional]
[Registration number of the insolvency professional]
[Registered address of the insolvency professional]
In the matter of [name of the corporate debtor]

Subject: Termination of pre-packaged insolvency resolution process of [name of corporate debtor]

Madam/Sir,

The [name of the corporate debtor], had filed an application bearing [particulars of application, having, [diary number/ case number] on [date of filing] before the Adjudicating Authority under [under section 54C,] of the Insolvency and Bankruptcy Code, 2016. The said application was admitted by the Adjudicating Authority on [date] bearing [case number].

2. The committee of creditors has, in its meeting held on _____, decided to terminate the aforementioned pre-packaged insolvency resolution process filed by the [name of the corporate debtor] under sub-section (2) of section 54N.

OR

No resolution plan was submitted within the period permitted for approval of resolution plan under sub-section (3) of section 54D.

OR

The resolution plan selected under sub-section (11) of section 54K has not been approved by the committee of creditors under sub-section (12) of section 54K
{strike off the part which is not relevant}

3. I hereby attach the report of termination of the pre-packaged insolvency resolution process.

(Signature)
Name of the resolution professional:
IP Registration No:

FORM P14
APPLICATION FOR VESTING MANAGEMENT WITH RESOLUTION
PROFESSIONAL
(Under regulation 51 of the Insolvency and Bankruptcy Board of India (Pre-packaged
Insolvency Resolution Process) Regulations, 2021)

[Date]

To
The Adjudicating Authority
(_____ Bench)

From [Name of the insolvency professional]
[Registration number of the insolvency professional]
[Registered address of the insolvency professional]
In the matter of [name of the corporate debtor]

Subject: Vesting of management of [name of corporate debtor] with resolution professional.

Madam/Sir,

[Name of the corporate debtor], had filed an application bearing [particulars of application, having diary number/ case number] on [date of filing] before the Adjudicating Authority under [under section 54C.] of the Insolvency and Bankruptcy Code, 2016 (Code). The said application was admitted by the Adjudicating Authority on [date] bearing [case number].

2. The committee of creditors has, in its meeting held on _____, decided to vest the management of the [Name of the Corporate Debtor] with the resolution professional under section 54J of the Code for the following reason(s):-

a.

b.

3. I hereby attach the minutes of the meeting of committee of creditors held on _____.

(Signature)
Name of the Resolution Professional:
IP Registration No:
Address as registered with the Board:
Email Id as registered with the Board:
Date:
Place:

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 9th April, 2021

G.S.R. 256(E).—In exercise of the powers conferred by sub-section (1) and clause (fd) of sub-section (2) of section 239 read with sub-section (2) of section 54C of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), as amended by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021 (3 of 2021), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement. - (1) These rules may be called the Insolvency and Bankruptcy (pre-packaged insolvency resolution process) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Application. - These rules shall apply to the matters relating to the pre-packaged insolvency resolution process.

3. Definitions. - (1) In these rules, unless the context otherwise requires, -

(a) —Code means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

(b) —pre-packaged insolvency resolution process means the insolvency resolution process for corporate persons under Chapter III-A of Part II of the Code;

(c) —Form means a Form appended to these rules; and

(d) —identification number means the limited liability partnership identification number or the corporate identity number, as the case may be, of the corporate person.

(2) Unless the context otherwise requires, words and expressions used and not defined herein, shall have the same meaning respectively assigned to them in the Code.

4. Filing of application. - (1) A corporate applicant, shall make an application for initiating pre-packaged insolvency resolution process under sub-section (1) of section 54C of the Code in Form 1, accompanied with affidavit, documents or records as referred in Annexures therein, in electronic form, along with a fee of rupees fifteen thousand:

Provided that in case, electronic facility is not available for filing such application, the application and the accompanying documents may be filed in physical form, and wherever the accompanying documents are bulky, the same may be submitted in scanned portable document format in a data storage device such as a compact disc or a USB flash drive acceptable to the Adjudicating Authority.

(2) The corporate applicant under sub-rule (1) shall serve a copy of the application to the Board by registered post or speed post or by hand or by electronic means, before filing it with the Adjudicating Authority.

(3) The application shall be filed before the Adjudicating Authority in accordance with rules 20, 21, 22, 23, 24 and 26 of the National Company Law Tribunal Rules, 2016.

(4) A corporate applicant shall inform the Adjudicating Authority about the filing of any winding up petition against the corporate debtor after becoming aware about such filing.

Form-1

[See sub-rule (1) of rule 4]

**APPLICATION BY CORPORATE APPLICANT TO INITIATE PRE-PACKAGED INSOLVENCY
RESOLUTION PROCESS UNDER CHAPTER III-A OF THE CODE**

[Under section 54C of the Insolvency and Bankruptcy Code, 2016 read with rule 4 of the Insolvency and Bankruptcy (Pre-Packaged Insolvency Resolution Process) Rules, 2021]

[Date]

To,
The National Company Law Tribunal
[Address]

From,
[Name and address for correspondence of the corporate applicant]

In the matter of [name of the corporate debtor]

Subject: Application to initiate pre-packaged insolvency resolution process in respect of [name of the corporate debtor] under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

We, hereby submit this application to initiate a pre-packaged insolvency resolution process in respect of [name of corporate debtor]. The details for the purpose of this application are set out below:

Part-I

PARTICULARS OF THE CORPORATE APPLICANT AND CORPORATE DEBTOR		
1.	NAME, ADDRESS, EMAIL ADDRESS, IDENTIFICATION NUMBER AND ADDRESS FOR COMMUNICATION OF THE CORPORATE APPLICANT	
2.	NAME, ADDRESS, EMAIL ADDRESS, IDENTIFICATION NUMBER AND ADDRESS OF THE REGISTERED OFFICE OF CORPORATE DEBTOR	
3.	NAMES AND ADDRESSES OF ALL DIRECTORS, PROMOTERS, DESIGNATED PARTNERS OF THE CORPORATE DEBTOR (AS APPLICABLE)	
4.	DATE OF INCORPORATION OF CORPORATE DEBTOR	
5.	NOMINAL SHARE CAPITAL AND THE PAID-UP SHARE CAPITAL OF THE CORPORATE DEBTOR AND/OR DETAILS OF GUARANTEE CLAUSE AS PER MEMORANDUM OF ASSOCIATION (AS APPLICABLE)	
6.	NAME, ADDRESS AND AUTHORITY OF PERSON SUBMITTING APPLICATION ON BEHALF OF CORPORATE APPLICANT (ENCLOSE AUTHORISATION)	

7.	NAME AND ADDRESS OF PERSON RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON BEHALF OF CORPORATE APPLICANT (ENCLOSE AUTHORISATION)	
8.	<p>DETAILS OF CORPORATE DEBTOR FOR THE PURPOSES OF SECTION 54A(1) OF THE CODE —</p> <p>(i)UDYAM REGISTRATION NUMBER, AS PER NOTIFICATION NO. 2119(E) DATED 26.06.2020 OF MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES (ATTACH A COPY OF THE LATEST AND UPDATED UDYAM REGISTRATION CERTIFICATE)</p> <p style="text-align: center;">OR</p> <p>(ii)INVESTMENT IN PLANT AND MACHINERY OR EQUIPMENT AND TURNOVER CALCULATED AS PER NOTIFICATION NO. 2119(E) DATED 26.06.2020 OF MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES (ATTACH PROOF THEREOF)</p>	
Part-II		
9.	DOCUMENTATION TO SHOW THAT THE CORPORATE APPLICANT IS AUTHORISED TO INITIATE THE PRE- PARTICULARS OF PROPOSED RESOLUTION PROFESSIONAL	
1.	<p>PACKAGED INSOLVENCY RESOLUTION PROCESS NAME, ADDRESS, EMAIL ADDRESS AND THE REGISTRATION NUMBER OF THE PROPOSED RESOLUTION PROFESSIONAL</p>	
2.	NAMES OF THE CREDITORS, WHO HAVE APPROVED THE PROPOSAL FOR APPOINTMENT OF THE INSOLVENCY PROFESSIONAL AS THE RESOLUTION PROFESSIONAL UNDER SECTION 54A(2)(e) OF THE CODE AND VALUE OF THEIR DEBT IN PER CENT. OF DEBT OWED TO CREDITORS REQUIRED TO APPROVE SUCH PROPOSAL UNDER THAT SECTION	

Part-III

PARTICULARS OF FINANCIAL/OPERATIONAL DEBT [CREDITOR WISE, AS APPLICABLE]	
1.	NAME(S) OF FINANCIAL/OPERATIONAL CREDITOR(S)

2.	ADDRESS OF CORRESPONDENCE OF THE FINANCIAL/OPERATIONAL CREDITOR(S)	
3.	TOTAL DEBT RAISED AND AMOUNT IN DEFAULT	
4.	DATE WHEN THE FINANCIAL/OPERATIONAL DEBT WAS INCURRED	
5.	PARTICULARS OF SECURITY HELD, IF ANY, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR. ATTACH A COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES (IF THE CORPORATE DEBTOR IS A COMPANY)	
6.	DETAILS OF RETENTION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS	
7.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY, IF ^{Part-IV}	
PARTICULARS OF FINANCIAL CREDITORS, NOT BEING RELATED		
8.	LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF THE DEBT	PARTIES OF THE CORPORATE DEBTOR
1.	NAMES OF FINANCIAL/OPERATIONAL CREDITORS NOT BEING RELATED PARTIES OF THE CORPORATE DEBTOR	
2.	TOTAL DEBT DUE TO THE FINANCIAL CREDITORS, NOT BEING RELATED PARTIES OF THE CORPORATE DEBTOR	
3.	NAMES OF THE CREDITORS, WHO HAVE APPROVED THE FILING OF APPLICATION FOR INITIATION OF PRE- PACKAGED INSOLVENCY RESOLUTION PROCESS UNDER SECTION 54A(3) OF THE CODE AND VALUE OF THEIR DEBT IN PER CENT. OF DEBT OWED TO CREDITORS UNDER THAT SECTION	

[Name of the corporate applicant] has paid the requisite fee for this application through [state means of payment] on [date] and a copy of this application has been served by registered post/speed post/by hand/electronic means to the Board.

Yours sincerely

Signature of person authorised to act on behalf of the corporate applicant
Name in block letters
Position with or in relation to the corporate applicant
Address of person signing

AFFIDAVIT

I, [insert full name, address and occupation of deponent] do solemnly affirm and state as follows:--

- 1.[Name of the corporate debtor] is eligible for a pre-packaged insolvency resolution process in accordance with section 54A of the Insolvency and Bankruptcy Code, 2016 (Code) and the associated rules and regulations.
- 2.[Name of proposed resolution professional], is fully qualified and permitted to act as a resolution professional for the pre-packaged insolvency resolution process of the corporate debtor, in accordance with the Code and the associated rules and regulations.
- 3.This application is being filed within the time period stipulated for the filing of this application in the declaration of the majority of directors or partners of the [name of the corporate debtor] as referred to in section 54A(2)(f)(i) of the Code.
- 4.In respect of this application for pre-packaged insolvency resolution process, I have relied on the documents specified below: [Please list the documents relied on].
- 5.The contents of this application along with the said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.

Solemnly, affirmed at _____ on _____ day, the _____ day of _____ 20____.

Before me,

Notary/Oath Commissioner

Deponent's Signature

VERIFICATION

I, the Deponent hereinabove, do hereby verify and affirm that the contents of para ___to___ of this affidavit are true and correct to my knowledge and belief. Nothing is false and nothing material has been concealed therefrom.

Verified at _____ on this _____ day of _____ 20____

Deponent's signature

Instructions

Please attach the following to this application:

- Annex I In case of financial debt, record of default obtained through the information utility or all documents listed in serial number 8 of part-III of this application.
- Annex II In case of operational debt, (i) copy of invoice / demand notice served by an operational creditor on the corporate debtor and (ii) record of default obtained through the information utility or all documents listed in serial number 8 of part-III of this application.
- Annex III Approval of creditors under section 54A(2)(e) of the Code for appointment of the proposed resolution professional, as set out in Form P3 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.
- Annex IV Written consent by the proposed resolution professional as set out in Form P1 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.
- Annex V Declaration of the majority of the directors or partners of the corporate debtor, as the case may be, as referred to in section 54A(2)(f) of the Code as set out in Form P6 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.
- Annex VI Copy of the special resolution or resolution of the members or partners of the corporate debtor, as the case may be, as referred to in section 54A(2)(g) of the Code.
- Annex VII Approval of creditors under section 54A(3) of the Code for filing application for initiating pre-packaged insolvency resolution process, as set out in Form P4 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.
- Annex VIII Report of the insolvency professional proposed to be appointed as the resolution professional as referred to in section 54B(1)(a) of the Code, as set out in Form P8 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.
- Annex IX Declaration regarding the existence of any transactions of the corporate debtor, as referred to in section 54C(3)(c) of the Code, as set out in Form P7 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.
- Annex X Affidavit stating that the corporate debtor is eligible under section 29A of the Code to submit resolution plan in the pre-packaged insolvency resolution process of the corporate debtor.
- Annex XI Copy of the relevant books of accounts of the corporate debtor evidencing the default to creditors.
- Annex XII Copies of audited financial statements of the corporate debtor for the last two financial years and the provisional financial statements for the current financial year made up to a date not earlier than fourteen days from the date of the application.
- Annex XIII A statement of affairs made up to a date not earlier than fourteen days from the date of application including the following document, namely:—
- (a) a list of the corporate debtor's assets and liabilities, divided into such categories as are appropriate for easy identification, with estimated values assigned to each category;
 - (b) in the case of any property on which a claim against the corporate debtor is wholly or partly secured, particulars of the claim and its amount, and of how and when the security was created;
 - (c) the names and addresses of the financial creditors and operational creditors of the corporate debtor, with the amounts due to each of them;
 - (d) particulars of any debts owed by or to the corporate debtor to or by persons connected with it;
 - (e) whether any, and if so what, guarantees have been given in relation to the debts of the corporate debtor by other persons, specifying which, if any, of the guarantors is a related party to the corporate debtor and the corporate applicant; and
 - (f) the names and addresses of the members or partners of the corporate debtor, as the case may be, with details of their respective shareholdings.

Annex XIV A copy of:

- (a) relevant extract of any constitutional document or shareholders' agreement that records the authority of the corporate applicant to make this application, where the corporate applicant is a member or partner of the corporate debtor; or
- (b) relevant extract of an employment agreement, constitutional document or filings made to the Registrar of Companies confirming the authority of the corporate applicant to make this application, where the corporate applicant is an individual in charge of managing the operations and resources of the corporate debtor or has control and supervision over the financial affairs of the corporate debtor.

Annex XV Proof that the specified application fee has been paid.

Annex XVI Proof that a copy of the application has been served to the Board.

[F. No. 30/20/2020-Insolvency Section]

GYANESHWAR KUMAR SINGH Jt. Secy.

Chapter IV

Fast Track Corporate insolvency resolution process

Section-55

Corporate Debtors :

with assets and income below a specified level,
with such class of creditors or such amount as
specified

Such other categories as may be notified

Section-56

Time period for completion of fast track corporate insolvency resolution process –

- (1) Subject to the provisions of sub-section (3), the fast track corporate insolvency resolutions shall be completed within a period of ninety days from the insolvency commencement date.
- (2) The resolutions professional shall file an application to the adjudicating authority to extend the period of the fast track corporate insolvency resolution process beyond ninety days if instructed to do so by a resolution passed at a meeting of the committee of creditors and supported by a vote of 75 percent of the voting share.
- (3) On receipt of an application under sub-section (2), if the adjudicating authority is satisfied that the subject matter of the case is such that fast track corporate insolvency resolution process cannot be completed within a period of ninety days by such further period, as it thinks fit, but not exceeding forty- five days:

PROVIDED that any extension of the fast track corporate insolvency resolution process under this section shall not be granted more than once.

SECTION 57 TO 58

Section-57

Manner of initiating fast track corporate insolvency resolution process-

An application for fast track corporate insolvency resolution process may be filed by a creditor or corporate debtor, as the case may be, along with:-

- (a) The proof of the existence of default as evidenced by records available with an information utility or such other means as may be specified by the Board; and
- (b) Such other information as may be specified by the Board to establish that the corporate debtor is eligible for fast track corporate insolvency resolution process.

Section-58

Applicability of Chapter II to this chapter

The process of conducting a corporate insolvency resolution process under chapter II and the provision relating to offences and penalties under chapter VII shall apply to this chapter as the context may require.

Fast Track CIRP- Sec. 55-58

- Applicable to a CD - Sec. 55(2)
 - with assets and income below an amount notified by the Central Government or
 - With such class of creditors or such amount of debt notified by the Central Government
 - Such other category of corporate persons as notified by the Central Government
- Notification no. SO 1911(E) dated 14-6-2017
 - A small company as defined under sec. 2(85) of the Companies Act, 2013
 - A startup (other than the partnership firm) as defined in the notification no. G.S.R. 501(E) dated 23-5-2017 of Ministry of Commerce and Industry
 - An unlisted company with total assets not exceeding Rs. 1 crore
- Time period-90 days vs. 180 days in case of normal CIRP
- Extension of period- not exceeding 45 days vs. 90 days
- The process of CIRP in the normal case along with the provisions relating to offences and penalties will apply mutatis mutandis to the fast track CIRP
- Fast Track CIRP Regulations have been separately notified by the IBBI

**INSOLVENCY AND BANKRUPTCY BOARD
OF INDIA (FAST TRACK INSOLVENCY
RESOLUTION PROCESS FOR CORPORATE
PERSONS) REGULATIONS, 2017
[AMENDED UPTO 07.02.2018]**

Chapter IV

Fast Track Corporate insolvency resolution process

Section-55

Corporate Debtors :

with assets and income below a specified level,

with such class of creditors or such amount as specified

Such other categories as may be notified

An application for fast track corporate insolvency resolution process may be made in respect of the following corporate debtors, namely :-

- Small-sized Companies (As defined under the Companies Act, 2013) or
- Start-up Company other than a Partnership Firm or
- An Unlisted Company with total assets not exceeding one crore rupees (as reported in the books of the preceding financial year).

SMALL COMPANY UNDER CA 2013

“Small company” (defined in Section 2(85)) means a company, other than a public company,—

- (i) Whose paid-up share capital does not exceed Rs. 50 lakhs or such higher amount as may be prescribed which shall not be more than Rs. 5 Crores; [and]
- (ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed Rs. 2 Crores or such higher amount as may be prescribed which shall not be more than One hundred Crores rupees.

Provided that nothing in this clause shall apply to—

- (A) a holding company or a subsidiary company;
- (B) a Section 8 company or
- (C) a company or body corporate governed by any special Act

The Ministry of Corporate Affairs has notified an amendment in the Companies (Specification of Definitions Details) Rules, 2014 that came into

force on 1st April 2021.

- The MCA (Ministry of Corporate Affairs) has effected this amendment in accordance with the proposal of the Honourable Finance Minister to revise the definition of Small companies in India by increasing the paid-up capital limit from INR 50 Lacs to INR 2 Crores in the Union Budget 2021 while the turnover threshold by enhancing from INR 2 crores to 20 crores.
- The new definition of the Small Companies As per the new definition and threshold limits, companies with a paid-up capital of INR 2 crore or less, and turnover of INR 20 crore or less are defined as small companies. The earlier threshold was INR 50 lacs or less in paid-up capital and INR 2 crore or less in turnover. Criteria Old Criteria New Paid-up share capital 50 lakhs 2 crores Turnover 2 crores to 20 crores.
- SO FOR EXAM What needs to be Criteria for Fast Track Unlisted company/ LLP Assets not more than one crore Unlisted company/ LLP Paid up capital not more than 4 crores Unlisted company/ LLP Turnover not over 40 Crore-As per Amendment dated 15th September,2022

Definition of Start Up

An entity shall be considered as a **startup**(meaning of Startup) if it satisfies all the following conditions:

a. If it is incorporated/registered as any of the followings:

a. Private Limited Company (as defined in [Companies Act, 2013](#)).

b. Partnership Firm (registered under Partnership Act, 1932).

c. Limited Liability Partnership (registered under [Limited Liability Partnership Act, 2008](#)).

d. One Person Company (as defined in Companies Act, 2013).

Provided that such entity is not formed by splitting up or reconstruction of a business already in existence.

b. It has **not completed ten years** since incorporation/registration as above.

c. Its turnover for any of the financial years has **not exceeded INR 25 Crore**.

d. It satisfies any of the following conditions:

i) It is working towards:

Innovation of new products/processes/services or

Development of new products/processes/services or

Improvement of existing products/processes/services

ii) It is a scalable business model with a high potential of:

Employment generation or

Wealth creation.

Section 56

Time period for completion of fast track corporate insolvency resolution process –

- (1) Subject to the provisions of sub-section (3), the fast track corporate insolvency resolutions shall be completed within a period of **ninety days** from the insolvency commencement date.
- (2) The resolutions professional shall file an application to the adjudicating authority to extend the period of the fast track corporate insolvency resolution process beyond ninety days if **instructed** to do so by a resolution passed at a meeting of the committee of creditors and supported by a **vote of 75 percent** of the voting share.
- (3) On receipt of an application under sub-section (2), if the adjudicating authority is satisfied that the subject matter of the case is such that fast track corporate insolvency resolution process cannot be completed within a periods of ninety days by such further period, as it thinks fit, but not exceeding **forty-five days**:
PROVIDED that any extension of the fast track corporate insolvency resolution process under this section shall not be granted more than once.

SECTION 57 TO 58

Section-57

Manner of initiating fast track corporate insolvency resolution process–

An application for fast track corporate insolvency resolution process may be filed by a creditor or corporate debtor, as the case may be, along with:–

- (a) The proof of the existence of default as evidenced by records available with an information utility or such other means as may be specified by the Board; and
- (b) Such other information as may be specified by the Board to establish that the corporate debtor is eligible for fast track corporate insolvency resolution process.

Section-58

Applicability of Chapter II to this chapter

The process of conducting a corporate insolvency resolution process under chapter II and the provision relating to offences and penalties under chapter VII shall apply to this chapter as the context may require.

- IBBI/2017-18/GN/REG012 - In exercise of the powers conferred under sections 58, 196 and 208 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following Regulations, namely-

CHAPTER I PRELIMINARY

1. Short title and commencement.

- (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017.
- (2) These Regulations shall come into force on June 14, 2017.
- (3) These Regulations shall apply to the fast track process under Chapter IV of Part II of the Code.

2. Definitions.

- (1) In these Regulations, unless the context otherwise requires-
 - (a) “applicant” means the person filing an application under Chapter IV of Part II of the Code;
 - (b) “Code” means the Insolvency and Bankruptcy Code, 2016;
 - (c) “Code of Conduct” means the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
 - (d) “committee” means a committee of creditors established under section 21;

- (e) **[“dissenting financial creditor” means a financial creditor who voted against the resolution plan or abstained from voting for the resolution plan, approved by the committee;]**
- (f) “electronic form” shall have the meaning assigned to it in the Information Technology Act, 2000 (21 of 2000);
- (g) “electronic means” means an authorized and secured computer programme which is capable of producing confirmation of sending communication to the participant entitled to receive such communication at the last electronic mail address provided by such participant and keeping record of such communication;
- (ga) **“evaluation matrix” means such parameters to be applied and the manner of applying such parameters, as approved by the committee, for consideration of resolution plans for its approval;**
- (gb) **“fair value” means the estimated realizable value of the assets of the corporate debtor, if they were to be exchanged on the insolvency commencement date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing and where the parties had acted knowledgeably, prudently and without compulsion;**
- (h) **“fast track process” means the fast track insolvency resolution process for corporate persons under Chapter IV of Part II of the Code;**
- (i) “fast track process costs” means the costs in Regulation 30;
- (j) **“fast track process period” means the period of ninety days beginning from the fast track recommencement date and ending on the ninetieth day;**

- (k) “identification number” means the Limited Liability Partnership Identification Number under the Limited Liability Partnership Act, 2008, or the Corporate Identity Number under the Companies Act, 2013, as the case may be;
- (l) “fast track commencement date” means the date of admission of an application by the Adjudicating Authority for initiating the fast track process under **Chapter IV of Part II of the Code;**
- (m) “insolvency professional entity” means an entity recognised as such under the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
- (n) **“liquidation value” means the estimated realizable value of the assets of the corporate debtor, if the corporate debtor were to be liquidated on the insolvency commencement date.]**
- (o) **“participant” means a person entitled to attend a meeting of the committee under section 24 or any other person authorised by the committee to attend the meeting;**
- (p) **“registered valuer” means a person registered as such in accordance with the Companies Act, 2013 (18 of 2013) and rules made there under;**
- (q) “section” means section of the Code;
- (r) “video conferencing or other audio and visual means” means such audio and visual facility which enables the participants in a meeting to communicate concurrently with one another and to participate effectively in the meeting.

(2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations, but defined in the Code, shall have the meanings assigned to them in the Code.

CHAPTER II GENERAL

3. Eligibility for resolution professional.

(1) An insolvency professional shall be eligible to be appointed as a resolution professional for a fast track process of a corporate debtor if he, and all partners and directors of the insolvency professional entity of which he is a partner or director, are independent of the corporate debtor.

Explanation— A person shall be considered independent of the corporate debtor, if he –

(a) is eligible to be appointed as an independent director on the board of the corporate debtor under section 149 of the Companies Act, 2013 (18 of 2013), where the corporate debtor is a company;

(b) is not a related party of the corporate debtor; or

(c) has not been an employee or proprietor or a partner:

1) of a firm of auditors or company secretaries in practice or cost auditors of the corporate debtor; or

2) of a legal or a consulting firm, which has or had any transaction with the corporate debtor amounting to **ten per cent** or more of the gross turnover of such firm,

at any time in the preceding three years.

- (2) An insolvency professional shall not be eligible to be appointed as a resolution professional if he, or the insolvency professional entity of which he is a partner or director, is under a restraint order of the Board.
- (3) **An insolvency professional shall make disclosures at the time of his appointment and thereafter in accordance with the Code of Conduct.**
- (4) An insolvency professional shall not continue as a resolution professional if the insolvency professional entity of which he is a director or a partner, or any other partner or director of such insolvency professional entity represents any other stakeholders in the same fast track process.

4. Access to books.

- Without prejudice to section 17(2)(d), the interim resolution professional may access the books of account, records and other relevant documents and information, to the extent relevant for discharging his duties under the Code, of the corporate debtor held with-
 - (a) depositories of securities;
 - (b) professional advisors of the corporate debtor;
 - (c) information utilities;
 - (d) other registries that record the ownership of assets;
 - (e) members, promoters, partners, board of directors and joint venture partners of the corporate debtor; and

(f) contractual counterparties of the corporate debtor.

5. Extortionate credit transaction.

• **A transaction shall be considered an extortionate credit transaction under section 50(2) where the terms:**

(a) require the corporate debtor to make exorbitant payments in respect of the credit provided; or

(b) are unconscionable under the principles of law relating to contracts.

CHAPTER III

PUBLIC ANNOUNCEMENT

6. Public announcement.

(1) **An insolvency professional** shall make a public announcement immediately on his appointment as an interim resolution professional.

*Explanation: 'Immediately' means **not later than three days** from the date of his appointment.*

(2) The public announcement referred to in sub-regulation (1) shall –

(a) be in Form A;

(b) (i) be published in one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, of the corporate debtor and any other location where in the opinion of the interim resolution professional, the corporate debtor conducts material business operations;

- (ii) be hosted on the website, if any, of the corporate debtor; and
- (iii) be hosted on the website, if any, designated by the Board for the purpose,
- (c) provide the last date for submission of proofs of claim, which shall be **ten days** from the date of appointment of the interim resolution professional.
- (3) **The applicant shall bear the expenses of the public announcement which may be reimbursed by the committee to the extent it ratifies them.**

Explanation-The expenses on the public announcement shall not form part of fast track process costs.

CHAPTER IV PROOF OF CLAIMS

7. Claims by operational creditors.

- (1) An operational creditor, other than workman or employee of the corporate debtor, shall submit proof of his claim to the interim resolution professional in person, by post or by electronic means in **Form B**.
 - *Provided that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.*
- (2) The existence of debt due to the operational creditor under this Regulation may be proved on the basis of-

- (a) the records available with an information utility, if any; or
- (b) other relevant documents, including -
 - (i) a contract for the supply of goods and services with corporate debtor;
 - (ii) an invoice demanding payment for the goods and services supplied to the corporate debtor;
 - (iii) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any; or
 - (iv) financial accounts.

8. Claims by financial creditors.

- (1) A financial creditor shall submit proof of claim to the interim resolution professional in electronic form in **Form C**:
 - *Provided that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.*
- (2) The existence of debt due to the financial creditor may be proved on the basis of -
 - (a) the records available with an information utility, if any; or
 - (b) other relevant documents, including -
 - (i) a financial contract supported by financial statements as evidence of the debt;

- (ii) a record evidencing that the amounts committed by the financial creditor to the corporate debtor under a facility has been drawn by the corporate debtor;
- (iii) financial statements showing that the debt has not been repaid; or
- (iv) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any.

9. Claims by workmen and employees.

- (1) A workman or an employee of the corporate debtor shall submit proof of claim to the interim resolution professional in person, by post or by electronic means in **Form D**:
 - *Provided that such person may submit supplementary documents or clarifications in support of the claim, on his own or if required by the interim resolution professional, before the constitution of the committee.*
- (2) Where there are dues to numerous workmen or employees of the corporate debtor, an **authorised representative** may submit one proof of claim for all such dues on their behalf in **Form E**.
- (3) The existence of dues to workmen or employees may be proved by them, individually or collectively on the basis of -
 - (a) records available with an information utility, if any; or
 - (b) other relevant documents, including –
 - (i) a proof of employment such as contract of employment for the period for which such workman or employee is claiming dues;

- (ii) evidence of notice demanding payment of unpaid dues and any documentary or other proof that payment has not been made; or
- (iii) an order of a court or tribunal that has adjudicated upon the non-payment of a dues, if any.

9A. Claims by other creditors.

- (1) A person claiming to be a creditor, other than those covered under regulations 7, 8, or 9, shall submit proof of its claim to the interim resolution professional or resolution professional in person, by post or by electronic means in **Form F** of the Schedule.
- (2) The existence of the claim of the creditor referred to in sub-section (1) may be proved on the basis of –
 - (a) the records available in an information utility, if any, or
 - (b) other relevant documents sufficient to establish the claim, including any or all of the following:-
 - (i) documentary evidence demanding satisfaction of the claim;
 - (ii) bank statements of the creditor showing non-satisfaction of claim;
 - (iii) an order of court or tribunal that has adjudicated upon non-satisfaction of claim, if any.

10. Substantiation of claims.

- The interim resolution professional or the resolution professional, as the case may be, may call for such other evidence or clarification as he deems fit from a creditor for substantiating the whole or part of its claim.

11. Cost of proof proving the debt

A creditor shall bear the cost of proving the debt due to such creditor.

12. Submission of proof of claims.

- (1) Subject to sub-regulation (2), a creditor shall submit proof of his claim on or before the last date mentioned in the public announcement.
- (2) A creditor, who failed to submit proof of claim within the time stipulated in the public announcement, may submit proof of such claim to the interim resolution professional or the resolution professional, as the case may be, **till the approval of a resolution plan** by the committee.
- (3) Where the creditor in sub-regulation (2) is a financial creditor, it shall be included in the committee from the date of admission of such claim:
 - *Provided that such inclusion shall not affect the validity of any decision taken by the committee prior to such inclusion.*

13. Verification of claims.

- (1) The interim resolution professional or the resolution professional, as the case may be, shall verify every claim, as on the fast track commencement date, **within seven days from the last date of the receipt of the claims**, and thereupon maintain a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it.

(2) The list of creditors shall be –

- (a) available for inspection by the persons who submitted proofs of claim;
- (b) available for inspection by members, partners, directors and guarantors of the corporate debtor;
- (c) displayed on the website, if any, of the corporate debtor;
- (d) filed with the Adjudicating Authority; and
- (e) presented at the first meeting of the committee.

14. Determination of amount of claim.

- (1) Where the amount claimed by a creditor is not precise or cannot be determined due to any contingency or other reason, the interim resolution professional or the resolution professional, as the case may be, shall make the best estimate of the amount of the claim based on the information available with him.
- (2) The interim resolution professional or the resolution professional, as the case may be, shall revise the amount of claims admitted, including the estimates of claims made under sub-regulation (1), as soon as may be practicable, when he receives additional information warranting such revision.

15. Debt in foreign currency.

- The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as on the fast track commencement date.

- Explanation - “official exchange rate” means the reference rate published by the Reserve Bank of India or derived from such reference rates.

CHAPTER V

COMMITTEE OF CREDITORS

16. Committee with only operational creditors.

- (1) Where the corporate debtor has no financial debt or where all financial creditors are related parties of the corporate debtor, the committee shall be set up in accordance with this Regulation.
- (2) **The committee formed under this Regulation shall consist of following members: -**
 - (a) **eighteen largest operational creditors by value:**
 - *Provided that if the number of operational creditors is less than eighteen, the committee shall include all such operational creditors;*
 - (b) **one representative elected by all workmen other than those workmen included under sub-clause (a); and**
 - (c) **one representative elected by all employees other than those employees included under sub-clause (a).**
- (3) **Every member of the committee formed under this Regulation shall have voting rights in proportion of the debt due to such creditor or debt represented by such representative, as the case may be, to the total debt.**

Explanation – For the purposes of this sub-regulation, ‘total debt’ means the sum of-

- (a) the amount of debt due to the creditors listed in sub-regulation 2(a);
 - (b) the amount of the aggregate debt due to workmen under sub-regulation 2(b); and
 - (c) the amount of the aggregate debt due to employees under sub-regulation 2(c).
- (4) A committee formed under this Regulation and its members shall have the same rights, powers, duties and obligations as a committee comprising financial creditors and its members, as the case may be.

17. Filings by the interim resolution professional.

- (1) The interim resolution professional shall file a report certifying the constitution of the committee to the Adjudicating Authority **on or before the expiry of twenty-one days** from the date of his appointment.
- (2) Based on records of the corporate debtor and claims, if the interim resolution professional is of the opinion that the fast track process is not applicable to the corporate debtor as per notifications under section 55(2), he shall file an application to the Adjudicating Authority along with the report in sub-regulation (1), to pass an order converting the fast track process to corporate insolvency resolution process under Chapter II of Part II of the Code.
- (3) If the Adjudicating Authority passes an order converting fast track to corporate insolvency resolution process on an application under sub-regulation (2), the process shall be carried on in accordance with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- (4) The interim resolution professional shall **convene the first meeting of the committee within seven days** of filing the report(s) under this Regulation.

CHAPTER VI

MEETINGS OF THE COMMITTEE

18. Meetings of the committee.

- A resolution professional may convene a meeting of the committee as and when he considers necessary, and shall convene a meeting if a request to that effect is made by members of the committee representing **thirty-three per cent** of the voting rights.

19. Notice for meetings of the committee.

- (1) Subject to this Regulation, a meeting of the committee shall be called by giving **not less than seven days' notice** in writing to every creditor, delivered at the address he has provided to the resolution professional and such notice may be served by hand delivery, or by registered post but in any event, be served on every participant by electronic means in accordance with Regulation 20.
- (2) The committee may reduce the notice period from seven days to such other period of not less than twenty four hours, as it deems fit.

20. Service of notice by electronic means.

- (1) A notice by electronic means may be sent to the participants through e-mail as a text or as an attachment to e-mail or as a notification providing electronic link or Uniform Resource Locator for accessing such notice.
- (2) The subject line in e-mail shall state the name of the corporate debtor, the place, if any, the time and the date on which the meeting is scheduled.
- (3) If notice is sent in the form of a non-editable attachment to an e-mail, such attachment shall be in the Portable Document Format or in a non-editable format together with a 'link or instructions' for recipient for downloading relevant version of the software.
- (4) When notice or notifications of availability of notice are sent by an e-mail, the resolution professional shall ensure that it uses a system which produces confirmation of the total number of recipients e-mailed and a record of each recipient to whom the notice has been sent and copy of such record and any notices of any failed transmissions and subsequent re-sending shall be retained as “proof of sending”.
- (5) The obligation of the resolution professional shall be satisfied when he transmits the e-mail and he shall not be held responsible for a failure in transmission beyond its control.
- (6) The notice made available on the electronic link or Uniform Resource Locator shall be readable, and the recipient should be able to obtain and retain copies and the resolution professional shall give the complete Uniform Resource Locator or address of the website and full details of how to access the document or information.

(7) If a creditor, other than a member of the committee, fails to provide or update the relevant e-mail address to the resolution professional, the non-receipt of such notice by such participant of any meeting shall not invalidate the decisions taken at such meeting.

21. Contents of the notice for meeting.

(1) The notice shall inform the participants of the venue, the time and date of the meeting and of the option available to them to participate through video conferencing or other audio and visual means, and shall also provide all the necessary information to enable participation through such means.

(2) The notice of the meeting shall provide that a creditor may attend and vote in the meeting either in person or through an authorised representative:

- *Provided that such creditor shall inform the resolution professional, in advance of the meeting, of the identity of the authorised representative who will attend and vote at the meeting on its behalf.*

(3) The notice of the meeting shall contain an agenda of the meeting with the following-

(i) a list of the matters to be discussed at the meeting;

(ii) a list of the issues to be voted upon at the meeting; and

(iii) copies of all documents relevant to the matters to be discussed and the issues to be voted upon at the meeting; and

(4) The notice of the meeting shall-

- (a) state the process and the manner for voting and the time schedule, including the time period during which the votes may be cast:
- (b) provide the login ID and the details of a facility for generating password and for keeping security and casting of an electronic vote in a secure manner; and
- (c) provide contact details of the person who will address the queries connected with the voting.

22. Quorum at the meeting.

- (1) **A meeting of the committee shall be quorate if members of the committee representing at least thirty-three percent of the voting rights are present either in person or by video conferencing or other audio and visual means:**
 - *Provided that the committee may modify the percentage of voting rights required for quorum in respect of any future meetings of the committee.*
- (2) Where a meeting of the committee could not be held for want of quorum, unless the committee has previously decided otherwise, the meeting shall automatically stand adjourned at the same time and place on the next day.
- (3) In the event a meeting of the committee is adjourned in accordance with sub-regulation (2), the adjourned meeting shall be quorate with the members of the committee attending the meeting.

23. Participation through video conferencing.

- (1) The notice convening the meetings of the committee shall provide the participants an option to attend the meeting through video conferencing or other audio and visual means in accordance with this Regulation.
- (2) The resolution professional shall make necessary arrangements to ensure uninterrupted and clear video or audio and visual connection.
- (3) The resolution professional shall take due and reasonable care-
 - (a) to safeguard the integrity of the meeting by ensuring sufficient security and identification procedures;
 - (b) to ensure availability of proper video conferencing or other audio and visual equipment or facilities for providing transmission of the communications for effective participation of the participants at the meeting;
 - (c) to record proceedings and prepare the minutes of the meeting;
 - (d) to store for safekeeping and marking the physical recording(s) or other electronic recording mechanism as part of the records of the corporate debtor;
 - (e) to ensure that no person other than the intended participants attends or has access to the proceedings of the meeting through video conferencing or other audio and visual means; and
 - (f) to ensure that participants attending the meeting through audio and visual means are able to hear and see, if applicable, the other participants clearly during the course of the meeting:

- *Provided that the persons, who are differently abled, may make request to the resolution professional to allow a person to accompany him at the meeting.*
- (4) Where a meeting is conducted through video conferencing or other audio and visual means, the scheduled venue of the meeting as set forth in the notice convening the meeting, which shall be in India, shall be deemed to be the place of the said meeting and all recordings of the proceedings at the meeting shall be deemed to be made at such place.

24. Conduct of meeting.

- (1) **The resolution professional shall act as the Chairperson of the meeting of the committee.**
- (2) At the commencement of a meeting, the resolution professional shall take a roll call when every participant attending through video conferencing or other audio and visual means shall state, for the record, the following:-
- (a) his name;
 - (b) whether he is attending in the capacity of a member of the committee or any other participant;
 - (c) whether he is representing a member or group of members;
 - (d) the location from where he is participating;
 - (e) that he has received the agenda and all the relevant material for the meeting; and
 - (f) that no one other than him is attending or has access to the proceedings of the meeting at the location of that person.

- (3) After the roll call, the resolution professional shall inform the participants of the names of all persons who are present for the meeting and confirm if the required quorum is complete.
- (4) The resolution professional shall ensure that the required quorum is present throughout the meeting.
- (5) From the commencement of the meeting till its conclusion, no person other than the participants and any other person whose presence is required by the resolution professional shall be allowed access to the place where meeting is held or to the video conferencing or other audio and visual facility, without the permission of the resolution professional.
- (6) The resolution professional shall ensure that minutes are made in relation to each meeting of the committee and such minutes shall disclose the particulars of the participants who attended the meeting in person, through video conferencing, or other audio and visual means.
- (7) **The resolution professional shall circulate the minutes of the meeting to all participants by electronic means within forty-eight hours of the said meeting.**

CHAPTER VII

VOTING BY THE COMMITTEE

25. Voting by the committee.

- (1) The actions listed in section 28(1) shall be considered in meetings of the committee.

- (2) Any action other than those listed in section 28(1) may be considered in meetings of the committee.
- (3) The resolution professional may, at the meeting, take a vote of the members of the committee who are participating in the meeting on any item listed for voting after discussion on the same.
- (4) The resolution professional shall –
 - (a) circulate the minutes of the meeting by electronic means to all members of the committee within forty-eight hours of the conclusion of the meeting; and
 - (b) seek a vote on the matters listed for voting in the meeting from the members of the committee who did not participate in the meeting or did not vote at the meeting, if any, by electronic means or electronic voting system, where the voting shall be kept open for twenty-four hours from the circulation of the minutes.
- (5) At the end of the voting period, the electronic voting portal shall forthwith be blocked.
- (6) Once a vote on a resolution is cast by a member of the committee, such member shall not be allowed to change it subsequently.
- (7) The resolution professional shall within twenty four hours of the conclusion of the voting, or forty eight hours of the conclusion of the meeting if no electronic vote is required to be sought under this regulation, circulate by electronic means the decision of the committee on agenda items along with the names of the members of the committee who voted for or against the decision, or abstained from voting.

Explanation- **For the purposes of these Regulations –**

- (a) the expressions “voting by electronic means” and its grammatical variant or “electronic voting system” means a “secured system” based process of display of electronic ballots, recording of votes of the members of the committee and the number of votes polled in favour or against, such that the voting exercised by way of electronic means gets registered and counted in an electronic registry in a centralized server with adequate cyber security;
- (b) the expression “secured system” means computer hardware, software, and procedure that –
 - (i) are reasonably secure from unauthorized access and misuse;
 - (ii) provide a reasonable level of reliability and correct operation;
 - (iii) are reasonably suited to perform the intended functions; and
 - (iv) adhere to generally accepted security procedures.

CHAPTER VIII

CONDUCT OF THE FAST TRACK PROCESS

26. Appointment of registered valuer.

- The resolution professional shall **within seven days of his appointment**, appoint **one registered valuer (two or three in other cases)** to determine the fair value and the liquidation value of the corporate debtor in accordance with Regulation 34:

Provided that the following persons shall not be appointed as registered valuers, namely:-

- (a) a relative of the resolution professional;**
- (b) a related party of the corporate debtor;**
- (c) an auditor of the corporate debtor at any time during the five years preceding the insolvency commencement date; or**
- (d) a partner or director of the insolvency professional entity of which the resolution professional is a partner or director.**

27. Transfer of debt due to creditors.

- (1) In the event a creditor assigns or transfers the debt due to such creditor to any other person during the fast track process period, both parties shall provide the interim resolution professional or the resolution professional, as the case may be, the terms of such assignment or transfer and the identity of the assignee or transferee.

(2) The resolution professional shall notify each creditor and the Adjudicating Authority of any resultant change in the committee within two days of such change.

28. Sale of assets outside the ordinary course of business.

(1) The resolution professional may sell unencumbered asset(s) of the corporate debtor, other than in the ordinary course of business, if he is of the opinion that such a sale is necessary for a better realisation of value under the facts and circumstances of the case:

- *Provided that the book value of all assets sold during fast track process period in aggregate under this sub-regulation **shall not exceed ten percent of the total claims admitted by the interim resolution professional.***

(2) A sale of assets under this Regulation shall require the approval of the committee.

(3) A bona fide purchaser of assets sold under this Regulation shall have a free and marketable title to such assets notwithstanding the terms of the constitutional documents of the corporate debtor, shareholders' agreement, joint venture agreement or other document of a similar nature.

29. Assistance of local district administration.

The interim resolution professional or the resolution professional, as the case may be, may make an application to the Adjudicating Authority for an order seeking the assistance of the local district administration in discharging his duties under the Code or these Regulations.

CHAPTER IX

FAST TRACK PROCESS COSTS

30. Fast track process costs.

“Fast track process costs” shall mean –

- (a) **the amount of any interim finance and the costs incurred in raising such finance; (slightly different)**
- (b) the fees payable to any person acting as a resolution professional;
- (c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern;
- (d) any costs incurred at the expense of the Government to facilitate the process;
- (e) amounts due to suppliers of essential goods and services under Regulation 31;
- (f) amounts due to a person whose rights are prejudicially affected on account of the moratorium imposed under section 14(1)(d);
- (g) expenses incurred on or by the interim resolution professional to the extent ratified under Regulation 32;
- (h) expenses incurred on or by the resolution professional fixed under Regulation 33; and
- (i) other costs directly relating to the fast track process and approved by the committee.

31. Essential supplies.

- The essential goods and services referred to in section 14(2) shall mean-
 - (a) electricity;
 - (b) water;
 - (c) telecommunication services; and
 - (d) information technology services, to the extent these are not a direct input to the output produced or supplied by the corporate debtor.
- **Illustration-Water supplied to a corporate debtor will be essential supplies for drinking and sanitation purposes, and not for generation of hydro-electricity.**

32. Costs of the interim resolution professional.

- (1) **The applicant shall fix the expenses to be incurred on or by the interim resolution professional.**
- (2) **The Adjudicating Authority shall fix expenses where the applicant has not fixed expenses under sub-regulation (1).**
- (3) The applicant shall bear the expenses which shall be reimbursed by the committee to the extent it ratifies.
- (4) The amount of expenses ratified by the committee shall be treated as fast track process costs.

- *Explanation- For the purposes of this Regulation, “expenses” means the fee to be paid to the interim resolution professional and other expenses, including the cost of engaging professional advisors, to be incurred by the interim resolution professional.*

33. Resolution professional costs.

- **The committee shall fix the expenses to be incurred on or by the resolution professional and the expenses shall constitute fast track process costs.**
- *Explanation- For the purposes of this Regulation, “expenses” mean the fee to be paid to the resolution professional and other expenses, including the cost of engaging professional advisors, to be incurred by the resolution professional.*

CHAPTER X

RESOLUTION PLAN

34. Fair value and Liquidation value.

- (1) The registered valuer appointed under regulation 26 shall submit to the resolution professional an estimate of the fair value and of the liquidation value computed in accordance with internationally accepted valuation standards, after physical verification of the inventory and fixed assets of the corporate debtor.

Note:As on Fast Track Commencement date

- (2) After the receipt of resolution plans in accordance with the Code and these regulations, the resolution professional shall provide the fair value and the liquidation value to every member of the committee in electronic form, on receiving an undertaking from the member to the effect that such member shall maintain confidentiality of the fair value and the liquidation value and shall not use such values to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of the section 29.
- (3) The resolution professional and registered valuer shall maintain the confidentiality of the fair value and the liquidation value.]

35. Information memorandum.

- (1) Subject to sub-regulation (4), the resolution professional shall submit the information memorandum in electronic form to-
- (a) each member of the committee within two weeks of his appointment as resolution professional; and**
 - (b) each prospective resolution applicant latest by the date of invitation of resolution plan under clause (h) of sub-section (2) of section 25 of the Code.**
- (2) The information memorandum shall contain the following details of the corporate debtor-
- (a) assets and liabilities with such description, as on the insolvency commencement date, as are generally necessary for ascertaining their values.

- Explanation: 'Description' includes the details such as date of acquisition, cost of acquisition, remaining useful life, identification number, depreciation charged, book value, and any other relevant details.】
- (b) the latest annual financial statements;
- (c) audited financial statements of the corporate debtor for the last two financial years and provisional financial statements for the current financial year made up to a date not earlier than fourteen days from the date of the application;
- (d) a list of creditors containing the names of creditors, the amounts claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims;
- (e) particulars of a debt due from or to the corporate debtor with respect to related parties;
- (f) details of guarantees that have been given in relation to the debts of the corporate debtor by other persons, specifying which of the guarantors is a related party;
- (g) the names and addresses of the members or partners holding at least one per cent stake in the corporate debtor along with the size of stake;
- (h) details of all material litigation and an ongoing investigation or proceeding initiated by Government and statutory authorities;
- (i) the number of workers and employees and liabilities of the corporate debtor towards them;
- (j) [***]

(k) [***]

(l) other information, which the resolution professional deems relevant to the committee.

(3) A member of the committee may request the resolution professional for further information of the nature described in this regulation and the resolution professional shall provide such information to all members within reasonable time if such information has a bearing on the resolution plan.

(4) The resolution professional shall share the information memorandum after receiving an undertaking from a member of the committee or a prospective resolution applicant to the effect that such member or resolution applicant shall maintain confidentiality of the information and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29.]

(35A) Invitation of Resolution Plans.

(1) The resolution professional shall issue an invitation, including evaluation matrix, to the prospective resolution applicants in accordance with clause (h) of sub-section (2) of section 25, to submit resolution plans **at least fifteen days before the last date of submission of resolution plans.**

(2) **Where the invitation does not contain the evaluation matrix, the resolution professional shall issue, with the approval of the committee, the evaluation matrix to the prospective resolution applicants at least eight days before the last date for submission of resolution plans.**

(3) The resolution professional may modify the invitation, the evaluation matrix or both with the approval of the committee within the timelines given under sub-regulation (1) or sub-regulation (2) as the case may be.

- (4) The timelines specified under this regulation shall not apply to an ongoing fast track corporate insolvency resolution process-
 - (a) where a period of less than twenty-two days is left for submission of resolution plans under sub-regulation (1);
 - (b) where a period of less than eleven days is left for submission of resolution plans under sub-regulation (2).
- (5) The resolution professional shall publish brief particulars of the invitation in Form G of the Schedule:
 - (a) on the website, if any, of the corporate debtor; and
 - (b) on the website, if any, designated by the Board for the purpose.”.

36. Resolution plan.

- (1) A resolution plan shall provide for the measures, as may be necessary for insolvency resolution of the corporate debtor for maximization of value of its assets, including but not limited to the following:-
 - (a) transfer of all or part of the assets of the corporate debtor to one or more persons;
 - (b) sale of all or part of the assets whether subject to any security interest or not;
 - (c) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;
 - (d) satisfaction or modification of any security interest;
 - (e) curing or waiving of any breach of the terms of any debt due from the corporate debtor;
 - (f) reduction in the amount payable to the creditors;

- (g) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;
- (h) amendment of the constitutional documents of the corporate debtor;
- (i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;
- (j) change in portfolio of goods or services produced or rendered by the corporate debtor;
- (k) change in technology used by the corporate debtor; and
- (l) obtaining necessary approvals from the Central and State Governments and other authorities.]

37. Mandatory contents of the resolution plan.

- (1) A resolution plan shall identify specific sources of funds that will be used to pay the -
 - (a) fast track process costs and provide that the fast track process costs will be paid in priority to any other creditor;
 - (b) liquidation value due to operational creditors and provide for such payment in priority to any financial creditor which shall in any event be made before the expiry of thirty days after the approval of a resolution plan by the Adjudicating Authority; and **(no such time limit in CIRP)**
 - (c) liquidation value due to dissenting financial creditors and provide that such payment is made before any recoveries are made by the financial creditors who voted in favour of the resolution plan.

(1A) A resolution plan shall include a statement as to how it has dealt with the Interests of all stakeholders, including financial creditors and operational creditors, of the corporate debtor.]

(2) A resolution plan shall provide:

(a) the term of the plan and its implementation schedule;

(b) the management and control of the business of the corporate debtor during its term;
and

(c) adequate means for supervising its implementation.

(3) A resolution plan shall contain details of the resolution applicant and other connected persons to enable the committee to assess the credibility of such applicant and other connected persons to take a prudent decision while considering the resolution plan for its approval.

Explanation : For the purposes of this sub-regulation,-

(i) 'details' shall include the following in respect of the resolution applicant and other connected persons, namely:-

(a) identity;

(b) conviction for any offence , if any, during the preceding five years;

(c) criminal proceedings pending, if any;

(d) disqualification, if any, under Companies Act, 2013, to act as a director;

- (e) identification as a willful defaulter, if any, by any bank or financial institution or consortium thereof in accordance with the guidelines of the Reserve Bank of India;
 - (f) debarment, if any, from accessing to, or trading in, securities markets under any order or directions of the Securities and Exchange Board of India,; and
 - (g) transactions, if any, with the corporate debtor in the preceding two years.
- (ii) the expression 'connected persons' means-
- (a) persons who are promoters or in the management or control of the resolution applicant;
 - (b) persons who will be promoters or in management or control of the business of the corporate debtor during the implementation of the resolution plan ;
 - (c) holding company, subsidiary company, associate company and related party of the persons referred to in items (a) and (b).

38. Approval of resolution plan.

- (1) **A resolution applicant shall submit resolution plan(s) prepared in accordance with the Code and these regulations to the resolution professional within the time given in the invitation made under clause (h) of sub-section (2) of section 25.**

- (2) The resolution professional shall submit to the committee all resolution plans which comply with the requirements of the Code and regulations made there under along with the details of following transactions, if any, observed, found or determined by him:-
- (a) preferential transactions under section 43;
 - (b) undervalued transactions under section 45;
 - (c) extortionate credit transactions under section 50; and
 - (d) fraudulent transactions Under section 66, and the orders, if any, of the adjudicating authority in respect of such transactions.
- (3) The committee may approve any resolution plan with such modifications as it deems fit.
- (3A) The committee shall, while approving the resolution plan under sub-section (4) of section 30, specify the amounts payable from resources under the resolution plan for the purposes under sub-regulation (1) of regulation 37.
- (4) The resolution professional shall submit the resolution plan approved by the committee to the Adjudicating Authority, **at least fifteen days before the expiry of the maximum period permitted under section 56 for the completion of the fast track corporate insolvency resolution process, with the certification that-**
- (a) the contents of the resolution plan meet all the requirements of the Code and the Regulations; and**
 - (b) the resolution plan has been approved by the committee:**

- Provided that the timeline specified in this sub-regulation shall not apply to an ongoing fast track corporate insolvency resolution process which has completed 50th day from its commencement date.]
- (5) The resolution professional shall forthwith send a copy of the order of the Adjudicating Authority approving or rejecting a resolution plan to the participants and the resolution applicant.
- (6) A provision in a resolution plan which would otherwise require the consent of the members or partners of the corporate debtor, as the case may be, under the terms of the constitutional documents of the corporate debtor, shareholders' agreement, joint venture agreement or other document of a similar nature, shall take effect notwithstanding that such consent has not been obtained.
- (7) No proceedings shall be initiated against the interim resolution professional or the resolution professional, as the case may be, for any actions of the corporate debtor, prior to the fast track commencement date.
- (8) A person in charge of the management or control of the business and operations of the corporate debtor after a resolution plan is approved by the Adjudicating Authority, may make an application to the Adjudicating Authority for an order seeking the assistance of the local district administration in implementing the terms of a resolution plan.

39. Extension of the fast track process period.

- (1) **The committee is of the opinion that the fast track process cannot be completed within the stipulated 90 days, it may instruct the resolution professional to make an application to the Adjudicating Authority under section 56 to extend the fast track process period.**
- (2) The resolution professional shall, on receiving an instruction from the committee under this Regulation, make an application to the Adjudicating Authority for such extension.

Corporate Offence & Penalties

S.N O	Process	Section No.	Process	Provision	When	Fine (Not Less than)	Imprison ment
1	Insolvency and Resolution Process for Corporates	68	Punishment for concealment of property	<p>Any officer of CD has (if could not prove not-guilty):-</p> <ul style="list-style-type: none"> -Concealed any debt due to/from CD or willfully concealed or fraudulently removed any part of / property of CD of value \geqRs. 10,000/- - willfully concealed, destroyed, mutilated, falsified or made false entry w.r.t any book / paper of property / affairs of CD- fraudulently parted/ altered/ omitted any doc of property / affairs of CD - willfully concealed knowledge of others doing above two -willfully created any security int./ transferred / disposed any prop obtained on credit & not paid for -taken in pawn or pledge or received property knowing it to be so secured, transferred / disposed (only after i.c.d) 	<p>Within in 12 months immediately preceding the Insolvency commencement date</p> <p>Or</p> <p>any time after insolvency commencement dt</p>	1 lakh To 1 crore	3 - 5 years

Corporate Offence & Penalties

S.N O	Process	Section No.	Process	Provision	When	Fine (Not Less than)	Imprisonment
2.	Insolvency and Resolution Process for Corporates	69	Punishment for transactions defrauding Creditors	<p>Any officer of CD has (if could not prove not-guilty):-</p> <ul style="list-style-type: none"> -made/caused any gift/transfer or charge on or caused for execution of decree/order against property of CD -concealed or removed part/property of CD within 2 months before date of unsatisfied judgment/decreed/order for payment of money obtained against CD [if first pt. beyond 5 years of i.c.d then not offence] <p>Any officer of CD has (if could not prove not-guilty):-</p>	On or after insolvency commencement date	1 lakh To 1 crore	1 - 5 years
3.	Insolvency and Resolution Process for Corporates	70	Punishment for misconduct in course of CIRP	<ul style="list-style-type: none"> -does not disclose details of prop/txns/info to RP does not deliver control or custody of part/property to RP does not deliver books/papers of CD in his control to RP fails to inform RP about the information in his knowledge about falsely proved debt by any person during CIRP prevents production of book/ paper w.r.t prop/affair of CD - Accounts for any part/prop of CD by fictitious loss/exp. or has attempted during any meeting of Crs. of CD within 12 months of i.c.d 	On or after insolvency commencement date	1 lakh To 1 crore	3 - 5 years

Corporate Offence & Penalties

S. NO	Process	Section No.	Process	Provision	When	Fine (Not Less than)	Imprisonment
3a	Insolvency and Resolution Process for Corporates	70	Punishment for misconduct in course of CIRP	If an Insolvency Proff (IP) deliberately contravenes above (mentioned in pt. 3)	On or after insolvency commencement date	1 lakh To 5 Lakh	6 Months
4	Insolvency and Resolution Process for Corporates	71	Punishment for falsification of books of CD	Any person destroy, mutilates, alters or falsifies any books / papers / securities, or makes or is in the knowledge of making of any false / fraudulent entry in any register, books of account or document of CD with intent to defraud or deceive any person	On or after insolvency commencement date	1 lakh to 1 crore	3 - 5 years
5	Insolvency and Resolution Process for Corporates	72	Punishment for wilful & material omissions from statements relating to affairs of CD	any officer of CD makes any material & willful omission in any statement relating to affairs of CD	No time limit	1 lakh to 1crore	3 - 5 years
6	Insolvency and Resolution Process for Corporates	73	Punishment for false representations to Crs.	any officer of CD- a) makes a false representation or commits any fraud for the purpose of obtaining the consent of the creditors of CD or any of them to an agreement with reference to the affairs of CD, during the CIRP, or the liquidation process b) has made any false representation, or committed any fraud, for that purpose	(a) On or after insolvency commencement dt (b) Prior to insolvency commencement date	1 lakh to 1 crore	3 - 5 years

Corporate Offence & Penalties

S.N O	Process	Section No.	Process	Provision	When	Fine (Not Less than)	Imprison ment
7	Insolvency and Resolution Process for Corporates	74	Punishment for contravention of moratorium or the resolution plan	CD or any officer of CD directly or indirectly violates sec 14 (i.e., moratorium), then officer held responsible	During Moratorium	1 lakh to 3 lakhs	3 - 5 years
7a	Insolvency and Resolution Process for Corporates	74	Punishment for contravention of moratorium or the resolution plan	any creditor violates sec 14 (i.e., moratorium), then person allowing held responsible	During Moratorium	1 lakh to 1 crore	1 - 5 years
7b	Insolvency and Resolution Process for Corporates	74	Punishment for contravention of moratorium or the resolution plan	CD or any officer of CD or any creditor or any person on whom approved Resolution plan is binding u/s 31, contravenes any terms of Resolution plan	During Moratorium	1 lakh To 1 crore	1 - 5 years
8	Insolvency and Resolution Process for Corporates	75	Punishment for false information furnished in application	Any person knowingly furnishes false info or omits material fact in application u/s 7	No time limit	1 lakh To 1 crore	Nil

Corporate Offence & Penalties

S.N O	Process	Section No.	Process	Provision	When	Fine (Not Less than)	Imprison ment
9	Insolvency and Resolution Process for Corporates	76	Punishment for non-disclosure of dispute or repayment of debt by OC	-OC willfully conceals the fact in appl u/s 9 that CD had notified him of dispute w.r.t unpaid operational debt or full payment thereof - any person willfully authorize/permit above concealment	No time limit	1 lakh to 1 crore	1 - 5 years
10	Insolvency and Resolution Process for Corporates	77	Punishment for providing false information in application made by CD	-CD knowingly furnishes false info or omits material fact in application u/s 10 -any person willfully authorize/permit above offence	No time limit	1 lakh to 1 crore	3 - 5 years

11	PPIRP Insolvency and Resolution Process for Corporates	77 A	Punishment for providing false information in application made by CD	CD or officer Director/Partner?any Person	No time limit	1 lakh to 1 crore	3 - 5 years
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COMPARISON OF POWER & DUTIES OF RESOLUTION PROFESSIONAL AND LIQUIDATOR

- RP/IRP
 - The management of affairs of the CD shall vest in the RP[17(1)(a)]. Responsible for complying with all the provisions under any law [Sec. 17(2)(e)].
 - Collect all information relating to assets [Sec. 18(a)]. Take control and custody of assets [Sec. 18(f)]
 - Enter/amend contract behalf of the corporate debtor, raise interim finance, issue instructions to employee [Sec.20(2)]
 - Constitute COC
- LIQUIDATOR
 - To verify claims of all the creditors, to take into his custody or control all the assets. A creditor may withdraw or vary his claim within 14 days. [Sec.38(5)]
 - Liquidator may accept/reject the claim, he shall record
 - Subject to section 52, to sell the moveable and immoveable property and actionable claims by public auction or private contract. Carry on the business for beneficiary liquidation. Liquidator is the custodian of assets.

RP/IRP

- RP may sell unencumbered assets, it shall not exceed 10% of the total claims admitted by IRP. Regulation 29(1)
- Approval of Resolution Plan
- The officers and managers of the corporate debtor shall report to the IRP/RP and provide access to such documents and records of the corporate debtor as may be required
- Form Committee of creditors
- Chain Committee of creditors
- Prepare the information memorandum (IM) and invite resolution plans
- Investigate the financial affairs of the company

LIQUIDATOR

- Realise and Distribute
- Maintain relevant records
- Prepare preliminary report, assets memorandum, sale report etc.
- Apply to NCLT for orders and directions as required
- Investigate financial affairs of CD for undervalued/preferential transaction
- To institute or defend suit
- Obtain professional assistance

Chapter IV

Fast Track Corporate insolvency resolution process

Section-55

Corporate Debtors :

with assets and income below a specified level,
with such class of creditors or such amount as
specified Such other categories as may be
notified

Section-56

Time period for completion of fast track corporate insolvency resolution process –

- (1) Subject to the provisions of sub-section (3), the fast track corporate insolvency resolutions shall be completed within a period of ninety days from the insolvency commencement date.
- (2) The resolutions professional shall file an application to the adjudicating authority to extend the period of the fast track corporate insolvency resolution process beyond ninety days if instructed to do so by a resolution passed at a meeting of the committee of creditors and supported by a vote of 75 percent of the voting share.
- (3) On receipt of an application under sub-section (2), if the adjudicating authority is satisfied that the subject matter of the case is such that fast track corporate insolvency resolution process cannot be completed within a period of ninety days by such further period, as it thinks fit, but not exceeding forty- five days:

PROVIDED that any extension of the fast track corporate insolvency resolution process under this section shall not be granted more than once.

SECTION 57 TO 58

Section-57

Manner of initiating fast track corporate insolvency resolution process-

An application for fast track corporate insolvency resolution process may be filed by a creditor or corporate debtor, as the case may be, along with:-

- (a) The proof of the existence of default as evidenced by records available with an information utility or such other means as may be specified by the Board; and
- (b) Such other information as may be specified by the Board to establish that the corporate debtor is eligible for fast track corporate insolvency resolution process.

Section-58

Applicability of Chapter II to this chapter

The process of conducting a corporate insolvency resolution process under chapter II and the provision relating to offences and penalties under chapter VII shall apply to this chapter as the context may require.

Fast Track CIRP- Sec. 55-58

- Applicable to a CD - Sec. 55(2)
 - with assets and income below an amount notified by the Central Government or
 - With such class of creditors or such amount of debt notified by the Central Government
 - Such other category of corporate persons as notified by the Central Government
- Notification no. SO 1911(E) dated 14-6-2017
 - A small company as defined under sec. 2(85) of the Companies Act, 2013
 - A startup (other than the partnership firm) as defined in the notification no. G.S.R. 501(E) dated 23-5-2017 of Ministry of Commerce and Industry
 - An unlisted company with total assets not exceeding Rs. 1 crore
- Time period-90 days vs. 180 days in case of normal CIRP
- Extension of period- not exceeding 45 days vs. 90 days
- The process of CIRP in the normal case along with the provisions relating to offences and penalties will apply mutatis mutandis to the fast track CIRP
- Fast Track CIRP Regulations have been separately notified by the IBBI

Part II-Chapter 5

SECTION 59

Section-59

Voluntary Liquidation of Corporate Person

CD, may initiate, if has not committed any default

Where Corporate person is registered as a company [as LLP] shall meet following Condition

(a) declaration from majority of Directors/ Designated partner



shall accompanied

(1) Audited financial statement of previous 2 years

(2) Report of the valuation of the asset



within 4 WEEKS of declaration

special resolution passed in General meeting

Provided where Co owes any debt

Creditors representing 2/3rd in value shall

approve the special resolution within

7 days of such resolution

- Made full enquiry into affairs of Co & co has no debt or able to pay its debts in full
- Co is not liquidated to defraud any person

Co shall notify the ROC & Board within 7 days of such resolution or Subsequent approval of Creditors

The date of Commencement of Voluntarily liquidation is date of resolution passed in AGM (special resolution)

On complete liquidation Application to AA for dissolution within 14 days from such order forwarded to authority where corporate person is registered.

**INSOLVENCY AND
BANKRUPTCY BOARD OF
INDIA (VOLUNTARY
LIQUIDATION PROCESS)
REGULATIONS, 2017₁
[AMENDED UPTO 05.08.2020]**

IBBI/2016-17/GN/REG010. -In exercise of the powers conferred by sections 59, 196 and 208 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Board hereby makes the following Regulations, namely: -

CHAPTER I **PRELIMINARY**

1. Short title and commencement.

- (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017.
- (2) These Regulations shall come into force on 1st April, 2017.
- (3) These Regulations shall apply to the voluntary liquidation of corporate persons under Chapter V of Part II of the Insolvency and Bankruptcy Code, 2016.

2. Definitions.

- (1) In these Regulations, unless the context otherwise requires-
 - (a) “Code” means the Insolvency and Bankruptcy Code, 2016;
 - (b) “contributory” means a member of a company, partner of a limited liability partnership, and any other person liable to contribute towards the assets of the corporate person in the event of its liquidation;

(ba) “Corporate Voluntary Liquidation Account” means the Corporate

Voluntary Liquidation Account operated and maintained by the Board under regulation 39;]

(c) “liquidation commencement date” means the date on which the proceedings for voluntary liquidation commence as per section 59(5) and Regulation 3(3);

(d) “Registrar” shall have the same meaning assigned to it under section 2(75) of the Companies Act, 2013 or section 2(1)(s) of the Limited Liability Partnership Act, 2008 or the authority administering the Act under which the corporate person is incorporated, as applicable;

(e) “section” means a section of the Code; and

(f) “stakeholders” mean the stakeholders entitled to proceeds from the sale of liquidation assets Under section 53.

(2) The term liquidation in these Regulations refers to voluntary liquidation.

(3) Unless the context otherwise requires, words and expressions used and not defined in these Regulations, but defined in the Code, shall have the meanings assigned to them in the Code.

CHAPTER II

COMMENCEMENT OF LIQUIDATION

3. Initiation of Liquidation

- (1) Without prejudice to section 59(2), liquidation proceedings of a corporate person shall meet the following conditions, namely: —
 - (a) a declaration from majority of
 - (i) the designated partners, if a corporate person is a limited liability partnership,
 - (ii) individuals constituting the governing body in case of other corporate persons, as the case may be, verified by an affidavit stating that-
 - (i) they have made a full inquiry into the affairs of the corporate person and they have formed an opinion that either the corporate person has no debt or that it will be able to pay its debts in full from the proceeds of assets to be sold in the liquidation; and
 - (ii) the corporate person is not being liquidated to defraud any person;
 - (b) the declaration under sub-clause (a) shall be accompanied with the following documents, namely: —
 - (i) audited financial statements and record of business operations of the corporate person for the previous two years or for the period since its incorporation, whichever is later;
 - (ii) a report of the valuation of the assets of the corporate person, if any prepared by a registered valuer;
 - (c) within four weeks of a declaration under sub-clause (a), there shall be-

- (i) a resolution passed by a special majority of the partners or contributories, as the case may be, of the corporate person requiring the corporate person to be liquidated and appointing an insolvency professional to act as the liquidator; or
 - (ii) a resolution of the partners or contributories, as the case may be, requiring the corporate person to be liquidated as a result of expiry of the period of its duration, if any, fixed by its constitutional documents or on the occurrence of any event in respect of which the constitutional documents provide that the corporate person shall be dissolved, as the case may be, and appointing an insolvency professional to act as the liquidator:
 - Provided that the corporate person owes any debt to any person, creditors representing two-thirds in value of the debt of the corporate person shall approve the resolution passed under sub-clause (c) within seven days of such resolution.
- (2) The corporate person shall notify the Registrar and the Board about the resolution under sub-regulation (1) to liquidate the corporate person within seven days of such resolution or the subsequent approval by the creditors, as the case may be.
- (3) Subject to approval of the creditors under sub-regulation (1), the liquidation proceedings in respect of a corporate person shall be deemed to have commenced from the date of passing of the resolution under sub-clause (c) of sub-regulation (1):

- Explanation: For the purposes of sub-regulations (1) to (3), corporate person means a corporate person other than a company.
- (4) The declaration under sub-regulation (1)(a) or under section 59(3)(a) shall list each debt of the corporate person as on that date and state that the corporate person will be able to pay all its debts in full from the proceeds of assets to be sold in the liquidation.
- (5) The declaration under Sub regulation (1)(a) or under Section 59(3)(a) shall provide that the corporate person has made provision for preservation of its records after its dissolution.

4. Effect of liquidation.

- (1) The corporate person shall from the liquidation commencement date cease to carry on its business except as far as required for the beneficial winding up of its business.
- (2) Notwithstanding the provisions of sub-section (1), the corporate person shall continue to exist until it is dissolved under section 59(8).

CHAPTER III

APPOINTMENT AND REMUNERATION OF LIQUIDATOR

5. Appointment of liquidator.

- (1) Subject to regulation 6, the corporate person shall appoint an insolvency professional as liquidator, and, wherever required, may replace him by appointing another insolvency professional as liquidator, by a resolution passed under clause (c) of sub-section (3) of section 59 or clause (c) of sub-regulation (1) of regulation 3, as the case may be:

- Provided that such resolution shall contain the terms and conditions of appointment of the liquidator, including the remuneration payable to him.
- (2) The insolvency professional shall, within seven days of his appointment as liquidator, intimate the Board about such appointment.]

6. Eligibility for appointment as liquidator.

- (1) An insolvency professional shall be eligible to be appointed as a liquidator if he, and every partner or director of the insolvency professional entity of which he is a partner or director is independent of the corporate person:

Explanation: A person shall be considered independent of the corporate person, if he-

- (a) is eligible to be appointed as an independent director on the board of the corporate person under section 149 of the Companies Act, 2013 (18 of 2013), where the corporate person is a company;
- (b) is not a related party of the corporate person; or
- (c) has not been an employee or proprietor or a partner-
 - (i) of a firm of auditors or 4[secretarial auditors] or cost auditors of the corporate person; or
 - (ii) of a legal or a consulting firm, that has or had any transaction with the corporate person contributing ten per cent or more of the gross turnover of such firm,

at any time in the last three years.

- (2) An insolvency professional shall not be eligible to be appointed as a liquidator if he, or the insolvency professional entity of which he is a partner or director is under a restraint order of the Board.
- (3) A liquidator shall disclose the existence of any pecuniary or personal relationship with the concerned corporate person or any of its stakeholders as soon as he becomes aware of it, to the Board and the Registrar.
- (4) An insolvency professional shall not continue as a liquidator if the insolvency professional entity of which he is a director or partner, or any other partner or director of such insolvency professional entity represents any other stakeholder in the same liquidation.

7. Liquidator's remuneration.

The remuneration payable to the liquidator shall form part of the liquidation cost.

CHAPTER IV

POWERS AND FUNCTIONS OF THE LIQUIDATOR

8. Reporting.

- (1) The liquidator shall prepare and submit-
 - (a) Preliminary Report;
 - (b) Annual Status Report;

- (c) Minutes of consultations with stakeholders; and
 - (d) Final Report in the manner specified under these Regulations.
- (2) Subject to other provisions of these Regulations, the liquidator shall make the reports and minutes referred to sub-regulation (1) available to a stakeholder in either electronic or physical form, on receipt of-
- (a) an application in writing;
 - (b) cost of making such reports available to it; and
 - (c) an undertaking from the stakeholder that it shall maintain confidentiality of such reports and shall not use these to cause an undue gain or undue loss to itself or any other person.

9. Preliminary Report.

- (1) The liquidator shall submit a Preliminary Report to the corporate person within forty five days from the liquidation commencement date, detailing-
- (a) the capital structure of the corporate person;
 - (b) the estimates of its assets and liabilities as on the liquidation commencement date based on the books of the corporate person:
- Provided that if the liquidator has reasons to believe, to be recorded in writing, that the books of the corporate person are not reliable, he shall also provide such estimates based on reliable records and data otherwise available to him;

- (c) Whether he intends to make any further inquiry in to any matter relating to the promotion, formation or failure of the corporate person or the conduct of the business thereof; and
- (d) the proposed plan of action for carrying out the liquidation, including the timeline within which he proposes to carry it out and the estimated liquidation costs.

10. Registers and books of account.

- (1) Where the books of account of the corporate person are incomplete on the liquidation commencement date, the liquidator shall have them completed and brought up-to-date, with all convenient speed.
- (2) The liquidator shall maintain the following registers and books, as may be applicable, in relation to the liquidation of the corporate debtor:-
 - (a) Cash Book;
 - (b) Ledger;
 - (c) Bank Ledger;
 - (d) Register of Fixed Assets and Inventories;
 - (e) Securities and Investment Register;
 - (f) Register of Book Debts and Outstanding Debts;
 - (g) Tenants Ledger;

- (h) Suits Register;
 - (i) Decree Register;
 - (j) Register of Claims and Dividends;
 - (k) Contributories Ledger;
 - (l) Distributions Register;
 - (m) Fee Register;
 - (n) Suspense Register;
 - (o) Documents Register;
 - (p) Books Register;
 - (q) Register of unclaimed dividends and undistributed proceeds; and
 - (r) such other books or registers as may be necessary to account for transactions entered into by him in relation to the corporate person.
- (3) The registers and books under sub-regulation (2) may be maintained in the forms indicated in Schedule II, with such modifications as the liquidator may deem fit in the facts and circumstances of the liquidation.
- (4) The liquidator shall keep receipts for all payments made or expenses incurred by him.

11. Engagement of professionals.

- (1) A liquidator may engage professionals to assist him in the discharge of his duties, obligations and functions for a reasonable remuneration and such remuneration shall form part of the liquidation cost.
- (2) The liquidator shall not engage a professional under sub-regulation (1) who is his relative, is a related party of the corporate person or has served as an auditor to the corporate person at any time during the five years preceding the liquidation commencement date.
- (3) A professional engaged or proposed to be engaged under sub-regulation(1) shall disclose the existence of any pecuniary or personal relationship with any of the stakeholders, or the corporate person as soon as he becomes aware of it, to the liquidator.

12. Consultation with stakeholders.

- (1) The stakeholders consulted under section 35(2) shall extend all assistance and cooperation to the liquidator to complete the liquidation of the corporate person.
- (2) The liquidator shall maintain the particulars of any consultation with the stakeholders made under this Regulation.

13. Extortionate credit transactions.

A transaction shall be considered an extortionate credit transaction under section 50(2) where the terms-

- (a) require the corporate person to make exorbitant payments in respect of the credit provided; or
- (b) are unconscionable under the principles of law relating to contracts.

14. Public announcement by the liquidator.

- (1) The liquidator shall make a public announcement in Form A of Schedule I within five days from his appointment.
- (2) The public announcement shall-
 - (a) call upon stakeholders to submit their claims as on the liquidation commencement date; and
 - (b) provide the last date for submission of claim, which shall be thirty days from the liquidation commencement date.
- (3) The announcement shall be published-
 - (a) in one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, of the corporate person and any other location where in the opinion of the liquidator, the corporate person conducts material business operations;
 - (b) on the website, if any, of the corporate person; and
 - (c) on the website, if any, designated by the Board for this purpose.

CHAPTER V

CLAIMS

15. Proof of claim.

- A person, who claims to be a stakeholder, shall prove his claim for debt or dues to him, including interest, if any, as on the liquidation commencement date.

16. Claims by operational creditors.

- (1) A person claiming to be an operational creditor of the corporate person, other than a workman or employee, shall submit proof of claim to the liquidator in person, by post or by electronic means in Form B of Schedule I.
- (2) The existence of debt due to an operational creditor under this Regulation may be proved on the basis of-
 - (a) the records available with an information utility; or
 - (b) other relevant documents which adequately establish the debt, including any of the following -
 - (i) a contract for the supply of goods or services with corporate person, supported by an invoice demanding payment for the goods and services supplied to the corporate person;
 - (ii) an order of a court or tribunal that has adjudicated upon the nonpayment of a debt, if any; and
 - (iii) financial accounts of the corporate person.

17. Claims by financial creditors.

- (1) A person claiming to be a financial creditor of the corporate person shall submit proof of claim to the liquidator in electronic means in Form C of Schedule I.
- (2) The existence of debt due to the financial creditor may be proved on the basis of-
 - (a) the records available in an information utility; or
 - (b) other relevant documents which adequately establish the debt, including any or all of the following -
 - (i) a financial contract supported by financial statements as evidence of the debt;
 - (ii) a record evidencing that the amounts committed by the financial creditor to the corporate person under a facility has been drawn by the corporate person;
 - (iii) financial statements showing that the debt has not been repaid; and
 - (iv) an order of a court or tribunal that has adjudicated upon the nonpayment of a debt, if any.

18. Claims by workmen and employees.

- (1) A person claiming to be a workman or an employee of the corporate person shall submit proof of claim to the liquidator in person, by post or by electronic means in Form D of Schedule I.

- (2) Where there are dues to numerous workmen or employees of the corporate person, an authorized representative may submit one proof of claim for all such dues on their behalf in Form E of Schedule I.
- (3) The existence of dues to workmen or employees may be proved by them, individually or collectively, on the basis of-
 - (a) records available in an information utility; or
 - (b) other relevant documents which adequately establish the dues, including any or all of the following -
 - (i) a proof of employment such as contract of employment for the period for which such workman or employee is claiming dues;
 - (ii) evidence of notice demanding payment of unpaid amount and any documentary or other proof that payment has not been made; and
 - (iii) an order of a court or tribunal that has adjudicated upon the nonpayment of dues, if any.
- (4) The liquidator shall admit the claims of a workman or an employee on the basis of the books of account of the corporate person if such workman or employee has not made a claim.

19. Claims by other stakeholders.

- (1) A person, claiming to be a stakeholder other than those under Regulations 16, 17 or 18 shall submit proof of claim to the liquidator in person, by post or by electronic means in Form F of Schedule I.
- (2) The existence of the claim of the stakeholder may be proved on the basis of -

- (a) the records available in an information utility; or
- (b) other relevant documents which adequately establish the claim, including any or all of the following-
 - (i) documentary evidence of notice demanding payment of unpaid amount or bank statements of the claimant showing that the claim has not been paid and an affidavit that the documentary evidence and bank statements are true, valid and genuine;
 - (ii) documentary or electronic evidence of his shareholding; and
 - (iii) an order of a court, tribunal or other authority that has adjudicated upon the non-payment of a claim, if any.

20. Proving security interest.

- The existence of a security interest may be proved by a secured creditor on the basis of-
 - (a) the records available in an information utility;
 - (b) certificate of registration of charge issued by the Registrar of Companies;
 - (c) proof of registration of charge with the Central Registry of Securitization Asset Reconstruction and Security Interest of India; or
 - (d) other relevant documents which adequately establish the security interest.

21. Production of bills of exchange and promissory notes.

- Where a person seeks to prove a debt in respect of a bill of exchange, promissory note or other negotiable instrument or security of a like nature for which the corporate person is liable, such bill of exchange, note, instrument or security, as the case may be, shall be produced before the liquidator before the claim is admitted.

22. Substantiation of claims.

- The liquidator may call for such other evidence or clarification as he deems fit from a claimant for substantiating the whole or part of its claim.

23. Cost of proof.

(1) A claimant shall bear the cost of proving its claim.

(2) Costs incurred by the liquidator for verification and determination of a claim shall form part of liquidation cost:

- *Provided that if a claim or part of the claim is found to be false, the liquidator shall endeavor to recover the costs incurred for verification and determination of claim from such claimant, and shall provide the details of the claimant to the Board.*

24. Determination of amount of claim.

- Where the amount claimed by a claimant is not precise due to any contingency or any other reason, the liquidator shall make the best estimate of the amount of the claim, based on consultation with the claimant and the corporate person and the information available with him.

25. Debt in foreign currency.

- The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as on the liquidation commencement date.

Explanation- “The official exchange rate” is the reference rate published by the Reserve Bank of India or derived from such reference rates.

26. Periodical payments.

- In the case of rent, interest and such other payments of a periodical nature, a person may claim only for any amounts due and unpaid up to the liquidation commencement date.

27. Debt payable at future time.

- (1) A person may prove for a claim whose payment was not yet due on the liquidation commencement date and is entitled to distribution in the same manner as any other stakeholder.
- (2) Subject to any contract to the contrary, where a stakeholder has proved for a claim under sub-regulation (1), and the debt has not fallen due before distribution, he is entitled to distribution of the admitted claim reduced as follows-

$X / (1+r)^n$

where—

- (a) “X” is the value of the admitted claim;
- (b) “r” is the closing yield rate (%) of government securities of the maturity of “n” on the date of distribution as published by the Reserve Bank of India; and
- (c) “n” is the period beginning with the date of distribution and ending with the date on which the payment of the debt would otherwise be due, expressed in years and months in a decimalized form.

28. Mutual credits and set-off.

Where there are mutual dealings between the corporate person and another party, the sums due from one party shall be set off against the sums due from the other to arrive at the net amount payable to the corporate person or to the other party.

Illustration: X owes Rs.100 to the corporate person. The corporate person owes Rs.70 to X. After set off, Rs.30 is payable by X to the corporate person.

29. Verification of claims

- (1) The liquidator shall verify the claims submitted within thirty days from the last date for receipt of claims and may either admit or reject the claim, in whole or in part, as the case may be, as per section 40 of the Code.
- (2) A creditor may appeal to the Adjudicating Authority against the decision of the liquidator as per section 42 of the Code.

30. List of stakeholders.

- (1) The liquidator shall prepare a list of stakeholders on the basis of proofs of claims submitted and accepted under these Regulations, with-
 - (a) the amounts of claim admitted, if applicable,
 - (b) the extent to which the debts or dues are secured or unsecured, if applicable,
 - (c) the details of the stakeholders, and
 - (d) the proofs admitted or rejected in part, and the proofs wholly rejected.
- (2) The liquidator shall prepare the list of stakeholders within forty-five days from the last date for receipt of claims.

Provided that where no claim from creditors has been received till the last date for receipt of claims, the liquidator shall prepare the list of stakeholders within fifteen days from the last date for receipt of claims.

- (3) The list of stakeholders, as modified from time to time, shall be-
 - (a) available for inspection by the persons who submitted proofs of claim;
 - (b) available for inspection by members, partners, directors and guarantors of the corporate person;
 - (c) displayed on the website, if any, of the corporate person;
 - (d) displayed on the website, if any, designated by the Board for this purpose.

CHAPTER VI

REALISATION OF ASSETS

31. Manner of sale.

The liquidator may value and sell the assets of the corporate person in the manner and mode approved by the corporate person in compliance with provisions, if any, in the applicable statute.

Explanation: “assets” include an asset, all assets, a set of assets or parcel of assets, as the case may be, in relation to sale of assets.

32. Recovery of monies due.

The liquidator shall endeavor to recover and realize all assets of and dues to the corporate person in a time-bound manner for maximization of value for the stakeholders.

33. Liquidator to realize uncalled capital or unpaid capital contribution.

- (1) The liquidator shall realize any amount due from any contributory to the corporate person.
- (2) Notwithstanding any charge or encumbrance on the uncalled capital of the corporate person, the liquidator shall be entitled to call and realize the uncalled capital of the corporate person and to collect the arrears if any due on calls made prior to the liquidation commencement date, by providing a notice to the contributory to make the payments within fifteen days from the receipt of the notice, but shall hold all moneys so realized subject to the rights, if any, of the holder of any such charge or encumbrance.

- (3) No distribution shall be made to a contributory, unless he makes his contribution to the uncalled or unpaid capital as required in the constitutional documents of the corporate person.

CHAPTER VII

PROCEEDS OF LIQUIDATION AND DISTRIBUTION OF PROCEEDS

34. All money to be paid in to bank account.

- (1) The liquidator shall open a bank account in the name of the corporate person followed by the words 'in voluntary liquidation', in a scheduled bank, for the receipt of all moneys due to the corporate person.
- (2) The liquidator shall pay to the credit of the bank account opened under sub regulation
 - (1) all moneys, including cheques and demand drafts received by him as the liquidator of the corporate person, and the realizations of each day shall be deposited into the bank account without any deduction not later than the next working day.
- (3) The money in the credit of the bank account shall not be used except in accordance with section 53(1).
- (4) All payments out of the account by the liquidator above five thousand rupees shall be made by cheques drawn or online banking transactions against the bank account.

35. Distribution.

- (1) The liquidator shall distribute the proceeds from realization within thirty days from the receipt of the amount to the stakeholders.

(2) The liquidation costs shall be deducted before such distribution is made.

(3) The liquidator may, with the approval of the corporate person, distribute amongst the stakeholders, an asset that cannot be readily or advantageously sold due to its peculiar nature or other special circumstances.

36. Return of money.

- A stakeholder shall forthwith return any monies received by him in distribution, which he was not entitled to at the time of distribution, or subsequently became not entitled to.

37. Completion of liquidation.

(1) The liquidator shall endeavor to complete the liquidation process of the corporate person and submit the final report under regulation 38 within:

(a) within two hundred and seventy days from the liquidation commencement date where the creditors have approved the resolution under clause © of sub regulation (3) of Section 59 or clause © of sub regulation (1) of regulation 3, and

(b) Ninety days from the liquidation commencement date in all other cases.

(2) In the event of the liquidation process continuing for more than twelve months, the liquidator shall

(a) hold a meeting of the contributories of the corporate person within fifteen days from the end of the twelve months from the liquidation commencement date, and at the end every succeeding twelve months till dissolution of the corporate person; and

(b) shall present an Annual Status Report(s) indicating progress in liquidation, including-

(i) settlement of list of stakeholders,

(ii) details of any assets that remains to be sold and realized,

- (iii) distribution made to the stakeholders, and
 - (iv) distribution of unsold assets made to the stakeholders;
 - (v) developments in any material litigation, by or against the corporate person; and
 - (vi) filing of, and developments in applications for avoidance of transactions in accordance with Chapter III of Part II of the Code.
- (3) The Annual Status Report shall enclose the audited accounts of the liquidation showing the receipts and payments pertaining to liquidation since the liquidation commencement date.

38. Final Report.

- (1) On completion of the liquidation process, the liquidator shall prepare the Final Report consisting of -
- (a) audited accounts of the liquidation, showing receipts and payments pertaining to liquidation since the liquidation commencement date; and
 - (b) a statement demonstrating that-
 - (i) the assets of the corporate person has been disposed of;
 - (ii) the debt of the corporate person has been discharged to the satisfaction of the creditors;
 - (iii) no litigation is pending against the corporate person or sufficient provision has been made to meet the obligations arising from any pending litigation.

- (c) a sale statement in respect of all assets containing -
 - (i) the realized value;
 - (ii) cost of realization, if any;
 - (iii) the manner and mode of sale;
 - (iv) an explanation for the shortfall, if the value realized is less than the value assigned by the registered valuer in the report of the valuation of assets under section 59(3)(b)(ii) or Regulation 3(1)(b)(ii), as the case may be;
 - (v) the person to whom the sale is made; and
 - (vi) any other relevant details of the sale.
- (2) The liquidator shall send the Final Report forthwith, to the Registrar and the Board.
- (3) The liquidator shall submit the Final Report and the compliance certificate in Form H alongwith the application under sub section (7) of Section 59 to the Adjudicating Authority.

39. Corporate Voluntary Liquidation Account.

- (1) The Board shall operate and maintain an Account to be called the Corporate Voluntary Liquidation Account in the Public Accounts of India:

- Provided that until the Corporate Voluntary Liquidation Account is operated as part of the Public Accounts of India, the Board shall open a separate bank account with a Scheduled bank for the purposes of this regulation.
- (2) A liquidator shall deposit the amount of unclaimed dividends, if any, and undistributed proceeds, if any, in a liquidation process along with any income earned thereon till the date of deposit, into the Corporate Voluntary Liquidation Account before he submits an application under sub-section (7) of section 59.
- (3) A liquidator, who holds any amount of unclaimed dividends or undistributed proceeds in a liquidation process on the date of commencement of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) (Amendment) Regulations, 2020, shall deposit the same within fifteen days of the date of such commencement, along with any income earned thereon till the date of deposit.
- (4) A liquidator, who fails to deposit any amount into the Corporate Voluntary Liquidation Account under this regulation, shall deposit the same along with interest thereon at the rate of twelve percent per annum from the due date of deposit till the date of deposit.
- (5) A liquidator shall submit to the authority with which the corporate person is registered and the Board, the evidence of deposit of the amount into the Corporate Voluntary Liquidation Account under this regulation, and a statement in Form-G setting forth the nature of the amount deposited into the Corporate Voluntary Liquidation Account, and the names and last known addresses of the stakeholders entitled to receive the unclaimed dividends or undistributed proceeds.

- (6) The liquidator shall be entitled to a receipt from the Board for any amount deposited into the Corporate Voluntary Liquidation Account under this regulation.
- (7) A stakeholder, who claims to be entitled to any amount deposited into the Corporate Voluntary Liquidation Account, may apply to the Board in Form-I for an order for withdrawal of the amount:
 - Provided that if any other person other than the stakeholder claims to be entitled to any amount deposited to the Corporate Voluntary Liquidation Account, he shall submit evidence to satisfy the Board that he is so entitled.
- (8) The Board may, if satisfied that the stakeholder or any other person referred to under sub-regulation (7) is entitled to withdrawal of any amount from the Corporate Voluntary Liquidation Account, make an order for the same in favour of that stakeholder or that other person.
- (9) The Board shall maintain a corporate person-wise ledger of the amount deposited into and the amount withdrawn from the Corporate Voluntary Liquidation Account under this regulation.
- (10) The Board shall nominate an officer of the level of Executive Director of the Board as the custodian of the Corporate Voluntary Liquidation Account and no proceeds shall be withdrawn without his approval.
- (11) The Board shall maintain proper accounts of the Corporate Voluntary Liquidation Account and get the same audited annually.
- (12) The audit report along with the statement of accounts of the Corporate Voluntary Liquidation Account referred to in sub-regulation (11) shall be placed before the Governing Board and shall be forwarded to the Central Government.

(13) Any amount deposited into the Corporate Voluntary Liquidation Account in pursuance of this regulation, which remains unclaimed or undistributed for a period of fifteen years from the date of order of dissolution of the corporate person and any amount of income or interest received or earned in the Corporate Voluntary Liquidation Account shall be transferred to the Consolidated Fund of India.]

40. Detection of Fraud or Insolvency

- (1) Where the liquidator is of the opinion that the liquidation is being done to defraud a person, he shall make an application to the Adjudicatory Authority to suspend the process of liquidation and pass any such orders as it deems fit.
- (2) Where the liquidator is of the opinion that the corporate person will not be able to pay its debts in full from the proceeds of assets to be sold in the liquidation, he shall make an application to the Adjudicating Authority to suspend the process of liquidation and pass any such orders as it deems fit.

41. Preservation of records.

- (1) The liquidator shall preserve copies of all such records which are required to give a complete account of the voluntary liquidation process.
- (2) Without prejudice to the generality of the obligations under sub-regulation (1), the liquidator shall preserve copies of records relating to or forming the basis of:-
 - (a) his appointment as liquidator, including the terms of appointment;
 - (b) handing over / taking over of the assignment;
 - (c) initiation of voluntary liquidation process;
 - (d) public announcement;
 - (e) claims, verification of claims, and list of stakeholders;
 - (f) engagement of professionals, registered valuers, etc. including work done, reports etc., submitted by them;
 - (g) all filings with the Adjudicating Authority, Appellate Authority, High Courts, Supreme Court, whichever applicable and their orders;
 - (h) statutory filings with Board and insolvency professional agencies;
 - (i) correspondence during the voluntary liquidation process;
 - (j) cost of voluntary liquidation process;
 - (k) all reports, registers, documents such as preliminary report, annual status report, final report prior to dissolution, various registers and books, etc. mentioned in Regulation 8 and 10 of principal regulations; and
 - (l) any other records, which is required to give a complete account of the process.

- (3) The liquidator shall preserve:
 - (a) electronic copy of all records (physical and electronic) for a minimum period of eight years; and
 - (b) a physical copy of records for a minimum period of three years;
- from the date of dissolution of the corporate person, before the Board, the Adjudicating Authority, Appellate Authority or any Court, whichever is later.
- (4) In case of replacement of liquidator during the process, the outgoing liquidator shall handover the records under sub-regulation (1) and (2) to the new liquidator.
- (5) The liquidator shall preserve the records at a secure place and shall be obliged to produce records as may be required under the Code and the principal regulations.
- (6) The liquidator shall, along with the application filed under sub-section (7) of section 59 to the Adjudicating Authority, provide the details and manner of preservation of records under sub-regulation (1) and (2).
- *Explanation* - The records referred to in this regulation includes records pertaining to the period of a liquidation process during which the liquidator acted as such, irrespective of the fact that he did not take up the assignment from its commencement or continue the assignment till its conclusion.]

Part II-Chapter 6

SECTION 60 TO 67

Section-60

Adjudicating authority in case of

-Corporate persons is NCLT.

-Corporate guarantor or personal guarantor of Corporate Debtor –NCLT

Section- 61

Appellate Authority -NCLAT

Section- 62

Appeal to Supreme Court

Section- 63

Civil Court not to have Jurisdiction

Section- 64

NCLT and NCLAT to adhere to time limits

Expeditious Settlement and record reasons for delay

President of NCLT and chairperson of NCLAT may extend the period by 10 days.

Section: 65

Fraudulent or malicious initiation of Insolvency resolution process or liquidation or Voluntary Liquidation -
penalty of one lakh to one crore.

SECTION 60 TO 67.

Section- 66

Fraudulent trading or wrongful trading

on the application of resolution professional, AA may direct the person Liable for fraudulent transaction to make contribution to assets.

Section-67

In case any charge created, mortgage, Liability to be borne by him.

SECTION	AMENDMENT	GIST OF AMENDMENT
66	In section 66 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:— "(3) Notwithstanding anything contained in this section, no application shall be filed by a resolution professional under sub-section (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A."	

Part II-Chapter 7

SECTION 68 To 77..

Section- 68

Punishment for concealment of property

within twelve months preceding the ICD or at any time after the ICD –
Imprisonment of 3 years to 5 years or fine of one lakh to one crore or both.

Section- 69

Punishment for transactions defrauding creditors.

Gift, transfer, concealment, removal of property to defraud creditors.

Imprisonment – one year to five year

Fine – one lakh to 5 crore or both.

Not punishable if act was committed 5 years before the ICD

SECTION 68 TO 77..

Section- 70

On or after ICD

- I. Does not disclose details of property
- II. Does not deliver property
- III. Does not deliver books & papers
- IV. Does not give information

-Punishment – 3 years to 5 years

-Or Fine – one lakh to one crore or both

-Lesser Punishment for IP

- Imprisonment upto 6 Months or fine one lakh to five lakhs or both.

Section- 71

Punishment for falsification of books of corporate debtor On and after ICD 3 to 5 years one lakh to one crore or both.

Section- 72

Punishment for willful and material omissions by officer:-

3 to 5 years

One lakh to one crore or both.

SECTION 68 TO 77

Section- 73

Punishment for false representations to creditors. Whether before or after ICD

3 years to 5 years

One lakh to one crore or both

Section-74

Punishment for contravention of moratorium or the resolution plan.

1. Contravention of moratorium by corporate debtors or officer-. 3 to 5 years, one lakh to three lakh or both.
2. Contravention of moratorium by creditors. one years to 5 years, one lakh to one crore or both.
3. Contravention of Resolution Plan by officer or creditors. -one years to five years, one lakh to one crore or both.

Section- 75

Punishment for false information Furnished in application.

False Application U/S 7- one lakh to one crore.

SECTION 68 TO 77

Section- 76

Punishment for non – disclosure of dispute by operational creditor.

One year to five years

one lakh to one crore

or both

Section-77

Punishment for providing false information in application made by corporate debtor.

3 Years to 5 Years

one lakh to one crore

or both

RP shall be independent of Corporate Debtor

- (a) Eligible to appoint as independent director U/co Act
- (b) Not a related party to CD
- (c) Not an employee, proprietor or a partner

Not under the restrain order of Board

In last
Preceding
3 years

- Auditor/ Co sec / cost auditor
- Legal firm
- Consultant – fees 10 % or more of gross turnover of such firm from CD

Can't continue, if director /partner of IPE represent other stakeholder in the same process

Public announcement

within 3 days of his appointment [formA]

- Published in English + regional newspaper [R/ office, H / office, Material Business place]
- Website of CD

Providing for

- Last date of Submission of Claims [shall be 10 days from the date of his appointment]

* Public announcement cost is borne by applicant, unless ratified by COC It shall not form part of Fast track process Cost

* Creditor shall bear the cost of proving the debt

Submission of Claims Creditor shall submit on or before last date mentioned in Public announcement

If failed to Submit, then Submit to IRP, till the approval of resolution plan by the COC

If financial Creditor, then shall be included in COC from the date of Submission of Claims

Such inclusion shall not affect Validity of decision taken prior to inclusion by COC.

Corporate Offence & Penalties

S.N O	Process	Section No.	Process	Provision	When	Fine (Not Less than)	Imprison ment
1	Insolvency and Resolution Process for Corporates	68	Punishment for concealment of property	<p>Any officer of CD has (if could not prove not-guilty):-</p> <ul style="list-style-type: none"> -Concealed any debt due to/from CD or willfully concealed or fraudulently removed any part of / property of CD of value \geqRs. 10,000/- - willfully concealed, destroyed, mutilated, falsified or made false entry w.r.t any book / paper of property / affairs of CD- fraudulently parted/ altered/ omitted any doc of property / affairs of CD - willfully concealed knowledge of others doing above two -willfully created any security int./ transferred / disposed any prop obtained on credit & not paid for -taken in pawn or pledge or received property knowing it to be so secured, transferred / disposed (only after i.c.d) 	<p>Within in 12 months immediately preceding the Insolvency commencement date</p> <p>Or</p> <p>any time after insolvency commencement dt</p>	1 lakh To 1 crore	3 - 5 years

Corporate Offence & Penalties

S.N O	Process	Section No.	Process	Provision	When	Fine (Not Less than)	Imprisonment
2.	Insolvency and Resolution Process for Corporates	69	Punishment for transactions defrauding Creditors	<p>Any officer of CD has (if could not prove not-guilty):-</p> <ul style="list-style-type: none"> -made/caused any gift/transfer or charge on or caused for execution of decree/order against property of CD -concealed or removed part/property of CD within 2 months before date of unsatisfied judgment/decreed/order for payment of money obtained against CD [if first pt. beyond 5 years of i.c.d then not offence] <p>Any officer of CD has (if could not prove not-guilty):-</p>	On or after insolvency commencement date	1 lakh To 1 crore	1 - 5 years
3.	Insolvency and Resolution Process for Corporates	70	Punishment for misconduct in course of CIRP	<ul style="list-style-type: none"> -does not disclose details of prop/txns/info to RP does not deliver control or custody of part/property to RP does not deliver books/papers of CD in his control to RP fails to inform RP about the information in his knowledge about falsely proved debt by any person during CIRP prevents production of book/ paper w.r.t prop/affair of CD - Accounts for any part/prop of CD by fictitious loss/exp. or has attempted during any meeting of Crs. of CD within 12 months of i.c.d 	On or after insolvency commencement date	1 lakh To 1 crore	3 - 5 years

Corporate Offence & Penalties

S. NO	Process	Section No.	Process	Provision	When	Fine (Not Less than)	Imprisonment
3a	Insolvency and Resolution Process for Corporates	70	Punishment for misconduct in course of CIRP	If an Insolvency Proff (IP) deliberately contravenes above (mentioned in pt. 3)	On or after insolvency commencement date	1 lakh To 5 Lakh	6 Months
4	Insolvency and Resolution Process for Corporates	71	Punishment for falsification of books of CD	Any person destroy, mutilates, alters or falsifies any books / papers / securities, or makes or is in the knowledge of making of any false / fraudulent entry in any register, books of account or document of CD with intent to defraud or deceive any person	On or after insolvency commencement date	1 lakh to 1 crore	3 - 5 years
5	Insolvency and Resolution Process for Corporates	72	Punishment for wilful & material omissions from statements relating to affairs of CD	any officer of CD makes any material & willful omission in any statement relating to affairs of CD	No time limit	1 lakh to 1crore	3 - 5 years
6	Insolvency and Resolution Process for Corporates	73	Punishment for false representations to Crs.	any officer of CD- a) makes a false representation or commits any fraud for the purpose of obtaining the consent of the creditors of CD or any of them to an agreement with reference to the affairs of CD, during the CIRP, or the liquidation process b) has made any false representation, or committed any fraud, for that purpose	(a) On or after insolvency commencement dt (b) Prior to insolvency commencement date	1 lakh to 1 crore	3 - 5 years

Corporate Offence & Penalties

S.N O	Process	Section No.	Process	Provision	When	Fine (Not Less than)	Imprison ment
7	Insolvency and Resolution Process for Corporates	74	Punishment for contravention of moratorium or the resolution plan	CD or any officer of CD directly or indirectly violates sec 14 (i.e., moratorium), then officer held responsible	During Moratorium	1 lakh to 3 lakhs	3 - 5 years
7a	Insolvency and Resolution Process for Corporates	74	Punishment for contravention of moratorium or the resolution plan	any creditor violates sec 14 (i.e., moratorium), then person allowing held responsible	During Moratorium	1 lakh to 1 crore	1 - 5 years
7b	Insolvency and Resolution Process for Corporates	74	Punishment for contravention of moratorium or the resolution plan	CD or any officer of CD or any creditor or any person on whom approved Resolution plan is binding u/s 31, contravenes any terms of Resolution plan	During Moratorium	1 lakh To 1 crore	1 - 5 years
8	Insolvency and Resolution Process for Corporates	75	Punishment for false information furnished in application	Any person knowingly furnishes false info or omits material fact in application u/s 7	No time limit	1 lakh To 1 crore	Nil

Corporate Offence & Penalties

S.N O	Process	Section No.	Process	Provision	When	Fine (Not Less than)	Imprison ment
9	Insolvency and Resolution Process for Corporates	76	Punishment for non-disclosure of dispute or repayment of debt by OC	-OC willfully conceals the fact in appl u/s 9 that CD had notified him of dispute w.r.t unpaid operational debt or full payment thereof - any person willfully authorize/permit above concealment	No time limit	1 lakh to 1 crore	1 - 5 years
10	Insolvency and Resolution Process for Corporates	77	Punishment for providing false information in application made by CD	-CD knowingly furnishes false info or omits material fact in application u/s 10 -any person willfully authorize/permit above offence	No time limit	1 lakh to 1 crore	3 - 5 years

11	PPIRP Insolvency and Resolution Process for Corporates	77 A	Punishment for providing false information in application made by CD	CD or officer Director/Partner?any Person	No time limit	1 lakh to 1 crore	3 - 5 years
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COMPARISON OF POWER & DUTIES OF RESOLUTION PROFESSIONAL AND LIQUIDATOR

- RP/IRP
 - The management of affairs of the CD shall vest in the RP[17(1)(a)]. Responsible for complying with all the provisions under any law [Sec. 17(2)(e)].
 - Collect all information relating to assets [Sec. 18(a)]. Take control and custody of assets [Sec. 18(f)]
 - Enter/amend contract behalf of the corporate debtor, raise interim finance, issue instructions to employee [Sec.20(2)]
 - Constitute COC
- LIQUIDATOR
 - To verify claims of all the creditors, to take into his custody or control all the assets. A creditor may withdraw or vary his claim within 14 days. [Sec.38(5)]
 - Liquidator may accept/reject the claim, he shall record
 - Subject to section 52, to sell the moveable and immoveable property and actionable claims by public auction or private contract. Carry on the business for beneficiary liquidation. Liquidator is the custodian of assets.

RP/IRP

- RP may sell unencumbered assets, it shall not exceed 10% of the total claims admitted by IRP. Regulation 29(1)
- Approval of Resolution Plan
- The officers and managers of the corporate debtor shall report to the IRP/RP and provide access to such documents and records of the corporate debtor as may be required
- Form Committee of creditors
- Chain Committee of creditors
- Prepare the information memorandum (IM) and invite resolution plans
- Investigate the financial affairs of the company

LIQUIDATOR

- Realise and Distribute
- Maintain relevant records
- Prepare preliminary report, assets memorandum, sale report etc.
- Apply to NCLT for orders and directions as required
- Investigate financial affairs of CD for undervalued/preferential transaction
- To institute or defend suit
- Obtain professional assistance

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INSOLVENCY RESOLUTION AND BANKRUPTCY FOR INDIVIDUALS AND
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PROCESS

Default (Rs. 1k to 1lakh)

Application (By Debtor/Creditor)

Interim Moratorium

Resolution Professional

IBBI has seven days to revert to

AA Appointment – 7+10

Replacement – 7+10

Report: RP will make a report whether application is to be accepted or not.

Within 10 days of appointment

Reason : For acceptance/rejection DRT does not have so much time to review each & every application.

So duty assigned to RP.

DRT within 14 days of receiving the report.

DRT – To send a copy of acceptance/rejection RP/DR/CR within 7 days. Moratorium Starts:-

DRT to issue Public Notice within 7 days from passing of the order in one English and one vernacular newspaper besides publishing in DRT premises and DRT website.

Within 21 days all claims to be lodged

Within 30 days list of creditors to be made. (RP has 9 days)(30-21)

Only list not COC

Resolution Plan Part II (Repayment plan)Part III (Debtor will make the repayment plan in consultation with RP)

Justification by debtor for approval of plan report on repayment plan. By RP. Within 21 days from the last date of submission of claim. (12 days to prepare the plan & report)

RP to confirm Whether

1. Whether repayment plan Compliant with laws
2. Chances of success of plan
3. RP will decide whether creditors meeting needs to be called 14-28 days of the report.

Notice 14 days minimum

Creditors may accept/modify/reject

For modification – Consent of Debtor is needed.

Proportionate: Voting rights except to the following:

1. Unliquidated amount
2. name not in list
3. associate of the person.

After meeting Report to be prepared by RP explaining All facts

Report + Repayment Plan to be submitted to DRT

Final Decision of DRT –

Acceptance of plan – Binding of all DRs/CRs

Rejection of plan – Creditors get a right to sue for Bankruptcy

Directly Bankruptcy proceedings will not start.

Once Repayment plan is Complete, Report by RP within 14 days of completion of plan

Non Completion of plan

Premature end of repayment plan

RP will make report

No extension of time

PART III
INSOLVENCY RESOLUTION AND BANKRUPTCY FOR
INDIVIDUALS AND PARTNERSHIP FIRMS

CHAPTER-I

PRELIMINARY

78.Application. -

This Part shall apply to matters relating to fresh start, insolvency and bankruptcy of individuals and partnership firms where the amount of the default is not less than one thousand rupees:

Provided that the Central Government may, by notification, specify the minimum amount of default of higher value which shall not be more than one lakh rupees.

79.Definitions. -

In this Part, unless the context otherwise requires, -

- (1) “Adjudicating Authority” means the Debt Recovery Tribunal constituted under sub-section (1) of section 3 of the Recovery of Debts Due to Banks and Financial Institution Act, 1993 (51 of 1993);
- (2) “associate” of the debtor means—
 - (a) a person who belongs to the immediate family of the debtor;
 - (b) a person who is a relative of the debtor or a relative of the spouse of the debtor;
 - (c) a person who is in partnership with the debtor;
 - (d) a person who is a spouse or a relative of any person with whom the debtor is in partnership;
 - (e) a person who is employer of the debtor or employee of the debtor;

(f) a person who is a trustee of a trust in which the beneficiaries of the trust include a debtor, or the terms of the trust confer a power on the trustee which may be exercised for the benefit of the debtor; and

(g) a company, where the debtor or the debtor along with his associates, own more than fifty per cent. of the share capital of the company or control the appointment of the board of directors of the company.

Explanation. - For the purposes of this sub-section, “relative”, with reference to any person, means anyone who is related to another, if-

(i) they are members of a Hindu Undivided Family;

(ii) one person is related to the other in such manner as may be prescribed;(See Section 5(24A)

Section 5(24A) “related party”, in relation to an individual, means-

- (a) a person who is a relative of the individual or a relative of the spouse of the individual;
- (b) a partner of a limited liability partnership, or a limited liability partnership or a partnership firm, in which the individual is a partner;
- (c) a person who is a trustee of a trust in which the beneficiary of the trust includes the individual, or the terms of the trust confers a power on the trustee which may be exercised for the benefit of the individual;
- (d) a private company in which the individual is a director and holds along with his relatives, more than two per cent. of its share capital;
- (e) a public company in which the individual is a director and holds along with relatives, more than two per cent. of its paid-up share capital;
- (f) a body corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of the individual;
- (g) a limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, act on the advice, directions or instructions of the individual;
- (h) a person on whose advice, directions or instructions, the individual is accustomed to act;
- (i) a company, where the individual or the individual along with its related party, own more than fifty per cent. of the share capital of the company or controls the appointment of the board of directors of the company.

Explanation. - For the purposes of this clause, - (a) “relative”, with reference to any person, means anyone who is related to another, in the following manner, namely:-

(i) members of a Hindu Undivided Family, 1 Ins. by Act No. 26 of 2018, sec. 3 (w.e.f. 6-6-2018). 13

(ii) husband,

(iii) wife,

(iv) father,

(v) mother,

(vi) son,

(vii) daughter,

(viii) son's daughter and son,

(ix) daughter's daughter and son,

(x) grandson's daughter and son,

(xi) granddaughter's daughter and son,

(xii) brother,

(xiii) sister,

(xiv) brother's son and daughter,

(xv) sister's son and daughter,

(xvi) father's father and mother,

(xvii) mother's father and mother,

(xviii) father's brother and sister,

mother's brother and sister; and

(b) wherever the relation is that of a son, daughter, sister or brother, their spouses shall also be included;]

Please answer in chat Box?

Whether the following are covered in the definition of relative?

Maternal Uncle's step Brother-Yes

Paternal Uncle's adopted child-No

Granddaughter's Son-Yes

(3) “bankrupt” means—

(a) a debtor who has been adjudged as bankrupt by a bankruptcy order under section 126;

(b) each of the partners of a firm, where a bankruptcy order under section 126 has been made against a firm; or

(c) any person adjudged as an undischarged insolvent;

(4) “bankruptcy” means the state of being bankrupt;

(5) “bankruptcy debt”, in relation to a bankrupt, means—

(a) any debt owed by him as on the bankruptcy commencement date;

(b) any debt for which he may become liable after bankruptcy commencement date but before his discharge by reason of any transaction entered into before the bankruptcy commencement date; and

(c) any interest which is a part of the debt under section 171;

(6) “bankruptcy commencement date” means the date on which a bankruptcy order is passed by the Adjudicating Authority under section 126;

- (8) “bankruptcy process” means a process against a debtor under Chapters IV and V of this part;
- (9) “bankruptcy trustee” means the insolvency professional appointed as a trustee for the estate of the bankrupt under section 125;
- (10) “Chapter” means a chapter under this Part;
- (11) “committee of creditors” means a committee constituted under section 134;
- (12) “debtor” includes a judgment-debtor;
- (13) “discharge order” means an order passed by the Adjudicating Authority discharging the debtor under sections 92, 119 and section 138, as the case may be;
- (14) “excluded assets” for the purposes of this part includes –
- (a) unencumbered tools, books, vehicles and other equipment as are necessary to the debtor or bankrupt for his personal use or for the purpose of his employment, business or vocation,

(b) unencumbered furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the bankrupt and his immediate family;

(c) any unencumbered personal ornaments of such value, as may be prescribed, of the debtor or his immediate family which cannot be parted with, in accordance with religious usage; (Rs. One lakh)

(d) any unencumbered life insurance policy or pension plan taken in the name of debtor or his immediate family; and

(e) an unencumbered single dwelling unit owned by the debtor of such value as may be prescribed; (Urban Area-Rs. 20 lakh-Rural Area-Rs. 10 lakh)

(15) “excluded debt” means—

(a) liability to pay fine imposed by a court or tribunal;

(b) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation;

(c) liability to pay maintenance to any person under any law for the time being in force;

(d) liability in relation to a student loan;

(e) any other debt as may be prescribed;

(16) “firm” means a body of individuals carrying on business in partnership whether or not registered under section 59 of the Partnership Act, 1932 (9 of 1932);

(17) “immediate family” of the debtor means his spouse, dependent children and dependent parents;

(18) “partnership debt” means a debt for which all the partners in a firm are jointly liable;

(19) “qualifying debt” means amount due, which includes interest or any other sum due in respect of the amounts owed under any contract, by the debtor for a liquidated sum either immediately or at certain future time and does not include –

(a) an excluded debt;

(b) a debt to the extent it is secured; and

(c) any debt which has been incurred three months prior to the date of the application for fresh start process;

(20) “repayment plan” means a plan prepared by the debtor in consultation with the resolution professional under section 105 containing a proposal to the committee of creditors for restructuring of his debts or affairs;

(21) “resolution professional” means an insolvency professional appointed under this part as a resolution professional for conducting the fresh start process or insolvency resolution process;

(22) “undischarged bankrupt” means a bankrupt who has not received a discharge order under section 138.

CHAPTER II

FRESH START PROCESS

80. Eligibility for making an application. -

(1) A debtor, who is unable to pay his debt and fulfils the conditions specified in subsection (2), shall be entitled to make an application for a fresh start for discharge of his qualifying debt under this Chapter.

(2) A debtor may apply, either personally or through a resolution professional, for a fresh start under this Chapter in respect of his qualifying debts to the Adjudicating Authority if –

- a) the gross annual income of the debtor does not exceed sixty thousand rupees;
- b) the aggregate value of the assets of the debtor does not exceed twenty thousand rupees;

- (c) the aggregate value of the qualifying debts does not exceed thirty -five thousand rupees;
- (d) he is not an undischarged bankrupt;
- (e) he does not own a dwelling unit, irrespective of whether it is encumbered or not;
- (f) a fresh start process, insolvency resolution process or bankruptcy process is not subsisting against him; and
- (g) no previous fresh start order under this Chapter has been made in relation to him in the preceding twelve months of the date of the application for fresh start.

81. Application for fresh start order. -

81. Application for fresh start order. -

(1) When an application is filed under section 80 by a debtor, an interim-moratorium shall commence on the date of filing of said application in relation to all the debts and shall cease to have effect on the date of admission or rejection of such application, as the case may be.

(2) During the interim-moratorium period, -

(i) any legal action or legal proceeding pending in respect of **any of his debts** shall be deemed to have been stayed; and

(ii) no creditor shall initiate any legal action or proceedings in respect of **such debt**.

(3) The application under section 80 shall be in such form and manner and accompanied by such fee, as may be prescribed.

(4) The application under sub-section (3) shall contain the following information supported by an affidavit, namely: –

(a) a list of all debts owed by the debtor as on the date of the said application along with details relating to the amount of each debt, interest payable thereon and the names of the creditors to whom each debt is owed;

(b) the interest payable on the debts and the rate thereof stipulated in the contract;

(c) a list of security held in respect of any of the debts,

- (d) the financial information of the debtor and his immediate family for up to two years prior to the date of the application;
- (e) the particulars of the debtor's personal details, as may be prescribed;
- (f) the reasons for making the application;
- (g) the particulars of any legal proceedings which, to the debtor's knowledge has been commenced against him;
- (h) the confirmation that no previous fresh start order under this Chapter has been made in respect of the qualifying debts of the debtor in the preceding twelve months of the date of the application.

82.Appointment of resolution professional. -

(1) Where an application under section 80 is filed by the debtor through a resolution professional, the Adjudicating Authority shall direct the Board within seven days of the date of receipt of the application and shall seek confirmation from the Board that there are no disciplinary proceedings against the resolution professional who has submitted such application.

(2) The Board shall communicate to the Adjudicating Authority in writing either –

(a) confirmation of the appointment of the resolution professional who filed an application under sub-section (1); or

(b) rejection of the appointment of the resolution professional who filed an application under sub-section (1) and nominate a resolution professional suitable for the fresh start process.

(3) Where an application under section 80 is filed by the debtor himself and not through the resolution professional, the Adjudicating Authority shall direct the Board within seven days of the date of the receipt of an application to nominate a resolution professional for the fresh start process.

(4)The Board shall nominate a resolution professional within ten days of receiving the direction issued by the Adjudicating Authority under sub-section (3).

(5)The Adjudicating Authority shall by order appoint the resolution professional recommended or nominated by the Board under sub-section (2) or sub-section (4), as the case may be.

(6) A resolution professional appointed by the Adjudicating Authority under subsection (5) shall be provided a copy of the application for fresh start.

83.Examination of application by resolution professional. -

(1)The resolution professional shall examine the application made under section 80 within ten days of his appointment, and submit a report to the Adjudicating Authority, either recommending acceptance or rejection of the application.

(2) The report referred to in sub-section (1) shall contain the details of the amounts mentioned in the application which in the opinion of the resolution professional are—

(a) qualifying debts; and

(b) liabilities eligible for discharge under sub-section (3) of section 92.

(3)The resolution professional may call for such further information or explanation in connection with the application as may be required from the debtor or any other person who, in the opinion of the resolution professional, may provide such information.

(4)The debtor or any other person, as the case may be, shall furnish such information or explanation within seven days of receipt of the request under sub-section (3) .

(5)The resolution professional shall presume that the debtor is unable to pay his debts at the date of the application if -

(a)in his opinion the information supplied in the application indicates that the debtor is unable to pay his debts and he has no reason to believe that the information supplied is incorrect or incomplete; and

(b)he has reason to believe that there is no change in the financial circumstances of the debtor since the date of the application enabling the debtor to pay his debts.

(6) The resolution professional shall reject the application, if in his opinion -

(a) the debtor does not satisfy the conditions specified under section 80; or

(b) the debts disclosed in the application by the debtor are not qualifying debts; or

(c) the debtor has deliberately made a false representation or omission in the application or with respect to the documents or information submitted.

(7) The resolution professional shall record the reasons for recommending the acceptance or rejection of the application in the report to the Adjudicating Authority under sub-section (1) and shall give a copy of the report to the debtor.

84. Admission or rejection of application by Adjudicating Authority. -

(1) The Adjudicating Authority may within fourteen days from the date of submission of the report by the resolution professional, pass an order either admitting or rejecting the application made under sub-section (1) of section 81.

(2) The order passed under sub-section (1) accepting the application shall state the amount which has been accepted as qualifying debts by the resolution professional and other amounts eligible for discharge under section 92 for the purposes of the fresh start order.

(3) A copy of the order passed by the Adjudicating Authority under sub-section (1) along with a copy of the application shall be provided to the creditors mentioned in the application within seven days of the passing of the order.

85.Effect of admission of application. -

- (1) On the date of admission of the application, the moratorium period shall commence in respect of all the debts.
- (2) During the moratorium period -
 - (a) any pending legal action or legal proceeding in respect of **any debt** shall be deemed to have been stayed; and
 - (b) subject to the provisions of section 86, the creditors shall not initiate any legal action or proceedings in respect of **any debt**.
- (3) During the moratorium period, the debtor shall –
 - (a) not act as a director of any company, or directly or indirectly take part in or be concerned in the promotion, formation or management of a company;
 - (b) not dispose of or alienate any of his assets;
 - (c) inform his business partners that he is undergoing a fresh start process;
 - (d) be required to inform prior to entering into any financial or commercial transaction of such value as may be notified by the Central Government, either individually or jointly, that he is undergoing a fresh start process;

(e) disclose the name under which he enters into business transactions, if it is different from the name in the application admitted under section 84;

(f) not travel outside India except with the permission of the Adjudicating Authority.

(4) The moratorium ceases to have effect at the end of the period of one hundred and eighty days beginning with the date of admission unless the order admitting the application is revoked under sub-section (2) of section 91.

86. Objections by creditor and their examination by resolution professional. -

(1) Any creditor mentioned in the order of the Adjudicating Authority under section 84 to whom a qualifying debt is owed may, within a period of ten days from the date of receipt of the order under section 84, object only on the following grounds, namely: -

(a) inclusion of a debt as a qualifying debt; or

(b) incorrectness of the details of the qualifying debt specified in the order under section 84.

(2) A creditor may file an objection under sub-section (1) by way of an application to the resolution professional.

(3) The application under sub-section (2) shall be supported by such information and documents as may be prescribed.

(4) The resolution professional shall consider every objection made under this section.

(5) The resolution professional shall examine the objections under sub-section (2) and either accept or reject the objections, within ten days of the date of the application.

(6) The resolution professional may examine on any matter that appears to him to be relevant to the making of a final list of qualifying debts for the purposes of section 92.

(7) On the basis of the examination under sub-section (5) or sub-section (6), the resolution professional shall -

(a) prepare an amended list of qualifying debts for the purpose of the discharge order;

(b) make an application to the Adjudicating Authority for directions under section 90; or

(c) take any other steps in relation to the debtor.

87. Application against decision of resolution professional. -

(1) The debtor or the creditor who is aggrieved by the action taken by the resolution professional under section 86, may, within ten days of such decision, make an application to the Adjudicating Authority challenging such action on any of the following grounds, namely:—

(a) that the resolution professional has not given an opportunity to the debtor or the creditor to make a representation; or

(b) that the resolution professional colluded with the other party in arriving at the decision; or

(c) that the resolution professional has not complied with the requirements of section 86.

(2) The Adjudicating Authority shall decide the application referred to in sub-section

(1) within fourteen days of such application and make an order as it deems fit.

(3) Where the application under sub-section (1) has been allowed by the Adjudicating Authority, it shall forward its order to the Board and the Board may take such action as may be required under Chapter VI of Part IV against the resolution professional

88. General duties of debtor. -

The debtor shall -

(a) make available to the resolution professional all information relating to his affairs, attend meetings and comply with the requests of the resolution professional in relation to the fresh start process.

(b) inform the resolution professional as soon as reasonably possible of -

(i) any material error or omission in relation to the information or document supplied to the resolution professional; or

(ii) any change in financial circumstances after the date of application, where such change has an impact on the fresh start process.

89. Replacement of resolution professional. -

(1) Where the debtor or the creditor is of the opinion that the resolution professional appointed under section 82 is required to be replaced, he may apply to the Adjudicating Authority for the replacement of such resolution professional.

(2) The Adjudicating Authority shall within seven days of the receipt of the application under sub-section (1) make a reference to the Board for replacement of the resolution professional.

(3)The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (2), recommend the name of insolvency professional to the Adjudicating Authority against whom no disciplinary proceedings are pending.

(4) The Adjudicating Authority shall appoint another resolution professional for the purposes of the fresh start process on the basis of the recommendation by the Board.

(5)The Adjudicating Authority may give directions to the resolution professional replaced under sub-section (4) -

(a) to share all information with the new resolution professional in respect of the fresh start process; and

(b) to co-operate with the new resolution professional in such matters as may be required.

90.Directions for compliances of restrictions, etc. -

(1)The resolution professional may apply to the Adjudicating Authority for any of the following directions, namely: -

(a)compliance of any restrictions referred to in sub-section (3) of section 85, in case of non-compliance by the debtor; or

(b) compliance of the duties of the debtor referred to in section 88, in case on noncompliance by the debtor.

(2) The resolution professional may apply to the Adjudicating Authority for directions in relation to any other matter under this Chapter for which no specific provisions have been made.

91.Revocation of order admitting application. -

(1)The resolution professional may submit an application to the Adjudicating Authority seeking revocation of its order made under section 84 on the following grounds, namely: -

(a)if due to any change in the financial circumstances of the debtor, the debtor is ineligible for a fresh start process; or

(b)non-compliance by the debtor of the restrictions imposed under sub-section(3) of section 85; or

(c)if the debtor has acted in a mala fide manner and has wilfully failed to comply with the provisions of this Chapter.

(2) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (1), may by order admit or reject the application.

(3) On passing of the order admitting the application referred to in sub-section (1), the moratorium and the fresh start process shall cease to have effect.

(4) A copy of the order passed by the Adjudicating Authority under this section shall be provided to the Board for the purpose of recording an entry in the register referred to in section 196.

92. Discharge order. -

(1) The resolution professional shall prepare a final list of qualifying debts and submit such list to the Adjudicating Authority at least seven days before the moratorium period comes to an end.

(2) The Adjudicating Authority shall pass a discharge order at the end of the moratorium period for discharge of the debtor from the qualifying debts mentioned in the list under sub-section (1).

(3) Without prejudice to the provisions of sub-section (2), the Adjudicating Authority shall discharge the debtor from the following liabilities, namely: -

(a) penalties in respect of the qualifying debts from the date of application till the date of the discharge order;

(b) interest including penal interest in respect of the qualifying debts from the date of application till the date of the discharge order; and

(c) any other sums owed under any contract in respect of the qualifying debts from the date of application till the date of the discharge order.

(4)The discharge order shall not discharge the debtor from any debt not included in sub-section (2) and from any liability not included under sub-section (3).

(5)The discharge order shall be forwarded to the Board for the purpose of recording an entry in the register referred to in section 196.

(6)A discharge order under sub-section (2) shall not discharge any other person from any liability in respect of the qualifying debts.

93.Standard of conduct. -

The resolution professional shall perform his functions and duties in compliance with the code of conduct provided under section 208.

CHAPTER III

INSOLVENCY RESOLUTION PROCESS

94. Application by debtor to initiate insolvency resolution process. -

- 1) A debtor who commits a default may apply, either personally or through a resolution professional, to the Adjudicating Authority for initiating the insolvency resolution process, by submitting an application.
- 2) Where the debtor is a partner of a firm, such debtor shall not apply under this Chapter to the Adjudicating Authority in respect of the firm unless all or a majority of the partners of the firm file the application jointly.
- 3) An application under sub-section (1) shall be submitted only in respect of debts which are not excluded debts.
- 4) A debtor shall not be entitled to make an application under sub-section (1) if he is -

- (a) an undischarged bankrupt;
- (b) undergoing a fresh start process;
- (c) undergoing an insolvency resolution process; or
- (d) undergoing a bankruptcy process.

(5) A debtor shall not be eligible to apply under sub-section (1) if an application under this Chapter has been admitted in respect of the debtor during the period of twelve months preceding the date of submission of the application under this section.

(6) The application referred to in sub-section (1) shall be in such form and manner and accompanied with such fee as may be prescribed.

95. Application by creditor to initiate insolvency resolution process. -

(1) A creditor may apply either by himself, or jointly with other creditors, or through a resolution professional to the Adjudicating Authority for initiating an insolvency resolution process under this section by submitting an application.

(2) A creditor may apply under sub-section (1) in relation to any partnership debt owed to him for initiating an insolvency resolution process against-

(a) any one or more partners of the firm; or

(b) the firm.

(3) Where an application has been made against one partner in a firm, any other application against another partner in the same firm shall be presented in or transferred to the Adjudicating Authority in which the first mentioned application is pending for adjudication and such Adjudicating Authority may give such directions for consolidating the proceedings under the applications as it thinks just.

(4) An application under sub-section (1) shall be accompanied with details and documents relating to-

(a) the debts owed by the debtor to the creditor or creditors submitting the application for insolvency resolution process as on the date of application;

(b) the failure by the debtor to pay the debt within a period of fourteen days of the service of the notice of demand; and

(c) relevant evidence of such default or non-repayment of debt.

(5) The creditor shall also provide a copy of the application made under sub-section (1) to the debtor.

(6) The application referred to in sub-section (1) shall be in such form and manner and accompanied by such fee as may be prescribed.

(7) The details and documents required to be submitted under sub-section (4) shall be such as may be specified.

96. Interim- moratorium. -

(1) When an application is filed under section 94 or section 95 –

(a) an interim-moratorium shall commence on the date of the application in relation to **all the debts** and shall cease to have effect on the date of admission of such application; and

(b) during the interim-moratorium period -

(i) any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed; and

(ii) the creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt.

(1) Where the application has been made in relation to a firm, the interim moratorium under sub-section (1) shall operate against all the partners of the firm as on the date of the application.

(2) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

97. Appointment of resolution professional. -

(1) If the application under section 94 or 95 is filed through a resolution professional, the Adjudicating Authority shall direct the Board within seven days of the date of the application to confirm that there are no disciplinary proceedings pending against resolution professional.

(2) The Board shall within seven days of receipt of directions under sub-section

(1) communicate to the Adjudicating Authority in writing either –

(a) confirming the appointment of the resolution professional; or

(b) rejecting the appointment of the resolution professional and nominating another resolution professional for the insolvency resolution process.

3) Where an application under section 94 or 95 is filed by the debtor or the creditor himself, as the case may be, and not through the resolution professional, the Adjudicating Authority shall direct the Board, within seven days of the filing of such application, to nominate a resolution professional for the insolvency resolution process.

(4) The Board shall nominate a resolution professional within ten days of receiving the direction issued by the Adjudicating Authority under sub-section (3).

(5) The Adjudicating Authority shall by order appoint the resolution professional recommended under sub-section (2) or as nominated by the Board under sub-section (4).

(6) A resolution professional appointed by the Adjudicating Authority under subsection (5) shall be provided a copy of the application for insolvency resolution process.

98. Replacement of resolution professional. -

(1) Where the debtor or the creditor is of the opinion that the resolution professional appointed under section 97 is required to be replaced, he may apply to the Adjudicating Authority for the replacement of the such resolution professional.

(2) The Adjudicating Authority shall, within seven days of the receipt of the application under sub-section (1) make a reference to the Board for replacement of the resolution professional.

(3) The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (2), recommend the name of the resolution professional to the Adjudicating Authority against whom no disciplinary proceedings are pending.

(4) Without prejudice to the provisions contained in sub-section (1), the creditors may apply to the Adjudicating Authority for replacement of the resolution professional where it has been decided in the meeting of the creditors, to replace the resolution professional with a new resolution professional for implementation of the repayment plan.

(5) Where the Adjudicating Authority admits an application made under sub-section (1) or sub-section (4), it shall direct the Board to confirm that there are no disciplinary proceedings pending against the proposed resolution professional.

(6) The Board shall send a communication within ten days of receipt of the direction under sub-section (5) either-

(a) confirming appointment of the nominated resolution professional; or

(b) rejecting appointment of the nominated resolution professional and recommend a new resolution professional.

(7) On the basis of the communication of the Board under sub-section (3) or subsection (6), the Adjudicating Authority shall pass an order appointing a new resolution professional.

(8) The Adjudicating Authority may give directions to the resolution professional replaced under sub-section (7) -

(a) to share all information with the new resolution professional in respect of the insolvency resolution process; and

(b) to co-operate with the new resolution professional in such matters as may be required.

99.Submission of report by resolution professional. -

- (1) The resolution professional shall examine the application referred to in section 94 or section 95, as the case may be, within ten days of his appointment, and submit a report to the Adjudicating Authority recommending for approval or rejection of the application.
- (2) Where the application has been filed under section 95, the resolution professional may require the debtor to prove repayment of the debt claimed as unpaid by the creditor by furnishing -
 - (a) evidence of electronic transfer of the unpaid amount from the bank account of the debtor;
 - (b) evidence of encashment of a cheque issued by the debtor; or
 - (c) a signed acknowledgment by the creditor accepting receipt of dues.
- (3) Where the debt for which an application has been filed by a creditor is registered with the information utility, the debtor shall not be entitled to dispute the validity of such debt.

(4) For the purposes of examining an application, the resolution professional may seek such further information or explanation in connection with the application as may be required from the debtor or the creditor or any other person who, in the opinion of the resolution professional, may provide such information.

(5) The person from whom information or explanation is sought under sub-section (4) shall furnish such information or explanation within seven days of receipt of the request.

(6) The resolution professional shall examine the application and ascertain that -

(a) the application satisfies the requirements set out in section 94 or 95;

(b) the applicant has provided information and given explanation sought by the resolution professional under sub-section (4).

(7) After examination of the application under sub-section (6), he may recommend acceptance or rejection of the application in his report.

(8) Where the resolution professional finds that the debtor is eligible for a fresh start under Chapter II, the resolution professional shall submit a report recommending that the application by the debtor under section 94 be treated as an application under section 81 by the Adjudicating Authority.

(9)The resolution professional shall record the reasons for recommending the acceptance or rejection of the application in the report under sub-section (7).

(10)The resolution professional shall give a copy of the report under sub-section (7) to the debtor or the creditor, **as the case may be.**

100.Admission or rejection of application. -

(1)The Adjudicating Authority shall, within fourteen days from the date of submission of the report under section 99 pass an order either admitting or rejecting the application referred to in section 94 or 95, as the case may be.

(2)Where the Adjudicating Authority admits an application under sub-section (1), it may, **on the request of the resolution professional**, issue instructions for the purpose of conducting negotiations between the debtor and creditors and for arriving at a repayment plan.

(3)The Adjudicating Authority shall provide a copy of the order passed under subsection (1) along with the report of the resolution professional and the application referred to in section 94 or 95, as the case may be, **to the creditors** within seven days from the date of the said order.

4) If the application referred to in section 94 or 95, as the case may be, is rejected by the Adjudicating Authority on the basis of report submitted by the resolution professional or that the application was made with the intention to defraud his creditors or the resolution professional, the order under sub-section (1) shall record that the creditor is entitled to file for a bankruptcy order under Chapter IV.

101.Moratorium. -

(1)When the application is admitted under section 100, a moratorium shall commence in relation to **all the debts** and shall cease to have effect at the end of the period of one hundred and eighty days beginning with the date of admission of the application or on the date the Adjudicating Authority passes an order on the repayment plan under section 114, whichever is earlier.

(2) During the moratorium period-

(a) any pending **legal action or proceeding** in respect of **any debt** shall be deemed to have been stayed;

(b) the creditors shall not initiate any legal action or legal proceedings in respect of any debt; and

(c) the debtor shall not transfer, alienate, encumber or dispose of any of the assets or his legal right or beneficial interest therein;

(3) Where an order admitting the application under section 96 has been made in relation to a firm, the moratorium under sub-section (1) shall operate against all the partners of the firm.

(4) The provisions of this section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

102. Public notice and claims from creditors. –

(1) The Adjudicating Authority shall issue a public notice **within seven days of passing the order** under section 100 inviting claims from all creditors within **twenty- one days** of such issue.

(2) The notice under sub-section (1) shall include—

(a) details of the order admitting the application;

(b) particulars of the resolution professional with whom the claims are to be registered; and

(c) the last date for submission of claims.

(3) The notice shall be -

(a) published in at least one English and one vernacular newspaper which is in circulation in the state where the debtor resides;

(b) affixed in the premises of the Adjudicating Authority; and

(c) placed on the website of the Adjudicating Authority.

103. Registering of claims by creditors. -

(1) The creditors shall **register claims** with the resolution professional by sending details of the claims by way of electronic communications or through **courier**, speed post or registered letter.

(2) In addition to the claims referred to in sub-section (1), the creditor shall provide to the resolution professional, personal information and such particulars as may be prescribed.

104.Preparation of list of creditors. -

- (1) The resolution professional shall prepare a list of creditors on the basis of -
 - (a) the information disclosed in the application filed by the debtor under section 94 or 95, as the case may be;
 - (b) claims received by the resolution professional under section 102.
- (2) The resolution professional shall prepare the list mentioned in sub-section (1) within thirty days from the date of the notice.

105.Repayment plan. -

- (1) The debtor shall prepare, in consultation with the resolution professional, a repayment plan containing a proposal to the creditors for **restructuring of his debts or affairs.**
- (2) The repayment plan may authorise or require the resolution professional to -
 - (a) carry on the debtor's business or trade on his behalf or in his name; or
 - (b) realise the assets of the debtor; or
 - (c) administer or dispose of any funds of the debtor

(3) The repayment plan shall include the following, namely: -

(a) justification for preparation of such repayment plan and reasons on the basis of which the creditors may agree upon the plan;

(b) provision for payment of fee to the resolution professional;

(c) such other matters as may be specified.

106. Report of resolution professional on repayment plan. –

(1) The resolution professional shall submit the repayment plan under section 105 along with his report on such plan to the Adjudicating Authority **within a period of twenty-one days** from the last date of submission of claims under section 102.

(2) The report referred in sub-section (1) shall include that-

(a) the repayment plan is in compliance with the provisions of any law for the time being in force;

(b) the repayment plan has a reasonable prospect of being approved and implemented; and

(c) there is a necessity of summoning a meeting of the creditors, if required, to consider the repayment plan: Provided that where the resolution professional recommends that a meeting of the creditors is not required to be summoned, reasons for the same shall be provided.

(3) The report referred to in sub-section (2) shall also specify the date on which, and the time and place at which, the meeting should be held if he is of the opinion that a meeting of the creditors should be summoned.

(4) For the purposes of sub-section (3) -

(a) the date on which the meeting is to be held shall be **not less than fourteen days and not more than twenty-eight days** from the date of submission of report under subsection(1);

(b) the resolution professional **shall consider the convenience of creditors** in fixing the **date and venue** of the meeting of the creditors.

107. Summoning of meeting of creditors. -

(1) The resolution professional shall issue a notice calling the meeting of the creditors at least fourteen days before the date fixed for such meeting.

(2) The resolution professional shall send the notice of the meeting to the list of creditors prepared under section 104.

(3) The notice sent under sub-section (1) shall state the address of the Adjudicating Authority to which the repayment plan and report of the resolution professional on the repayment plan has been submitted and shall be accompanied by -

(a) a copy of the repayment plan;

(b) a copy of the statement of affairs of the debtor;

(c) a copy of the said report of the resolution professional; and

(d) forms for proxy voting.

(4) The proxy voting, including electronic proxy voting shall take place in such manner and form as may be specified.

108. Conduct of meeting of creditors. -

(1) The meeting of the creditors shall be conducted in accordance with the provisions of this section and sections 109, 110 and 111.

(2) In the meeting of the creditors, the creditors may decide to approve, modify or reject the repayment plan.

(3) The resolution professional shall ensure that if modifications are suggested by the creditors, consent of the debtor shall be obtained for each modification.

(4) The resolution professional may for a sufficient cause adjourn the meeting of the creditors for a period of not more than seven days at a time.

109. Voting rights in meeting of creditors. -

(1) A creditor shall be entitled to vote at every meeting of the creditors in respect of the repayment plan in accordance with voting share assigned to him.

(2) The resolution professional shall determine voting share to be assigned to each creditor in the manners specified by the Board.

(3) A creditor shall not be entitled to vote in respect of a debt for an **unliquidated amount**.

(4) A creditor shall not be entitled to vote in a meeting of the creditors if he —

(a) is not a creditor mentioned in the list of creditors under section 104; or

(b) is an associate of the debtor.

110. Rights of secured creditors in relation to repayment plan. -

(1) Secured creditors shall be entitled to participate and vote in the meetings of the creditors.

(2) A secured creditor participating in the meetings of the creditors and voting in relation to the repayment plan shall forfeit his right to enforce the security during the period of the repayment plan in accordance with the terms of the repayment plan.

(3) Where a secured creditor does not forfeit his right to enforce security, he shall submit an affidavit to the resolution professional at the meeting of the creditors stating -

(a) that the right to vote exercised by the secured creditor is only in respect of the unsecured part of the debt; and

(b) the estimated value of the unsecured part of the debt.

(4) In case a secured creditor participates in the voting on the repayment plan by submitting an affidavit under sub-section (3), the secured and unsecured parts of the debt shall be treated as separate debts.

(5) The concurrence of the secured creditor shall be obtained if he does not participate in the voting on repayment plan but provision of the repayment plan affects his right to enforce security.

Explanation. – For the purposes of this section, "period of the repayment plan" means the period from the date of the order passed under section 114 till the date on which the notice is given by the resolution professional under section 117 or report submitted by the resolution professional under section 118, as the case may be.

111. Approval of repayment plan by creditors. -

The repayment plan or any modification to the repayment plan shall be approved by a majority of **more than three-fourth** in value of the creditors present in person or by proxy and voting on the resolution in a meeting of the creditors. Approval of repayment plan by creditors.

112. Report of meeting of creditors on repayment plan. -

(1) The resolution professional shall prepare a report of the meeting of the creditors on repayment plan.

(2) The report under sub-section (1) shall contain -

(a) whether the repayment plan was approved or rejected and if approved, the list of modifications, if any;

(b) the resolutions which were proposed at the meeting and the decision on such resolutions;

(c) list of the creditors who were present or represented at the meeting, and the voting records of each creditor for all meetings of the creditors; and

(d) such other information as the resolution professional thinks appropriate to make known to the Adjudicating Authority.

113. Notice of decisions taken at meeting of creditors. –

The resolution professional shall provide a copy of the report of the meeting of creditors prepared under section 99 to -

- (a) the debtor;
- (b) the creditors, including those who were not present at the meeting; and
- (c) the Adjudicating Authority.

114. Order of Adjudicating Authority on repayment plan. –

(1) The Adjudicating Authority shall by an order approve or reject the repayment plan on the basis of the report of the meeting of the creditors submitted by the resolution professional under section 112: Provided that where a meeting of creditors is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under section 106.

(2) The order of the Adjudicating Authority approving the repayment plan may also provide for directions for implementing the repayment plan.

(3) Where the Adjudicating Authority is of the opinion that the repayment plan requires modification, it may direct the resolution professional to re-convene a meeting of the creditors for reconsidering the repayment plan.

115.Effect of order of Adjudicating Authority on repayment plan. -

(1) Where the Adjudicating Authority has approved the repayment plan under section 114, the repayment plan shall –

(a) take effect as if proposed by the debtor in the meeting; and

(b) be binding on creditors mentioned in the repayment plan and the debtor.

(2) Where the Adjudicating Authority rejects the repayment plan under section 114, the debtor and the creditors shall be entitled to file an application for bankruptcy under Chapter IV.

(3) A copy of the order passed by the Adjudicating Authority under sub-section (2) shall be provided to the Board, for the purpose of recording an entry in the register referred to in section 196.

116. Implementation and supervision of repayment plan. -

(1) The resolution professional appointed under section 97 or under section 98 shall supervise the implementation of the repayment plan.

(2) The resolution professional may apply to the Adjudicating Authority for directions, if necessary, in relation to any particular matter arising under the repayment plan.

(3) The Adjudicating Authority may issue directions to the resolution professional on the basis of an application under sub-section (2).

117. Completion of repayment plan. -

(1) The resolution professional shall **within fourteen days** of the completion of the repayment plan, forward to the persons who are bound by the repayment plan under section 115 and the Adjudicating Authority, the following documents, namely -

(a) a notice that the repayment plan has been fully implemented; and

(b) a copy of a report by the resolution professional summarising all receipts and payments made in pursuance of the repayment plan and extent of the implementation of such plan as compared with the repayment plan approved by the meeting of the creditors.

2) The resolution professional may apply to the Adjudicating Authority to extend the time mentioned in sub-section (1) **for such further period not exceeding seven days**

118. Repayment plan coming to end prematurely. -

(1) A repayment plan shall be deemed to have come to an end prematurely if it has not been fully implemented in respect of all persons bound by it within the period as mentioned in the repayment plan.

(2) Where a repayment plan comes to an end prematurely under this section, the resolution professional shall submit a report to the Adjudicating Authority which shall state-

(a) the receipts and payments made in pursuance of the repayment plan;

(b) the reasons for premature end of the repayment plan; and

(c) the details of the creditors whose claims have not been fully satisfied.

(3) The Adjudicating Authority shall pass an order on the basis of the report submitted under sub-section (2) by the resolution professional that the repayment plan has not been completely implemented.

(4)The debtor or the creditor, whose claims under repayment plan have not been fully satisfied, shall be entitled to apply for a bankruptcy order under Chapter IV.

(5)The Adjudicating Authority shall forward to the persons bound by the repayment plan under section 115, a copy of the -

(a)report submitted by the resolution professional to the Adjudicating Authority under sub-section (2); and

(b) order passed by the Adjudicating Authority under sub-section (3).

(6)The Adjudicating Authority shall forward a copy of the order passed under subsection (4) to the Board, for the purpose of recording entries in the register referred to in section 196.

119. Discharge order. -

(1) On the basis of the repayment plan, the resolution professional shall apply to the Adjudicating Authority for a discharge order in relation to the debts mentioned in the repayment plan and the Adjudicating Authority may pass such discharge order.

(2) The repayment plan may provide for -

(a) early discharge; or

(b) discharge on complete implementation of the repayment plan.

(3) The discharge order shall be forwarded to the Board, for the purpose of recording entries in the register referred to in section 196.

(4) The discharge order under sub-section (3) shall not discharge any other person from any liability in respect of his debt.

120. Standard of conduct. -

The resolution professional shall perform his functions and duties in compliance with the code of conduct provided under section 208.

MINISTRY OF CORPORATE AFFAIRS
PART II—SECTION 3—
SUB-SECTION (I)
NOTIFICATION

G.S.R. 854(E).—In exercise of the powers conferred by sub-section (1), clauses (g), (h), (i), (m), (n) and (o) of sub-section (2) of section 239 read with clause (e) of section 2 and sub-section (2), clauses (c) and (e) of sub-section (14) and clause (e) of sub-section (15) of section 79 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.-

- (1) These rules may be called the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019.
- (2) They shall come into force from the 1st day of December, 2019.

2. Application.— These rules shall apply to insolvency resolution process for personal guarantors to corporate debtors.

3. Definitions. —

- (1) In these rules, unless the context otherwise requires, -
 - (a) “Adjudicating Authority” means-
 - (i) for the purpose of section 60, the National Company Law Tribunal constituted under section 408 of the Companies Act, 2013 (18 of 2013); or
 - (ii) in cases other than sub-clause (i), the Debt Recovery Tribunal established under sub-section (1A) of section 3 of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993);
 - (b) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

- c) “electronic form” shall have the meaning assigned to it in clause (r) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- d) “form” means a form appended to these rules;
- e) “guarantor” means a debtor who is a personal guarantor to a corporate debtor and in respect of whom guarantee has been invoked by the creditor and remains unpaid in full or part;
- f) “section” means section of the Code;
- g) “serve” means sending any communication by any means, including registered post, speed post, courier or electronic form, which is capable of producing or generating an acknowledgement of receipt of such communication:

Provided that where a document cannot be served in any of the modes, it shall be affixed at the outer door or some other conspicuous part of the house or building in which the addressee ordinarily resides or carries on business or personally works for gain;

(2) Words and expressions used and not defined in these rules but defined in the Code shall have the meanings respectively assigned to them in the Code.

4. Relatives.— For the purposes of clause (ii) of Explanation to sub-section (2) of section 79, the manner of relationship shall mean the manner as provided in the Explanation to clause (24A) of section 5.

5. Excluded assets.— For the purposes of sub-section (14) of section 79,—

(a) the value of unencumbered personal ornaments under clause (c) of the said sub-section shall not exceed one lakh rupees;

(b) the value of unencumbered single dwelling unit owned by the debtor under clause (e) of the said sub-section shall not exceed,-

- (i) in the case of dwelling unit in an urban area, twenty lakh rupees;
- (ii) in the case of dwelling unit in rural area, ten lakh rupees.

Explanation.— For the purposes of this rule,-

- (a) “rural area” shall have the same meaning as assigned to it in clause (o) of section 2 of the National Rural Employment Guarantee Act, 2005 (42 of 2005);
- (b) “urban area” means any area other than rural area.

6. Application by guarantor.—

- (1) The application under sub-section (1) of section 94 shall be submitted in Form A, along with an application fee of two thousand rupees.
- (2) The guarantor shall serve forthwith a copy of the application referred to in sub-rule (1) to every financial creditor and the corporate debtor for whom the guarantor is a personal guarantor.

7. Application by creditor.—

- (1) A demand notice under clause (b) of sub-section (4) of section 95 shall be served on the guarantor demanding payment of the amount of default, in Form B.
- (2) The application under sub-section (1) of section 95 shall be submitted in Form C, along with a fee of two thousand rupees.

(3) The creditor shall serve forthwith a copy of the application referred to in sub-rule (2) to the guarantor and the corporate debtor for whom the guarantor is a personal guarantor.

(4) In case of a joint application, the creditors may nominate one amongst themselves to act on behalf of all the creditors.

8. Confirmation or nomination of insolvency professional.—

(1) For the purposes of sub-section (2) of section 97 and sub-section (5) of section 98, the Board may share the database of the insolvency professionals, including information about disciplinary proceedings against them, with the Adjudicating Authority from time to time.

(2) For the purposes of sub-section (4) of section 97 and sub-section (3) of section 98, the Board may share a panel of insolvency professionals, who may be appointed as resolution professionals, with the Adjudicating Authority.

9. Copy of application.— The applicant shall provide a copy of the application filed under subsection (1) of section 94 or sub-section (1) of section 95, as the case may be, if not provided earlier, to the resolution professional within three days of his appointment under sub-section (5) of section 97, and to the Board for its record.

10. Filing of application and documents.—

(1) Till such time, rules of procedure for conduct of proceedings under the Code are notified, the applications under rules 6 and 7 shall be filed and dealt with by the Adjudicating Authority in accordance with —

(a) rules 20, 21, 22, 23, 24 and 26 of Part III of the National Company Law Tribunal Rules, 2016 made under section 469 of the Companies Act, 2013 (18 of 2013); or

(b) rule 3 of the Debt Recovery Tribunal (Procedure) Rules, 1993 made under section 36 of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993) and regulations 3, 4, 5 and 11 of the Debt Recovery Tribunal Regulations, 2015 made under section 22 of the Recovery of Debts and Bankruptcy Act, 1993, as the case may be.

(2) The application and accompanying documents shall be filed in electronic form, as and when such facility is made available and as directed by the Adjudicating Authority:

Provided that till such facility is made available, the applicant may submit accompanying documents, and wherever they are bulky, in electronic form, in scanned, legible portable document format in a data storage device such as compact disc or a USB flash drive acceptable to the Adjudicating Authority.

11. Withdrawal of application. —

(1) The Adjudicating Authority may permit withdrawal of the application submitted under rule 6 or rule 7, as the case may be,-

(a) before its admission, on a request made by the applicant;

(b) after its admission, on the request made by the applicant, if ninety per cent. of the creditors agree to such withdrawal.

(2) An application for withdrawal under clause (b) of sub-rule (1) shall be in Form D.

FORM A

[See rule 6(1)]

APPLICATION BY GUARANTOR TO INITIATE INSOLVENCY RESOLUTION PROCESS

[Under rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

[Date]

To

The Adjudicating Authority

[Address]

From

[Name and address of the guarantor]

In the matter of [name of the guarantor]

Subject: Application to initiate insolvency resolution process in respect of [name of the guarantor].

Madam/Sir,

I/We hereby submit this application to initiate an insolvency resolution process in respect of [name of guarantor]. The details for the purpose of this application are set out below

Part-I**PARTICULARS OF THE GUARANTOR**

1.	Title and full name				
2.	Date of birth and e-mail address				
3.	Any other name, if any, by which the guarantor is or has been known				
4.	Address: (i) Present (ii) Permanent (iii) Business				
5.	Occupation/ Business/ Profession				
6.	Annual income in the preceding financial year (in Rs.)				
7.	List of associates of the guarantor, including relatives, who are its creditors	Name	Age	Address	
8.	Bank account details (Joint and Several)	Account number	IFSC code	Name of Bank and Branch address	
9.	Identification number	Aadhaar number	Passport number	PAN	GSTIN
10.	Contact No.(s)	Home	Mobile	Business	

11.	<p>List of assets of guarantor and immediate family as on the application date.</p> <p>Note: This will include all assets of guarantor, irrespective of them being excluded assets. Please mention which assets may be excluded assets.</p>	Immovable	Description	Estimated value	Excluded asset or not
		Movable	Description	Estimated value	Excluded asset or not
		Vehicles			
		Shares in listed companies			
		Shares in other companies			
		Life insurance policy			
		Jewellery			
		Pension policy			
		Investment in mutual funds			
		Investment in other funds			
		Investment in partnerships and other business concerns			
		Any other movable property			

12.	Number of directorships held in the last three preceding years (along with name of company in which directorship is held) and CIN of such companies	
13.	Marital status (single, married, divorced, widowed, co-habiting, separated, or specify if any other)	
14.	Details regarding guarantee(s) given by guarantor (in addition to information in serial numbers 1-13 of this part)-	
	Name of corporate debtor for which guarantee is given	
	Any current or past position held in the corporate debtor	
	Identification number of corporate debtor	
	Whether corporate debtor is an associate	
	Any securities held in corporate debtor for whom guarantee is given	
	Whether the guarantee has been invoked and proof thereof.	
15.	Where the guarantor is not a resident in India, the name and address of the person authorised to accept the service of process on guarantor's behalf, along with the authority letter.	

Part – II

[Please complete this part if you have been self-employed, or a partner in a firm. If not, go to part III]

BUSINESS PARTICULARS OF GUARANTOR

1.	Name of business and form of business	
2.	Details of registration, if any	
3.	Description of business	
4.	Business address	
5.	Annual income of guarantor	
6.	If business organisation is a firm, mention the details below.	
(i)	Date of joining firm	
(ii)	Capital subscription as per latest balance sheet	
(iii)	Profit sharing as per latest balance sheet	
(iv)	Name, address and authority of person submitting application on behalf of the firm	

Part – III

PARTICULARS OF DEBT [CREDITOR WISE, AS APPLICABLE]			
1.	Name(s) of creditor(s)		
2.	Address	Present	Permanent
			Business
3.	Total debt (including any interest or penalties)		
4.	Amount of debt in default		
5.	Interest or penalties, if any		
6.	Date when the debt was due		
7.	Date when the default occurred		
8.	Nature of the debt		
9.	Name, address and other particulars of corporate debtor		
10.	Secured debt including particulars of security held, the date of its creation, estimated value of security as per the creditor and details of security		
11.	Unsecured debt		
12.	Details of retention of title arrangements (if any) in respect of goods to which the debt refers		
13.	Record of default with the information utility, if any		
14.	List of documents attached to this application in order to prove the existence of debt and the amount in default		

15. Statement by guarantor in respect of excluded debts

I [*guarantor*] hereby state that the debt(s) for which the insolvency resolution process application is filed does not include any-

(i) liability to pay fine imposed by a court or tribunal;

(ii) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation;

(iii) liability to pay maintenance to any person under any law for the time being in force;

(iv) liability in relation to a student loan;

(v) any other debt prescribed under section 79(15)(e) of the Code.

Part – IV

PARTICULARS OF & DECLARATION BY RESOLUTION PROFESSIONAL (IF APPLICATION FILED THROUGH RESOLUTION PROFESSIONAL)				
1.	Title and full name			
2.	Address	Present	Permanent	Business
3.	E-mail address(es)			
4.	Contact number	Home	Mobile	Business
5.	Declaration by resolution professional	<p>I, [<i>name of insolvency professional</i>], an insolvency professional enrolled with [<i>name of insolvency professional agency</i>] having registration number [<i>registration number</i>] have been proposed as the resolution professional by [<i>name of applicant guarantor</i>] in connection with the proposed insolvency resolution process of [<i>name of the guarantor</i>].</p> <p>I hereby:</p> <p>(i) agree to accept appointment as the resolution professional if an order of appointment is passed by the Adjudicating Authority;</p>		

(ii) state that the registration number allotted to me by the Board is [*insert registration number*] and that I am currently qualified to practice as an insolvency professional;

(iii) disclose that I am currently serving as an insolvency professional / resolution professional / liquidator/ bankruptcy trustee in [*insert number and details of the proceedings*];

(iv) certify that there are no disciplinary proceedings pending against me with the Board or [*name of the insolvency professional agency he is a member of*];

(v) affirm that I am eligible to be appointed as a resolution professional in respect of the guarantor in accordance with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019;

(vi) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 [*insert disclosures, if any*].

(Signature of the insolvency professional)

(Name in block letters)

[Name of the guarantor] has paid the requisite fee for this application through [state means of payment] on [date].

Yours sincerely,

DECLARATION

Signature of guarantor / person authorised to act on behalf of the guarantor [*Please enclose the authorisation document if this application is being submitted on behalf of the guarantor*]

Name in block letters

Address of person signing

I, [Name of applicant], currently residing at [insert address], hereby declare and state as follows:--

1. In respect of this application for insolvency resolution process, I have relied on the documents specified below: [Please list the documents relied on].
2. The contents of the said application along with the said documents are true, valid and genuine to the best of my knowledge, information and belief and nothing material facts have been concealed therefrom.

Date:

Place:

(Signature of the applicant)

VERIFICATION

I, [name of applicant], do hereby verify that the contents of this application are true and correct to my knowledge and belief. Nothing is false and no material has been concealed therefrom.

Verified at _____ on this _____ day of _____ 201__

(Signature of the Applicant)

ATTACHMENTS: List of documents to be appended to the application:

1. All documents mentioned in serial number 14 of Part III of this form.
2. Copy of the income tax returns with detailed computation of the income of the guarantor, or the firm, as the case may be, for the previous three years.
3. Copy of the personal guarantee contract.
4. Copies of entries in a bankers' book in accordance with the Bankers Books Evidence Act, 1891 (18 of 1891)
5. The latest and complete copy of the financial contract reflecting all amendments and waivers to date.
6. Copies of relevant ownership and title documents for all assets
7. Copy of the authorisation, wherever required under this form.
8. Proof that the application fee has been paid.
9. Documentary evidence of all information sought in each entry for each Part of the form.
10. A statement of affairs of the guarantor made up to a date not earlier than seven days from the date of the application including the following information and supporting documents, namely:-
 - (i) guarantor's assets (inclusive of assets which may be excluded assets) and liabilities for the previous three years;
 - (ii) secured and unsecured debts (inclusive of excluded debts mentioned in serial number 15 of Part III of the form) with names of the creditors, and all requisite details for the previous three years;
 - (iii) particulars of debt owed by guarantor to associates of the corporate debtor for the previous three years;
 - (iv) guarantees given in relation to any of the debts of the corporate debtor, and if any of the guarantors is an associate of the corporate debtor;
 - (v) financial statements with all annexures and schedules for the business owned by the guarantor,

CHAPTER IV

BANKRUPTCY ORDER FOR INDIVIDUALS AND PARTNERSHIP FIRMS

121. Application for bankruptcy. -

(1) An application for bankruptcy of a debtor may be made, by a creditor individually or jointly with other creditors or by a debtor, to the Adjudicating Authority in the following circumstances, namely;

(a) where an order has been passed by an Adjudicating Authority under sub-section 4 of section 100;-Rejection of Application

(b) where an order has been passed by an Adjudicating Authority under sub-section 2 of section 115;-Repayment plan rejected

(c) where an order has been passed by an Adjudicating Authority under sub-section 3 of section 118.-Repayment not fully implemented

(2) An application for bankruptcy shall be filed within a period of three months of the date of the order passed by the Adjudicating Authority under the sections referred to in subsection (1).

(3) Where the debtor is a firm, the application under sub-section (1) may be filed **by any of its partners**

122. Application by debtor. -

(1) The application for bankruptcy by the debtor shall be accompanied by -

(a) the records of insolvency resolution process undertaken under Chapter III of Part III;

(b) the statement of affairs of the debtor in such form and manner as may be prescribed, on the date of the application for bankruptcy; and

(c) a copy of the order passed by the Adjudicating Authority under Chapter III of Part III permitting the debtor to apply for bankruptcy.

(2) The debtor may propose an insolvency professional as the bankruptcy trustee in the application for bankruptcy.

(3) The application referred to in sub-section (1) shall be in such form and manner and accompanied by such fee as may be prescribed.

(4) An application for bankruptcy by the debtor shall not be withdrawn without the leave of the Adjudicating Authority.

123.Application by creditor. –

(1) The application for bankruptcy by the creditor shall be accompanied by-

(a) the records of insolvency resolution process undertaken under Chapter III;

(b) a copy of the order passed by the Adjudicating Authority under Chapter III permitting the creditor to apply for bankruptcy;

(c) details of the debts owed by the debtor to the creditor as on the date of the application for bankruptcy; and

(d) such other information as may be prescribed.

(2) An application under sub-section (1) made in respect of a debt which is secured, shall be accompanied with -

(a) a statement by the creditor having the right to enforce the security that he shall, in the event of a bankruptcy order being made, give up his security for the benefit of all the creditors of the bankrupt; or

(b) a statement by the creditor stating—

(i) that the application for bankruptcy is only in respect of the unsecured part of the debt; and

(ii) an estimated value of the unsecured part of the debt.

(3) If a secured creditor makes an application for bankruptcy and submits a statement under clause (b) of sub-section (2), the secured and unsecured parts of the debt shall be treated as separate debts.

(4) The creditor may propose an insolvency professional as the bankruptcy trustee in the application for bankruptcy.

(5) An application for bankruptcy under sub-section (1), in case of a deceased debtor, may be filed against his legal representatives.

(6) The application for bankruptcy shall be in such form and manner and accompanied by such fee as may be prescribed.

(7) An application for bankruptcy by the creditor shall not be withdrawn without the permission of the Adjudicating Authority.

124. Effect of application. -

(1) When an application is filed under sections 122 or 123 –

(a) an interim-moratorium shall commence on the date of the making of the application on all actions against the properties of the debt or in respect of his debts and such moratorium shall cease to have effect on the bankruptcy commencement date; and

(b) during the interim-moratorium period -

(i) any pending legal action or legal proceeding against any property of the debtor in respect of any of his debts shall be deemed to have been stayed;

(ii) the creditors of the debtor shall not be entitled to initiate any legal action or legal proceedings against any property of the debtor in respect of any of his debts.

(1) Where the application has been made in relation to a firm, the interim moratorium under sub-section (1) shall operate against all the partners of the firm as on the date of the making of the application.

(2) The provisions of this section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

125. Appointment of insolvency professional as bankruptcy trustee. –

(1) If an insolvency professional is proposed as the bankruptcy trustee in the application for bankruptcy under section 122 or section 123, the Adjudicating Authority shall direct the Board within seven days of receiving the application for bankruptcy to confirm that there are no disciplinary proceedings against such professional.

(2) The Board shall within ten days of the receipt of the direction under sub-section

(3) in writing either –

(a) confirm the appointment of the proposed insolvency professional as the bankruptcy trustee for the bankruptcy process; or

(b) reject the appointment of the proposed insolvency professional as the bankruptcy trustee and nominate another bankruptcy trustee for the bankruptcy process.

(3) Where a bankruptcy trustee is not proposed by the debtor or creditor under section 122 or 123, the Adjudicating Authority shall direct the Board within seven days of receiving the application to nominate a bankruptcy trustee for the bankruptcy process.

(4) The Board shall nominate a bankruptcy trustee within ten days of receiving the direction of the Adjudicating Authority under sub-section (3).

(5) The bankruptcy trustee confirmed or nominated under this section shall be appointed as the bankruptcy trustee by the Adjudicating Authority in the bankruptcy order under section 126.

126. Bankruptcy order. –

(1) The Adjudicating Authority shall pass a bankruptcy order within fourteen days of receiving the confirmation or nomination of the bankruptcy trustee under section 125.

(2) The Adjudicating Authority shall provide the following documents to bankrupt, creditors and the bankruptcy trustee within seven days of the passing of the bankruptcy order, namely:

-

(a) a copy of the application for bankruptcy; and

(b) a copy of the bankruptcy order.

127. Validity of bankruptcy order.

The bankruptcy order passed by the Adjudicating Authority under section 126 shall continue to have effect till the debtor is discharged under section 138.

128. Effect of bankruptcy order. -

(1) On the passing of the bankruptcy order under section 126, –

(a) the estate of the bankrupt shall vest in the bankruptcy trustee as provided in section 154;

(b) the estate of the bankrupt shall be divided among his creditors;

(c) subject to provisions of sub-section (2), a creditor of the bankrupt indebted in respect of any debt claimed as a bankruptcy debt shall not–

(i) initiate any action against the property of the bankrupt in respect of such debt; or

(ii) commence any suit or other legal proceedings except with the leave of the Adjudicating Authority and on such terms as the Adjudicating Authority may impose.

(2) Subject to the provisions of section 123, the bankruptcy order shall not affect the right of any secured creditor to realize or otherwise deal with his security interest in the same manner as he would have been entitled if the bankruptcy order had not been passed: Provided that no secured creditor shall be entitled to any interest in respect of his debt after the bankruptcy commencement date if he does not take any action to realise his security within thirty days from the said date.

(3) Where a bankruptcy order under section 126 has been passed against a firm, the order shall operate as if it were a bankruptcy order made against each of the individuals who, on the date of the order, is a partner in the firm.

(4) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

129. Statement of financial position. -

(1) Where a bankruptcy order is passed on the application for bankruptcy by a creditor under section 123, the bankrupt shall submit his statement of financial position to the bankruptcy trustee within seven days from the bankruptcy commencement date.

(2) The statement of financial position shall be submitted in the such form and manner as may be prescribed.

(3) Where the bankrupt is a firm, its partners on the date of the order shall submit a joint statement of financial position of the firm, and each partner of the firm shall submit a statement of his financial position.

(4) The bankruptcy trustee may require the bankrupt or any other person to submit in writing further information explaining or modifying any matter contained in the statement of financial position

130. Public notice inviting claims from creditors. –

(1) The Adjudicating Authority shall–

(a) send notices within ten days of the bankruptcy commencement date, to the creditors mentioned in -

(i) the statement of affairs submitted by the bankrupt under section 129; or

(ii) the application for bankruptcy submitted by the bankrupt under section 122.

(b) issue a public notice inviting claims from creditors.

(2) The public notice under clause (b) of sub-section (1) shall include the last date up to which the claims shall be submitted and such other matters and details as may be prescribed and shall be -

(a) published in leading newspapers, one in English and another in vernacular having sufficient circulation where the bankrupt resides;

(b) affixed on the premises of the Adjudicating Authority; and

(c) placed on the website of the Adjudicating Authority.

(3) The notice to the creditors referred to under clause (a) of sub-section (1) shall include such matters and details as may be prescribed.

131. Registration of claims. –

(1) The creditors shall register claims with the bankruptcy trustee within seven days of the publication of the public notice, by sending details of the claims to the bankruptcy trustee in such manner as may be prescribed.

(2) The creditor, in addition to the details of his claims, shall provide such other information and in such manner as may be prescribed.

132. Preparation of list of creditors. –

The bankruptcy trustee shall, within fourteen days from the bankruptcy commencement date, prepare a list of creditors of the bankrupt on the basis of -

a. the information disclosed by the bankrupt in the application for bankruptcy filed by the bankrupt under section 118 and the statement of affairs filed under section 125; and

b. claims received by the bankruptcy trustee under sub-section (2) of section 130.

133. Summoning of meeting of creditors. -

(1) The bankruptcy trustee shall, within twenty-one days from the bankruptcy commencement date, issue a notice for calling a meeting of the creditors, to every creditor of the bankrupt as mentioned in the list prepared under section 132.

(2) The notices issued under sub-section (1) shall -

(a) state the date of the meeting of the creditors, which shall not be later than twenty one days from the bankruptcy commencement date;

(b) be accompanied with forms of proxy voting;

(c) specify the form and manner in which the proxy voting may take place.

(3) The proxy voting, including electronic proxy voting shall take place in such manner and form as may be specified.

134. Conduct of meeting of creditors. -

(1) The bankruptcy trustee shall be the **convener** of the meeting of the creditors summoned under section 133.

(2) The bankruptcy trustee shall decide the quorum for the meeting of the creditors, and conduct the meeting only if the quorum is present.

(3) The following business shall be conducted in the meeting of the creditors in which regard a resolution may be passed, namely: –

(a) the establishment of a committee of creditors;

(b) any other business that the bankruptcy trustee thinks fit to be transacted.

(4) The bankruptcy trustee shall cause the minutes of the meeting of the creditors to be recorded, signed and retained as a part of the records of the bankruptcy process.

(5) The bankruptcy trustee shall not adjourn the meeting of the creditors for any purpose for more than seven days at a time

135. Voting rights of creditors. -

(1) Every creditor mentioned in the list under section 132 or his proxy shall be entitled to vote in respect of the resolutions in the meeting of the creditors in accordance with the voting share assigned to him.

(2) The resolution professional shall determine the voting share to be assigned to each creditor in the manner specified by the Board.

(3) A creditor shall not be entitled to vote in respect of a debt for an unliquidated amount.

(4) The following creditors shall not be entitled to vote under this section, namely: –

(a) creditors who are not mentioned in the list of creditors under section 132 and those who have not been given a notice by the bankruptcy trustee;

(b) creditors who are associates of the bankrupt.

136. Administration and distribution of estate of bankrupt. –

The bankruptcy trustee shall conduct the administration and distribution of the estate of the bankrupt in accordance with the provisions of Chapter V.

137. Completion of administration. -

(1) The bankruptcy trustee shall convene a meeting of the committee of creditors on completion of the administration and distribution of the estate of the bankrupt in accordance with the provisions of Chapter V.

(2) The bankruptcy trustee shall provide the committee of creditors with a report of the administration of the estate of the bankrupt in the meeting of the said committee.

(3) The committee of creditors shall approve the report submitted by the bankruptcy trustee under sub-section (2) within seven days of the receipt of the report and determine whether the bankruptcy trustee should be released under section 148.

(4) The bankruptcy trustee shall retain sufficient sums from the estate of the bankrupt to meet the expenses of convening and conducting the meeting required under this section during the administration of the estate.

138. Discharge order. -

(1) The bankruptcy trustee shall apply to the Adjudicating Authority for a discharge order –

(a) on the expiry of one year from the bankruptcy commencement date; or

(b) within seven days of the approval of the committee of creditors of the completion of administration of the estates of the bankrupt under section 137, where such approval is obtained prior to the period mentioned in clause (a).

(2) The Adjudicating Authority shall pass a discharge order on an application by the bankruptcy trustee under sub-section (1).

(3) A copy of the discharge order shall be provided to the Board, for the purpose of recording an entry in the register referred to in section 196.

139. Effect of discharge. –

The discharge order under sub-section (2) of section 138 shall release the bankrupt from all the bankruptcy debts:

Provided that a discharge shall not –

- a. affect the functions of the bankruptcy trustee; or
- b. affect the operation of the provisions of Chapter IV and V of Part III:
- c. release the bankrupt from any debt incurred by means of fraud or breach of trust to which he was a party; or
- d. discharge the bankrupt from any excluded debt.

140. Disqualification of bankrupt. -

(1)The bankrupt shall, from the bankruptcy commencement date, be subject to the disqualifications mentioned in this section.

(2)In addition to any disqualification under any other law for the time being in force, a bankrupt shall be disqualified from–

- (a) being appointed or acting as a trustee or representative in respect of any trust, estate or settlement;
- (b) being appointed or acting as a public servant;

(c) being elected to any public office where the appointment to such office is by election;
and

(d) being elected or sitting or voting as a member of any local authority.

(3) Any disqualification to which a bankrupt may be subject under this section shall cease to have effect, if –

(a) the bankruptcy order against him is modified or recalled under section 142; or

(b) he is discharged under section 138.

Explanation. - For the purposes of this section, the term “public servant” shall have the same meaning as assigned to it in section 21 of the Indian Penal Code, 1860 (45 of 1860).

141. Restrictions on bankrupt. -

(1) A bankrupt, from the bankruptcy commencement date, shall, –

(a) not act as a director of any company, or directly or indirectly take part in or be concerned in the promotion, formation or management of a company;

(b) without the previous sanction of the bankruptcy trustee, be prohibited from creating any charge on his estate or taking any further debt;

(c) be required to inform his **business partners** that he is undergoing a bankruptcy process;

(d) prior to entering into any financial or commercial transaction of such value as may be prescribed, either individually or jointly, inform all the parties involved in such transaction that he is undergoing a bankruptcy process;

(e) without the previous sanction of the Adjudicating Authority, be incompetent to maintain any legal action or proceedings in relation to the bankruptcy debts; and

(f) not be permitted to travel overseas without the permission of the Adjudicating Authority.

(2) Any restriction to which a bankrupt may be subject under this section shall cease to have effect, if

(a) the bankruptcy order against him is modified or recalled under section 142; or

(b) he is discharged under section 138.

142. Modification or recall of bankruptcy order. -

(1) The Adjudicating Authority may, on an application or suo motu, modify or recall a bankruptcy order, whether or not the bankrupt is discharged, if it appears to the Adjudicating Authority that —

(a) there exists an error apparent on the face of such order; or

(b) both the bankruptcy debts and the expenses of the bankruptcy have, after the making of the bankruptcy order, either been paid for or secured to the satisfaction of the Adjudicating Authority.

(1) Where the Adjudicating Authority modifies or recalls the bankruptcy order under this section, any sale or other disposition of property, payment made or other things duly done by the bankruptcy trustee shall be valid except that the property of the bankrupt shall vest in such person as the Adjudicating Authority may appoint or, in default of any such appointment, revert to the bankrupt on such terms as the Adjudicating Authority may direct.

(2) A copy of the order passed by the Adjudicating Authority under sub-section (1) shall be provided to the Board, for the purpose of recording an entry in the register referred to in section 191.

(4) The modification or recall of the order by the Adjudicating Authority under subsection (1) shall be binding on all creditors so far as it relates to any debts due to them which form a part of the bankruptcy.

143. Standard of conduct. –

The bankruptcy trustee shall perform his functions and duties in compliance with the code of conduct provided under section 208.

144. Fees of bankruptcy trustee. -

(1) A bankruptcy trustee appointed for conducting the bankruptcy process shall charge such fees as may be specified in proportion to the value of the estate of the bankrupt.

(2) The fees for the conduct of the bankruptcy process shall be paid to the bankruptcy trustee from the distribution of the estate of the bankrupt in the manner provided in section 178.

145. Replacement of bankruptcy trustee. -

(1) Where Committee of creditors is of the opinion that at any time during the bankruptcy process, a bankruptcy trustee appointed under section 125 is required to be replaced, it may replace him with another bankruptcy trustee in the manner provided under this section.

(2) The Committee of creditors may, at a meeting, by a vote of seventy-five per cent. of voting share, propose to replace the bankruptcy trustee appointed under section 125 with another bankruptcy trustee.

(3)The Committee of creditors may apply to the Adjudicating Authority for the replacement of bankruptcy trustee.

(4)The Adjudicating Authority shall within seven days of the receipt of the application under sub-section (3) direct the Board to recommend for replacement of bankruptcy trustee.

(5)The Board shall, within ten days of the direction of the Adjudicating Authority under sub-section (4), recommend a bankruptcy trustee for replacement against whom no disciplinary proceedings are pending.

(6)The Adjudicating Authority shall, by an order, appoint the bankruptcy trustee as recommended by the Board under sub-section (5) within fourteen days of receiving such recommendation.

(7)The earlier bankruptcy trustee shall deliver possession of the estate of the bankrupt to the bankruptcy trustee appointed under sub-section (6), on the date of his appointment.

(8) The Adjudicating Authority may give directions to the earlier bankruptcy trustee-

(a) to share all information with the new bankruptcy trustee in respect of the 34 bankruptcy process; and

(b) to co-operate with the new bankruptcy trustee in such matters as may be required.

(9) The earlier bankruptcy trustee replaced under this section shall be released in accordance with the provisions of section 148.

(10) The bankruptcy trustee appointed under this section shall give a notice of his appointment to the bankrupt within seven days of his appointment.

146. Resignation by bankruptcy trustee. -

(1) A bankruptcy trustee may resign if -

(a) he intends to cease practising as an insolvency professional; or

(b) there is conflict of interest or change of personal circumstances which preclude the further discharge of his duties as a bankruptcy trustee.

(2) The Adjudicating Authority shall, within seven days of the acceptance of the resignation of the bankruptcy trustee, direct the Board for his replacement.

(3) The Board shall, within ten days of the direction of the Adjudicating Authority under sub-section (2) recommend another bankruptcy trustee as a replacement.

(4) The Adjudicating Authority shall appoint the bankruptcy trustee recommended by the Board under sub-section (3) within fourteen days of receiving the recommendation.

(5)The replaced bankruptcy trustee shall deliver possession of the estate of the bankrupt to the bankruptcy trustee appointed under sub-section (4), on the date of his appointment.

(6)The Adjudicating Authority may give directions to the bankruptcy trustee who has resigned -

(a)to share all information with the new bankruptcy trustee in respect of the bankruptcy process; and

(b) to co-operate with the new bankruptcy trustee in such matters as may be required.

(7)The bankruptcy trustee appointed under this section shall give a notice of his appointment to the committee of creditors and the bankrupt within seven days of his appointment.

(8)The bankruptcy trustee replaced under this section shall be released in accordance with the provisions of section 148.

147. Vacancy in office of bankruptcy trustee. -

(1) If a vacancy occurs in the office of the bankruptcy trustee for any reason other than his replacement or resignation, the vacancy shall be filled in accordance with the provisions of this section.

(2) In the event of the occurrence of vacancy referred to in sub-section (1), the Adjudicating Authority shall direct the Board for replacement of a bankruptcy trustee.

(3) The Board shall, within ten days of the direction of the Adjudicating Authority under sub-section (2), recommend a bankruptcy trustee as a replacement.

(4) The Adjudicating Authority shall appoint the bankruptcy trustee recommended by the Board under sub-section (3) within fourteen days of receiving the recommendation.

(5) The earlier bankruptcy trustee shall deliver possession of the estate of the bankrupt to the bankruptcy trustee appointed under sub-section (4), on the date of his appointment.

(6) The Adjudicating Authority may give directions to the bankruptcy trustee who has vacated the office -

(a) to share all information with the new bankruptcy trustee in respect of the bankruptcy;

(b) to co-operate with the new bankruptcy trustee in such matters as may be required.

(7) The bankruptcy trustee appointed under sub-section (4) shall give a notice of his appointment to the committee of creditors and the bankrupt within seven days of his appointment.

(8) The earlier bankruptcy trustee replaced under this section shall be released in accordance with the provisions of section 148:

Provided that this section shall not apply if the vacancy has occurred due to temporary illness or temporary leave of the bankruptcy trustee.

148. Release of bankruptcy trustee. -

(1) A bankruptcy trustee shall be released from his office with effect from the date on which the Adjudicating Authority passes an order appointing a new bankruptcy trustee in the event of replacement, resignation or occurrence of vacancy under sections 145, 146 or 147, as the case may be.

(2) Notwithstanding the release under sub-section (1), the bankruptcy trustee who has been so released, shall share all information with the new bankruptcy trustee in respect of the bankruptcy process and co-operate with the new bankruptcy trustee in such matters as may be required.

(3) A bankruptcy trustee who has completed the administration of the bankruptcy process shall be released of his duties with effect from the date on which the committee of creditors approves the report of the bankruptcy trustee under section 137.

MINISTRY OF CORPORATE AFFAIRS

PART II—SEC. 3(1)

NOTIFICATION

NEW DELHI, THE 15TH NOVEMBER,

2019

1. Short title and commencement.—

- (1) These rules may be called the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019.
- (2) They shall come into force from the 1st day of December, 2019.

2. Application.— These rules shall apply to matters relating to bankruptcy of personal guarantors to corporate debtors.

3. Definitions.—

- (1) In these rules, unless the context otherwise requires, -
 - (a) “Adjudicating Authority” means-
 - (i) for the purpose of section 60, the National Company Law Tribunal constituted under section 408 of the Companies Act, 2013 (18 of 2013); or
 - (ii) in cases other than sub-clause (i), the Debt Recovery Tribunal established under subsection (1A) of section 3 of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993);
 - (b) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
 - (c) “electronic form” shall have the meaning assigned to it in clause (r) of section 2 of the Information Technology Act, 2000 (21 of 2000);
 - (d) “electronic means” means an authorized and secured computer programme which is capable of producing confirmation of sending communication to the participant entitled to receive such communication at the last electronic mail address provided by such participant and keeping record of such communication;
 - (e) “form” means a form appended to these rules;

(f) “guarantor” means a debtor who is a personal guarantor to a corporate debtor and in respect of whom guarantee has been invoked by the creditor and remains unpaid in full or part;

(g) “section” means section of the Code;

(h) “serve” means sending any communication by any means, including registered post, speed post, courier or electronic means, which is capable of producing or generating an acknowledgement of receipt of such communication:

Provided that where a document cannot be served in any of the modes, it shall be affixed at the outer door or some other conspicuous part of the house or building in which the addressee ordinarily resides or carries on business or personally works for gain.

(2) Words and expressions used and not defined in these rules, but defined under the Code, shall have the meanings respectively assigned to them in the Code.

4. Relatives.— For the purposes of clause (ii) of Explanation to sub-section (2) of section 79, the manner of relationship shall mean the manner as provided in the Explanation to clause (24A) of section 5.

5. Excluded assets.— For the purposes of sub-section (14) of section 79, —

(a) the value of unencumbered personal ornaments under clause (c) of the said sub-section shall not exceed one lakh rupees;

(b) the value of unencumbered single dwelling unit owned by the debtor under clause (e) of the said sub-section shall not exceed, —

- (i) in the case of dwelling unit in an urban area, twenty lakh rupees;
- (ii) in the case of dwelling unit in rural area, ten lakh rupees.

Explanation.- For the purposes of this rule,-

- (a) “rural area” shall have the same meaning as assigned to it in clause (o) of section 2 of the National Rural Employment Guarantee Act, 2005 (42 of 2005);
- (b) “urban area” means any area other than rural area.

6. Application by guarantor.—

- (1) The application under sub-section (1) of section 122 shall be submitted in Form A, along with an application fee of two thousand rupees.
- (2) The guarantor shall serve forthwith a copy of the application referred to in sub-rule (1) to every creditor and the corporate debtor for whom the guarantor is a personal guarantor.

7. Application by creditor.—

- (1) The application under sub-section (1) of section 123 shall be submitted in Form B, along with a fee of two thousand rupees.
- (2) The creditor shall serve forthwith a copy of the application referred to in sub-rule (1) to the guarantor and the corporate debtor for whom the guarantor is a personal guarantor.
- (3) In case of a joint application, the creditors may nominate one amongst themselves to act on behalf of all the creditors.

8. Confirmation or nomination of insolvency professional.—

- (1) For the purposes of sub-section (2) of section 125 and sub-section (5) of section 145, the Board may share the database of the insolvency professionals, including information about disciplinary proceedings against them, with the Adjudicating Authority from time to time.
- (2) For the purposes of sub-section (4) of section 125, sub-section (3) of section 146 and sub-section (3) of section 147, the Board may share a panel of insolvency professionals, who may be appointed as bankruptcy trustee, with the Adjudicating Authority.

9. Public notice. —

- (1) The Adjudicating Authority shall issue a public notice inviting claims from all creditors of the bankrupt, under clause (b) of sub-section (1) of section 130, in Form C.
- (2) The Adjudicating Authority may direct the bankruptcy trustee to issue the public notice referred to in sub-rule (1), instead of issuing such notices itself.

10. Notice to creditors.—

- (1) The Adjudicating Authority shall send notices to the creditors as per clause (a) of sub-section (1) of section 130, in Form D.
- (2) The Adjudicating Authority may direct the bankruptcy trustee to issue the notices referred to in sub-rule (1), instead of issuing such notices itself.

11. Statement of financial position. — The statement of financial position referred to in sub-section (2) of section 129 shall be submitted by the bankrupt, in Form E.

12. Claim with proof.—

- (1) A creditor shall submit a claim with proof to the bankruptcy trustee on or before the last date mentioned in the public notice, in Form F.
- (2) Form F shall be submitted by the creditor through electronic means or by registered post or speed post or courier.
- (3) A creditor who fails to submit claim with proof as per sub-rule (1) within the time stipulated in the public notice, may submit such proof to the bankruptcy trustee till the final date referred to in subsection (2) of section 176.
- (4) The creditor shall bear the costs relating to the proof of claim.

13. Notice of dividend.—

- (1) The notice of dividend as per clause (a) of sub-section (1) of section 176 shall contain the following particulars:
 - (a) the date on which the dividend is proposed to be distributed;
 - (b) the list of creditors who shall be entitled to a dividend;
 - (c) the amount of dividend for each creditor under clause (b);
 - (d) request for any details required from the creditors for the distribution of dividend, and the last date for receipt of such information;
 - (e) the last date by which the creditors must establish their claim against the estate with the bankruptcy trustee; and
 - (f) a statement confirming that no further dividends shall be declared.
- (2) The notice under clause (b) of sub-section (1) of section 176 shall provide the reasons for not declaring dividend.
- (3) The notice of dividend under sub-section (1) section 176 shall be sent thirty days prior to the date

14. Copy of application.— On the appointment of the bankruptcy trustee, nominated by the Board, under sub-section (5) of section 125 by the Adjudicating Authority, a copy of the application as referred to in rule 6 and rule 7, if not provided earlier, shall be provided to such bankruptcy trustee by the Adjudicating Authority within three days of the appointment.

15. Restriction on bankrupt.—The restriction on the bankrupt under clause (d) of sub-section (1) of section 141 shall be applicable for any financial or commercial transaction of one lakh rupees and above.

16. Filing of application and documents.—

(1) Till such time, rules of procedure for conduct of proceedings under the Code are notified, the applications under rules 6 and 7 shall be filed and dealt with by the Adjudicating Authority in accordance with —

- (i) rules 20, 21, 22, 23, 24 and 26 of Part III of the National Company Law Tribunal Rules, 2016 made under section 469 of the Companies Act, 2013 (18 of 2013); or
- (ii) rule 3 of the Debt Recovery Tribunal (Procedure) Rules, 1993 made under section 36 of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993) and regulations 3, 4, 5 and 11 of the Debt Recovery Tribunal Regulations, 2015 made under section 22 of the Recovery of Debts and Bankruptcy Act, 1993, as the case may be.

(2) The application and accompanying documents shall be filed in electronic form, as and when such facility is made available and as directed by the Adjudicating Authority:

Provided that till such facility is made available, the applicant may submit accompanying documents, and wherever they are bulky, in electronic form, in scanned, legible portable document format in a data storage device such as compact disc or a USB flash drive acceptable to the Adjudicating Authority.

FORM A
[See rule 6(1)]

APPLICATION BY GUARANTOR TO INITIATE BANKRUPTCY PROCESS.

[Under rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

[Date]

To,
The Adjudicating Authority
[Address]

From,
[Name and address of the guarantor]
In the matter of [name of the guarantor]

Subject: Application to initiate bankruptcy process in respect of [name of the guarantor].

Madam/Sir,

I/ We hereby submit this application to initiate a bankruptcy process in respect of [name of guarantor]. The details for the purpose of this application are set out below-

Part I

PARTICULARS OF THE GUARANTOR					
1.	Title and full name				
2.	Date of birth and e-mail address				
3.	Any other name by which the debtor is or has been known (as applicable)				
4.	Address (i) Present (ii) Permanent (iii) Business				
5.	Occupation/ Business/ Profession				
6.	Annual income in the preceding year (in Rupees)				
7.	List of associates of the <i>guarantor</i> , including relatives, who may be creditors	Name	Age	Address	
8.	Bank account details (Joint and Several)	Account number	IFSC code	Name of Branch and Branch address	
9.	Identification numbers	Aadhaar number	Passport number	PAN	GSTIN

10.	Contact number(s)	Home		Mobile		Business			
11.	List of assets of guarantor and immediate family as on the application date. Note: this will include all assets, irrespective of them being excluded assets. Please mention which assets are the excluded assets.	Immovable		Description		Estimated value		Excluded asset or not	
		Movable		Description		Estimated value		Excluded asset or not	

		Vehicles				
		Shares in listed companies				
		Shares in other companies				
		Life insurance policy				
		Jewellery				
		Pension policy				
		Investment in mutual funds				
		Investment in other funds				
		Investment in partnerships and other business concerns				

12.	Number of directorships held in the last three years (along with name of company in which directorship is held and Directors Identification Number) and CIN of such companies	
13.	Marital status (single, married, divorced, widowed, co-habiting, separated, or specify any other)	
14.	Details regarding guarantee given by guarantor (in addition to information in serial number 1-13 of this part)	
	Name of corporate debtor for which guarantee is given	
	Any current or past position held in the corporate debtor	
	Identification number of the corporate debtor	
	Whether corporate debtor is an associate as per section 79(2) of the Code (state how)	

12.	Number of directorships held in the last three years (along with name of company in which directorship is held and Directors Identification Number) and CIN of such companies	
13.	Marital status (single, married, divorced, widowed, co-habiting, separated, or specify any other)	
14.	Details regarding guarantee given by guarantor (in addition to information in serial number 1-13 of this part)	
	Name of corporate debtor for which guarantee is given	
	Any current or past position held in the corporate debtor	
	Identification number of the corporate debtor	
	Whether corporate debtor is an associate as per section 79(2) of the Code (state how)	
	Any securities held in corporate debtor for whom guarantee is given	
15.	Where the guarantor is not a resident in India, the name and address of the person authorized to accept the service of process on guarantor's behalf, along with the authority	

Part – II

[Please complete this Part if you have been self-employed, or a partner in a firm. If not, go to Part III.]

BUSINESS PARTICULARS OF GUARANTOR		
1.	Name of business and form of business	
2.	Details of registration, if any	
3.	Description of business	
4.	Business address	
5.	Annual income of guarantor	
6.	If business organization is a firm, details mentioned below:	
(i)	Date of joining firm	
(ii)	Capital subscription as per latest balance sheet	
(iii)	Profit sharing as per latest balance sheet	
(iv)	Name, address and authority of person submitting application on behalf of the firm	
7.	Commencement date of business and date of close of operations (if applicable)	
8.	Address where books of accounts / accounting records are kept (including soft copy records)	
9.	Whether employees to whom debt owed (state yes or no, and if yes, details to be mentioned in Part III)	

Part – III

PARTICULARS OF DEBT [CREDITOR WISE, AS APPLICABLE]				
1.	Name(s) of creditor(s)			
2.	Address	Present	Permanen t	Business
3.	Total debt (including any interest or penalties)			
4.	Amount of debt in default			
5.	Interest or penalties, if any			
6.	Date when the debt was due			
7.	Date when the default occurred			
8.	Nature of the debt			
9.	Secured debt including particulars of security held, the date of its creation, estimated value of security as per the creditor			
10.	Unsecured debt			
11.	Details of retention of title arrangements (if any) in respect of goods to which the debt refers			
12.	Record of default with the information utility, if any			

13.	List of documents attached to this application in order to prove the existence of debt and the amount in default	
14.	Statement by guarantor in respect of excluded debts	<p>I [guarantor] hereby state that the debt(s) for which the bankruptcy process application is filed does not include any-</p> <ul style="list-style-type: none"><li data-bbox="1663 475 2407 576">(i) liability to pay fine imposed by a court or tribunal;<li data-bbox="1663 589 2407 811">(ii) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation;<li data-bbox="1663 823 2407 982">(iii) liability to pay maintenance to any person under any law for the time being in force;<li data-bbox="1663 995 2407 1096">(iv) liability in relation to a student loan;<li data-bbox="1663 1109 2407 1210">(v) any other debt prescribed under section 79(15)(e) of the Code.

Part – IV

PARTICULARS OF & DECLARATION BY INSOLVENCY PROFESSIONAL (IF PROPOSED TO ACT AS BANKRUPTCY TRUSTEE)				
1.	Title and full name			
2.	Address	Present	Permanen t	Business
3.	E-mail address(es)			
4.	Contact number	Home	Mobile	Business
5.	Declaration by insolvency professional	<p>I, [name of insolvency professional], an insolvency professional registered with [name of insolvency professional agency] having registration number [registration number] have been proposed as the insolvency professional by [name of applicant guarantor] in connection with the proposed bankruptcy process of [name of the guarantor].</p>		

I hereby:

- (i) agree to accept appointment as the insolvency professional if an order of appointment is passed by the Adjudicating Authority;
- (ii) state that the registration number allotted to me by the Board is [insert registration number] and that I am currently qualified to practice as an insolvency professional;
- (iii) disclose that I am currently serving as an insolvency professional / resolution professional / liquidator/ bankruptcy trustee in [insert number and details of the proceedings];
- (iv) certify that there are no disciplinary proceedings pending against me with the Board or [name of the insolvency professional agency he is a member of];
- (v) affirm that I am eligible to be appointed as an insolvency professional in respect of the debtor in accordance with Regulation 3 of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019;
- (vi) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 [insert disclosures, if any].

(Signature of the insolvency professional)

Yours sincerely,

Signature of guarantor / person authorized to act on behalf of the guarantor [Please enclose the authorisation document if this application is being submitted on behalf of the guarantor]

Name in block letters

Address of person signing

DECLARATION

I, [Name of applicant], currently residing at [insert address], hereby declare and state as follows:

1. In respect of my application for bankruptcy, I have relied on the documents specified below: [Please list the documents relied on].
2. The contents of the said application along with the said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.

Date:

Place:

(Signature of the applicant)

VERIFICATION

I, [name of applicant], do hereby verify that the contents of this application are true and correct to my knowledge and belief. Nothing is false and nothing material has been concealed therefrom.

Verified at _____ on this _____ day of _____ 20__

Applicant's signature.

ATTACHMENTS: List of documents to be appended to the application:

1. All records of the insolvency resolution process in respect of the guarantor, including the following-
 - (i) Application for the insolvency resolution process;
 - (ii) Order(s) of the Adjudicating Authority-
 - (a) accepting / rejecting the application under serial number (i) above under section 100 of the Code, as the case may be;
 - (b) approving / rejecting the repayment plan under section 114 of the Code, as the case may be;
 - (c) declaring that the repayment plan has not been fully implemented under section 118 and entitling the debtor to apply for bankruptcy, as the case may be;
 - (d) any other order that may have been passed by the Adjudicating Authority in relation to the insolvency resolution process.
2. All documents mentioned in serial number 13 of Part III of this form.
3. Copy of the income tax returns with detailed computation of the income of the guarantor, or the firm, as the case may be, for the previous three years.
4. Copy of the personal guarantee contract.
5. Copies of entries in a bankers book in accordance with the Bankers Books Evidence Act, 1891 (18 of 1891)
6. The latest and complete copy of the financial contract reflecting all amendments and waivers to date.
7. Copies of relevant ownership and title documents for all assets.
8. Copy of the authorisation, wherever required under this form.
9. Proof that the application fee has been paid.
10. Documentary evidence of all information sought in each entry for each part of the form.

11. A statement of affairs of the guarantor made up to a date not earlier than two days from the date of the application including the following information and supporting documents, namely-

- (i) debtor's assets (inclusive of excluded assets) and liabilities for the previous three years;
- (ii) secured and unsecured debts (inclusive of excluded debts mentioned in serial number 14 of Part III of the form) with names of the creditors, and all requisite details for the previous three years;
- (iii) particulars of debt owed by guarantor to associates of the guarantor for the previous three years;
- (iv) guarantees given in relation to any of the debts of the guarantor, and if any of the guarantors is an associate of the guarantor;
- (v) financial statements with all annexures and schedules for the business owned by the guarantor, or of the firm in which the guarantor is a partner, as the case may be, for the previous three years, if applicable;
- (vi) wealth tax statements filed by the guarantor, if any, for the previous five years.
- (vii) Income statement of the guarantor, for the previous three years.
- (viii) Payment of indirect taxes including GST for the previous three years.

FORM B

[See rule 7(1)]

APPLICATION BY CREDITOR TO INITIATE BANKRUPTCY PROCESS

[Under rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

[Date].....

To,

The Adjudicating Authority

[Address]

From,

[Name and address of the creditor]

In the matter of *[name of the guarantor]*

Subject: Application to initiate bankruptcy process in respect of *[name of the guarantor]* under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

[Name of the creditor], hereby submits this application to initiate a bankruptcy process in the case of *[name of guarantor]*. The details for the purpose of this application are set out below:

Part - I

PARTICULARS OF APPLICANT

PARTICULARS OF APPLICANT					
1.	Title and full name				
2.	Date of birth and e-mail address				
3.	Contact number(s)	Home	Mobile	Business	
4.	Identification number of creditor	Aadhaar number	CIN	PAN	GSTIN
5.	Address	Present	Permanent	Business	

Part – II

PARTICULARS OF THE GUARANTOR

1.	Title and full name			
2.	Date of birth and e-mail address (to the extent known)			
3.	Any other name by which the guarantor is or has been known (as applicable) (to the extent known)			
4.	Address	Present	Permanent	Business
5.	Occupation/ Business/ Profession			
6.	Annual income (to the extent known)			
7.	List of associates of the guarantor, including relatives, who may be creditors (to the extent known)	Name	Age	Address

8.	Bank account details (Joint and Several)	Account number	IFSC code		Name of the Bank and Branch address
9.	Identification numbers	Aadhaar number	Passport number	PAN	GSTIN
10.	Contact number(s)	Home	Mobile	Business	
11.	List of assets of guarantor as on the application date (to the extent known) Note: this will include all assets of debtor, irrespective of them being excluded assets.	Immovable	Description	Estimated value	Excluded asset or not
		Movable	Description	Estimated value	Excluded asset or not
		Vehicles			
		Shares in listed companies			

	Shares in listed companies			
	Shares in other companies			
	Life insurance policy			
	Jewelry			
	Pension policy			
	Investment in mutual funds			
	Investment in other funds			
	Investment in partnerships and other business concerns,			
	Any other movable property			

12.	Number of directorships held in the last three years (along with name of company in which directorship is held and Director Identification Number) and CIN of such companies (to the extent known)	
13.	Marital status (single, married, divorced, widowed, co-habiting, separated, or specify any other) (to the extent known)	
14.	Details regarding guarantee given by guarantor (in addition to information in serial numbers 1-13 of this part)-	
	Name of corporate debtor for which guarantee is given	
	Any current or past position held in the corporate debtor (to the extent known)	
	Identification number of the corporate debtor	

	Whether corporate debtor is an associate (to the extent known)	
	Any securities held in corporate debtor for whom guarantee is given	
15.	Where the guarantor is not a resident in India, the name and address of the person authorised to accept the service of process on guarantor's behalf, along with the authority	

Part-III

PARTICULARS OF DEBT

1.	Total debt (including any interest or penalties)	
2.	Amount in default	
3.	Date on which debt was due	
4.	Date on which default occurred	
5.	Nature of the debt	

6.	Secured debt including particulars of security held, the date of its creation, its estimated value as per the creditor (as applicable)	
7.	Unsecured debt (as applicable)	
8.	Details of retention of title arrangements (if any) in respect of goods to which the debt refers (attach a copy)	
9.	Details of any mutual credit, mutual debts, or other mutual dealings between the guarantor and the creditor, which may be set-off against the claim (attach proof)	
10.	Particulars of an order of a court, tribunal or arbitral panel adjudicating on the default, if any (attach a copy of the order)	
11.	Record of default with the information utility, if any (attach a copy)	

12.	Details of succession certificate, or probate of a will, or letter of administration, or court decree (as may be applicable), under the Indian Succession Act, 1925 (10 of 1925) (attach a copy)	
13.	Provision of law, contract or other document under which debt has become due (attach a copy)	
14.	A statement of bank account where deposits are made or credits received normally by the creditor in respect of the debt of the debtor (attach a copy)	
15.	List of documents attached to this notice in order to prove the existence of debt and the amount in default	

16.	Statement by the secured creditor under section 123(2) of the Code	Tick whichever is applicable- <input type="checkbox"/> In the event a bankruptcy order accepting the application is passed by the Adjudicating Authority, I shall relinquish my security mentioned in serial number 6 for the benefit of all the creditors of the debtor. <input type="checkbox"/> The application is only in respect of unsecured debt as per the details mentioned in serial number 7.
17.	Statement by creditor in respect of excluded debts	I [<i>creditor</i>] hereby state that the debt(s) for which the bankruptcy process application is filed does not include any- (i) liability to pay fine imposed by a court or tribunal; (ii) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation; (iii) liability to pay maintenance to any person under any law for the time being in force; (iv) liability in relation to a student loan; (v) any other debt prescribed under section 79(15)(e) of the code.

Part – IV

PARTICULARS OF & DECLARATION BY INSOLVENCY PROFESSIONAL (IF PROPOSED TO ACT AS BANKRUPTCY TRUSTEE)				
1.	Title and full name			
2.	Address	Present	Permanent	Business
3.	E-mail address(es)			
4.	Contact number	Home	Mobile	Business
5.	Declaration by insolvency professional	<p>I, [<i>name of insolvency professional</i>], an insolvency professional registered with [<i>name of insolvency professional agency</i>] having registration number [<i>registration number</i>] have been proposed as the insolvency professional by [<i>name of applicant guarantor</i>] in connection with the proposed bankruptcy process of [<i>name of the guarantor</i>].</p> <p>I hereby:</p> <p>(i) agree to accept appointment as the insolvency professional if an order of appointment is passed by the Adjudicating Authority;</p> <p>(ii) state that the registration number allotted to me by the Board is [<i>insert registration number</i>] and that I am currently qualified to practice as an insolvency professional;</p>		

- (iii) disclose that I am currently serving as an insolvency professional / resolution professional / liquidator/ bankruptcy trustee in [*insert number and details of the proceedings*];
- (iv) certify that there are no disciplinary proceedings pending against me with the Board or [*name of the insolvency professional agency he is a member of*];
- (v) affirm that I am eligible to be appointed as an insolvency professional in respect of the debtor in accordance with regulation 3 of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019;
- (vi) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 [*insert disclosures, if any*].

(Signature of the insolvency professional)

Yours sincerely,

Signature of guarantor / person authorized to act on behalf of the guarantor [Please enclose the authorisation document if this application is being submitted on behalf of the guarantor]

Name in block letters

Address of person signing

List of documents to be attached to the application:

1. All records of the insolvency resolution process in respect of the guarantor, including the following-
 - (i) Application for the insolvency resolution process;
 - (ii) Order(s) of the Adjudicating Authority-
 - (a) accepting / rejecting the application under serial number (i) above, as the case may be;
 - (b) approving / rejecting the repayment plan, as the case may be;
 - (c) entitling the creditor to apply for bankruptcy;
 - (iii) any other order that may have been passed by the Adjudicating Authority in relation to the insolvency resolution process.
2. All documents mentioned in serial number 15 of Part III of this form.
3. Copy of the income tax returns with detailed computation of the income of the guarantor, or the firm, as the case may be, for the previous three years, if available.
4. Copy of the personal guarantee contract.
5. Copy of the authorisation, wherever required under this form.
6. Proof that the application fee has been paid.

7. Documents evidencing the debt and the default in relation to the debt, as may have been provided by the guarantor at any point in time, if available.
8. Documents evidencing the assets, liabilities, income and any other relevant information as may have been provided by the guarantor at any point in time, if available.
9. Documentary evidence of all information sought in each entry for each part of the form.

Form C

[See rule 9 (1)]

Public Notice

[Under rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

FOR THE ATTENTION OF THE CREDITORS OF [Full Name and title of Bankrupt (personal guarantor of (name of corporate debtor))]

Notice is hereby given that the [Debt Recovery Tribunal/National Company Law Tribunal in case of bankrupt under section 60 of the Code] has ordered the commencement of a bankruptcy process against the [name of bankrupt] residing at [last known address of the bankrupt] on [bankruptcy commencement date].

The creditors of [name of the bankrupt], are hereby called upon to submit their claims with proof on or before [insert the date falling seven days from date of issue of public notice] to the bankruptcy trustee at [address].

The last date for submission of claims of creditors shall be [date]. The creditors may submit their claims through electronic means, or by hand or registered post or speed post or courier.

Additional details of the bankruptcy trustee: [Name, last known address, e-mail address, phone number and the registration number of the bankruptcy trustee]

Note: Submission of false or misleading claims with proof shall attract penalties or imprisonment in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 and any other applicable laws.

Date and Place:

Form D

[See rule 10 (1)]

NOTICE TO CREDITOR

[Under rule 10 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

To

[Name and address of creditor]

From

[Adjudicating Authority]

Notice is hereby given that the [Debt Recovery Tribunal/National Company Law Tribunal in case of bankrupt under section 60 of the Code] has ordered the commencement of a bankruptcy process against the [title and full name of bankrupt] residing at [last known address of the bankrupt] on [bankruptcy commencement date]. You have been mentioned as a creditor of the bankrupt as per the documents submitted in the application for the bankruptcy process. You are hereby called upon to submit a claim with proof of the debt due to you on or before [insert the date falling seven days from date of issue of public announcement] to the bankruptcy trustee at [address].

The last date for submission of claims shall be [date]. You may submit your claim through electronic means, or by hand or registered post or speed post or courier.

Additional details of the bankruptcy trustee: [Name, last known address, e-mail address, phone number and the registration number of the bankruptcy trustee]

Note: Submission of false or misleading claims with proof shall attract penalties or imprisonment in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 and any other applicable laws.

Date and Place:

Form E

[See rule 11]

STATEMENT OF FINANCIAL POSITION OF BANKRUPT

[Under rule 11 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

Part I

RELEVANT PARTICULARS

1.	Full name of bankrupt			
2.	Address	Present	Permanent	Business
3.	Bank account details (Joint and Several)	Account Number	IFSC Code	Name of Bank and Bank Branch

4.	List of assets of bankrupt and immediate family as on the application date for the previous three years. Note: this will include all assets of bankrupt, irrespective of them being excluded assets. Please mention the assets which may be excluded assets.	Immovable property	Description	Estimated value	Excluded asset or not
		Movable property	Description	Estimated value	Excluded asset or not
		Vehicles			
		Shares in listed companies			
		Shares in other companies			
		Life insurance policy			
		Jewellery			
		Pension policy			
		Investment in mutual funds			
		Investment in other funds			
		Investment in partnerships and other business concerns			
		Any other property not covered above			

5.	The following information is required in relation to the guarantee given by the guarantor:	
i.	Name of corporate debtor for which guarantee is given	
ii.	Any current or past position held in the corporate debtor	
iii.	Whether corporate debtor is an associate	
iv.	Any securities held in corporate debtor for whom guarantee is given	
6.	Name and address of person resident in India authorised to accept the service of process on bankrupt's behalf (if applicable)	

Part II

FINANCIAL INFORMATION

1.	Statement of assets and liabilities for the previous three years	
2.	Secured and unsecured debts, with complete details of the creditors including name and postal address, the total amount due, amount in default and details of the security, for the previous three years	
3.	Details of the debts owed to associates of the bankrupt, for the previous three years	
4.	Details of guarantees given in relation to any of the debts of the guarantor, and if any of the guarantors is an associate of the guarantor	
5.	Details of the business owned by the bankrupt, or of the firm in which the bankrupt is a partner, as the case may be, for the previous three years, if applicable	
6.	Details of the wealth tax statements filed by the bankrupt, if any, for the previous five years.	
7.	Details of trusts held by bankrupt and/or immediate family of bankrupt	
8.	Any other relevant information	

Form F

[See rule 12(1)]

CLAIM WITH PROOF BY A CREDITOR

[Under rule 12 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

[Date]

To

The Bankruptcy Trustee

[Name of the Bankruptcy Trustee]

[Address as set out in public notice]

From

[Name and address of the creditor]

Subject: Submission of claims with proof.

Madam/Sir,

[Name of the creditor], hereby submits this proof of claim in respect of the bankruptcy process in the case of [name of bankrupt]. The details for the same are set out below:

S. No.	Particulars			
1.	Title and full name of creditor			
2.	Identification number of creditor	Aadhar	PAN	CIN
				GSTIN
3.	Address	Present	Permanent	Business
4.	Total amount of claim (Including any interest as at the bankruptcy commencement date)			
5.	Details of documents by reference to which the debt can be substantiated.			
6.	Details of any dispute as well as the record of such dispute Note: 'Dispute' will include suits, arbitration proceedings, and other judicial proceedings contesting the existence or validity of the debt.			
7.	Details of how debt was incurred and the date when debt incurred			

8.	Details of any mutual credit, mutual debts, or other mutual dealings between the bankrupt and the creditor which may be set-off against the claim	
9.	Details of any retention of title arrangements in respect of goods or properties to which the claim refers	
10.	Details of the bank account to which the amount of the claim or any part thereof can be transferred pursuant to a repayment plan	
11.	Details of any security held (including value and date when it was given)	
12.	For secured creditors only	
	Tick whichever is applicable – <input type="checkbox"/> security interest is being enforced <input type="checkbox"/> Security interest is being relinquished.	
	If security is being relinquished, please complete the statement of relinquishment of security interest in the column on the right.	I, [name of secured creditor], hereby release and relinquish my security interest and any claim, right, lien or interest in any property based on such security interest, other than the right to receive dividends as per the Code, in [insert description of the subject and nature of security interest], which was created by [name of bankrupt], on [insert date of creation of security interest] on account of [insert description of circumstances leading to creation of security interest].

	If security is being realised, provide details of any action that has been taken to enforce / realise the security.	
	If security is being realised, specify balance amount of debt which is being claimed.	
13.	List of documents attached to this proof of claim in order to prove the existence and non-payment of claim due to the creditor	
14.	Details of bank account to which the share of creditor's proceeds from bankruptcy can be deposited.	
Signature of creditor or person authorised to act on his behalf [Please enclose the authority if this is being submitted on behalf of a creditor]		
Name in block letters		
Address of person signing		

DECLARATION

I, [name of claimant], currently residing at [insert address], declare and state as follows:

1. [Name of bankrupt], the debtor was, at the bankruptcy commencement date, being the _____ day of _____ 20__, justly and truly indebted to me to the sum of INR [insert amount of claim].
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below:
[Please list the documents relied on as evidence of claim]
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief.
4. In respect of the said sum or any part thereof, I have not, nor has any person by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:
[Please state details of any mutual credit, mutual debts, or other mutual dealings between the bankrupt and the creditor which may be set-off against the claim.]

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, [Name], the claimant hereinabove, do hereby verify that the contents of this claim with proof are true and correct to my knowledge and belief and no material facts have been concealed therefrom.

Verified at _____ on this _____ day of ____ 201__

(Claimant's signature)

[F. No. 30/21/2018-Insolvency Section]
GYANESHWAR KUMAR SINGH, Jt. Secy.

CHAPTER V

ADMINISTRATION AND DISTRIBUTION OF THE ESTATE OF THE BANKRUPT

149. Functions of bankruptcy trustee. -

The bankruptcy trustee shall perform the following functions in accordance with the provisions of this Chapter –

- a. investigate the affairs of the bankrupt;
- b. realise the estate of the bankrupt; and
- c. distribute the estate of the bankrupt.

150. Duties of bankrupt towards bankruptcy trustee. –

(1) The bankrupt shall assist the bankruptcy trustee in carrying out his functions under this Chapter by -

- (a) giving to the bankruptcy trustee the information of his affairs;
- (b) attending on the bankruptcy trustee at such times as may be required;

(c) giving notice to the bankruptcy trustee of any of the following events which have occurred after the bankruptcy commencement date, -

- (i) acquisition of any property by the bankrupt;
 - (ii) devolution of any property upon the bankrupt;
 - (iii) increase in the income of the bankrupt;
- (d) doing all other things as may be prescribed.

(2) The bankrupt shall give notice of the increase in income or acquisition or devolution of property under clause (c) of sub-section (1) within seven days of such increase, acquisition or devolution.

(3) The bankrupt shall continue to discharge the duties under sub-section (1) other than the duties under clause (c) even after the discharge under section 138.

151. Rights of bankruptcy trustee. -

For the purpose of performing his functions under this Chapter, the bankruptcy trustee may, by his official name -

- a. hold property of every description;
- b. make contracts;
- c. sue and be sued;
- d. enter into engagements in respect of the estate of the bankrupt;
- e. employ persons to assist him;
- f. execute any power of attorney, deed or other instrument; and
- g. do any other act which is necessary or expedient for the purposes of or in connection with the exercise of his rights.

152. General powers of bankruptcy trustee. -

The bankruptcy trustee may while discharging his functions under this Chapter, -

- a. sell any part of the estate of the bankrupt;
- b. give receipts for any money received by him;
- c. prove, rank, claim and draw a dividend in respect of such debts due to the bankrupt as are comprised in his estate;

d.where any property comprised in the estate of the bankrupt is held by any person by way of pledge or hypothecation, exercise the right of redemption in respect of any such property subject to the relevant contract by giving notice to the said person;

e.where any part of the estate of the bankrupt consists of securities in a company or any other property which is transferable in the books of a person, exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt; and

f.deal with any property comprised in the estate of the bankrupt to which the bankrupt is beneficially entitled in the same manner as he might have dealt with it.

153. Approval of creditors for certain acts. -

The bankruptcy trustee for the purposes of this Chapter may after procuring the approval of the committee of creditors, -

a.carry on any business of the bankrupt as far as may be necessary for winding it up beneficially;

b.bring, institute or defend any legal action or proceedings relating to the property comprised in the estate of the bankrupt;

c. accept as consideration for the sale of any property a sum of money due at a future time subject to certain stipulations such as security;

d. mortgage or pledge any property for the purpose of raising money for the payment of the debts of the bankrupt;

e. where any right, option or other power forms part of the estate of the bankrupt, make payments or incur liabilities with a view to obtaining, for the benefit of the creditors, any property which is the subject of such right, option or power;

f. refer to arbitration or compromise on such terms as may be agreed, any debts subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt;

g. make compromise or other arrangement as may be considered expedient, with the creditors;

h. make compromise or other arrangement as he may deem expedient with respect to any claim arising out of or incidental to the bankrupt's estate;

i. appoint the bankrupt to -

(A)supervise the management of the estate of the bankrupt or any part of it;

(B)carry on his business for the benefit of his creditors;

(C)assist the bankruptcy trustee in administering the estate of the bankrupt.

154. Vesting of estate of bankrupt in bankruptcy trustee. -

(1)The estate of the bankrupt shall vest in the bankruptcy trustee immediately from the date of his appointment.

(2)The vesting under sub-section (1) shall take effect without any conveyance, assignment or transfer.

155. Estate of bankrupt. -

(1) The estate of the bankrupt shall include, –

(a) all property belonging to or vested in the bankrupt at the bankruptcy commencement date;

(b) the capacity to exercise and to initiate proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the bankruptcy commencement date or before the date of the discharge order passed under section 138; and

(c) all property which by virtue of any of the provisions of this Chapter is comprised in the estate.

(2) The estate of the bankrupt shall not include –

(a) excluded assets;

(b) property held by the bankrupt on trust for any other person;

(c) all sums due to any workman or employee from the provident fund, the pension fund and the gratuity fund; and

(d) such assets as may be notified by the Central Government in consultation with any financial sector regulator.

156. Delivery of property and documents to bankruptcy trustee. -

The bankrupt, his banker or agent or any other person having possession of any property, books, papers or other records which bankruptcy trustee is required to take possession for the purposes of the bankruptcy process shall deliver the said property and documents to the bankruptcy trustee.

157. Acquisition of control by bankruptcy trustee. –

(1) The bankruptcy trustee shall take possession and control of all property, books, papers and other records relating to the estate of the bankrupt or affairs of the bankrupt which belong to him or are in his possession or under his control.

(2) Where any part of the estate of the bankrupt consists of things in actionable claims, they shall be deemed to have been assigned to the bankruptcy trustee without any notice of the assignment.

158. Restrictions on disposition of property. –

(1) Any disposition of property made by the debtor, during the period between the date of filing of the application for bankruptcy and the bankruptcy commencement date shall be void.

(2) Any disposition of property made under sub-section (1) shall not give rise to any right against any person, in respect of such property, even if he has received such property before the bankruptcy commencement date in –

(a) good faith;

(b) for value; and

(c) without notice of the filing of the application for bankruptcy.

(3) For the purposes of this section, the term “property” means all the property of the debtor, whether or not it is comprised in the estate of the bankrupt (Read with Section 155), but shall not include property held by the debtor in trust for any other person.

159. After-acquired property of bankrupt. –

(1) The bankruptcy trustee shall be entitled to claim for the estate of the bankrupt, any after-acquired property by giving a notice to the bankrupt.

(2) A notice under sub-section (1) shall not be served in respect of -

(a) excluded assets, or

(b) any property which is acquired by or devolves upon the bankrupt after a discharge order is passed under section 138.

(3) The notice under sub-section (2) shall be given within fifteen days from the day on which the acquisition or devolution of the after-acquired property comes to the knowledge of the bankruptcy trustee.

(4) For the purposes of sub-section (3)-

(a) anything which comes to the knowledge of the bankruptcy trustee shall be deemed to have come to the knowledge of the successor of the bankruptcy trustee at the same time; and

(b) anything which comes to the knowledge of a person before he is appointed as a bankruptcy trustee shall be deemed to have come to his knowledge on the date of his appointment as bankruptcy trustee.

(5) The bankruptcy trustee shall not be entitled, by virtue of this section, to claim from any person **who has acquired any right** over after-acquired property, in good faith, for value and without notice of the bankruptcy.

(6) A notice may be served after the expiry of the period under sub-section (3) only with the approval of the Adjudicating Authority.

Explanation. – For the purposes of this section, the term "after-acquired property" means any property which has been acquired by or has devolved upon the bankrupt after the bankruptcy commencement date.

160. Onerous property of bankrupt. –

(1) The bankruptcy trustee may, by giving notice to the bankrupt or any person interested in the onerous property, disclaim any onerous property which forms a part of the estate of the bankrupt.

(2) The bankruptcy trustee may give the notice under sub-section (1) notwithstanding that he has taken possession of the onerous property, endeavoured to sell it or has exercised rights of ownership in relation to it.

(3) A notice of disclaimer under sub-section (1) shall -

(a) determine, as from the date of such notice, the rights, interests and liabilities of the bankrupt in respect of the onerous property disclaimed;

(b) discharge the bankruptcy trustee from all personal liability in respect of the onerous property as from the date of appointment of the bankruptcy trustee.

(4) A notice of disclaimer under sub-section (1) shall not be given in respect of the property which has been claimed for the estate of the bankrupt under section 155 **without the permission of the committee of creditors.**

(5) A notice of disclaimer under sub-section (1) shall not affect the rights or liabilities of any other person, and any person who sustains a loss or damage in consequence of the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the loss or damage.

Explanation. – For the purposes of this section, the term “onerous property” means -

(i) any unprofitable contract; and

(ii) any other property comprised in the estate of the bankrupt which is unsaleable or not readily saleable, or is such that it may give rise to a claim.

161. Notice to disclaim onerous property. –

(1) No notice of disclaimer under section 160 shall be necessary if -

(a) a person interested in the onerous property has applied in writing to the bankruptcy trustee or his predecessor requiring him to decide whether the onerous property should be disclaimed or not; and

(b) a decision under clause (a) has not been taken by the bankruptcy trustee within seven days of receipt of the notice.

(2) Any onerous property which cannot be disclaimed under sub-section (1) shall be deemed to be part of the estate of the bankrupt.

Explanation. – For the purposes of this section, an onerous property is said to be disclaimed where notice in relation to that property has been given by the bankruptcy trustee under section 160.

162. Disclaimer of leaseholds. –

(1) The bankruptcy trustee shall not be entitled to disclaim any leasehold interest, unless a notice of disclaimer has been served on every interested person and –

(a) no application objecting to the disclaimer by the interested person, has been filed with respect to the leasehold interest, within fourteen days of the date on which notice was served; and

(b) where the application objecting to the disclaimer has been filed by the interested person, the Adjudicating Authority has directed under section 163 that the disclaimer shall take effect.

(2) Where the Adjudicating Authority gives a direction under clause (b) of sub-section

(1), it may also make order with respect to fixtures, improvements by tenant and other matters arising out of the lease as it may think fit.

163. Challenge against disclaimed property. –

(1) An application challenging the disclaimer may be made by the following persons under this section to the Adjudicating Authority-

(a) any person who claims an interest in the disclaimed property; or

(b) any person who is under any liability in respect of the disclaimed property; or

(c) where the disclaimed property is a dwelling house, any person who on the date of application for bankruptcy was in occupation of or entitled to occupy that dwelling house.

(2) The Adjudicating Authority may on an application under sub-section (1) make an order for the vesting of the disclaimed property in, or for its delivery to any of the persons mentioned in sub-section (1).

(3) The Adjudicating Authority shall not make an order in favour of a person who has made an application under clause (b) of sub-section (1) except where it appears to the Adjudicating Authority that it would be just to do so for the purpose of compensating the person.

(4)The effect of an order under this section shall be taken into account while assessing loss or damage sustained by any person in consequence of the disclaimer under sub-section (5) of section 160.

(5)An order under sub-section (2) vesting property in any person need not be completed by any consequence, assignment or transfer.

164. Undervalued transactions. –

(1)The bankruptcy trustee may apply to the Adjudicating Authority for an order under this section in respect of an undervalued transaction between a bankrupt and any person.

(2) The undervalued transaction referred to in sub-section (1) should have –

(a)been entered into during the period of two years ending on the filing of the application for bankruptcy; and

(b) caused bankruptcy process to be triggered.

(3) A transaction between a bankrupt and his associate entered into during the period of two years preceding the date of making of the application for bankruptcy shall be deemed to be an undervalued transaction under this section.

(4) On the application of the bankruptcy trustee under sub-section (1), the Adjudicating Authority may -

- (a) pass an order declaring an undervalued transaction void;
- (b) pass an order requiring any property transferred as a part of an undervalued transaction to be vested with the bankruptcy trustee as a part of the estate of the bankrupt; and
- (c) pass any other order it thinks fit for restoring the position to what it would have been if the bankrupt had not entered into the undervalued transaction.

(5) The order under clause (a) of sub-section (4) shall not be passed if it is proved by the bankrupt that the transaction was undertaken in the ordinary course of business of the bankrupt:

Provided that the provisions of this sub-section shall not be applicable to undervalued transaction entered into between a bankrupt and his associate under sub-section (3) of this section.

(6) For the purposes of this section, a bankrupt enters into an undervalued transaction with any person if -

- (a) he makes a gift to that person;

(b) no consideration has been received by that person from the bankrupt;

(c) it is in consideration of marriage; or

(d) it is for a consideration, the value of which in money or money's worth is significantly less than the value in money or money's worth of the consideration provided by the bankrupt.

165. Preference transactions. -

(1) The bankruptcy trustee may apply to the Adjudicating Authority for an order under this section if a bankrupt has given a preference to any person.

(2) The transaction giving preference to an associate of the bankrupt under sub-section

(1) should have been entered into by the bankrupt with the associate during the period of two years ending on the date of the application for bankruptcy.

(3) Any transaction giving preference not covered under sub-section (2) should have been entered into by the bankrupt during the period of six months ending on the date of the application for bankruptcy.

(4) The transaction giving preference under sub-section (2) or under sub-section (3) should have caused the bankruptcy process to be triggered.

(5) On the application of the bankruptcy trustee under sub-section (1), the Adjudicating Authority may –

- (a) pass an order declaring a transaction giving preference void;
 - (b) pass an order requiring any property transferred in respect of a transaction giving preference to be vested with the bankruptcy trustee as a part of the estate of the bankrupt; and
 - (c) pass any other order it thinks fit for restoring the position to what it would have been if the bankrupt had not entered into the transaction giving preference.
- (6) The Adjudicating Authority shall not pass an order under sub-section (5) unless the bankrupt was influenced in his decision of giving preference to a person by a desire to produce in relation to that person an effect under clause (b) of sub-section (8).
- (7) For the purpose of sub-section (6), if the person is an associate of the bankrupt, (otherwise than by reason only of being his employee), at the time when the preference was given, it shall be presumed that the bankrupt was influenced in his decision under that subsection.
- (8) For the purposes of this section, a bankrupt shall be deemed to have entered into a transaction giving preference to any person if –
- (a) the person is the creditor or surety or guarantor for any debt of the bankrupt; and
 - (b) the bankrupt does anything or suffers anything to be done which has the effect of putting that person into a position which, in the event of the debtor becoming a bankrupt, will be better than the position he would have been in, if that thing had not been done.

166. Effect of order. -

(1) Subject to the provision of sub-section (2), an order passed by the Adjudicating Authority under section 164 or section 165 shall not, -

(a) give rise to a right against a person interested in the property which was acquired in an undervalued transaction or a transaction giving preference, whether or not he is the person with whom the bankrupt entered into such transaction; and

(b) require any person to pay a sum to the bankruptcy trustee in respect of the benefit received from the undervalued transaction or a transaction giving preference, whether or not he is the person with whom the bankrupt entered into such transaction.

(2) The provision of sub-section (1) shall apply only if the interest was acquired or the benefit was received -

(a) in good faith;

(b) for value;

(c) without notice that the bankrupt entered into the transaction at an undervalue or for giving preference;

(d)without notice that the bankrupt has filed an application for bankruptcy or a bankruptcy order has been passed; and

(e)by any person who at the time of acquiring the interest or receiving the benefit was not an associate of the bankrupt.

(3) Any sum required to be paid to the bankruptcy trustee under sub-section (1) shall be included in the estate of the bankrupt.

167. Extortionate credit transactions. -

(1)Subject to sub-section (6), on an application by the bankruptcy trustee, the Adjudicating Authority may make an order under this section in respect of extortionate credit transactions to which the bankrupt is or has been a party.

(2)The transactions under sub-section (1) should have been entered into by the bankrupt during the period of two years ending on the bankruptcy commencement date.

(3) An order of the Adjudicating Authority may -

(a)set aside the whole or part of any debt created by the transaction;

(b)vary the terms of the transaction or vary the terms on which any security for the purposes of the transaction is held;

(c) require any person who has been paid by the bankrupt under any transaction, to pay a sum to the bankruptcy trustee;

(d) require any person to surrender to the bankruptcy trustee any property of the bankrupt held as security for the purposes of the transaction.

(3) Any sum paid or any property surrendered to the bankruptcy trustee shall be included in the estate of the bankrupt.

(4) For the purposes of this section, an extortionate credit transaction is a transaction for or involving the provision of credit to the bankrupt by any person-

(a) on terms requiring the bankrupt to make exorbitant payments in respect of the credit provided; or

(b) which is unconscionable under the principles of law relating to contracts.

(6) Any debt extended by a person regulated for the provision of financial services in compliance with the law in force in relation to such debt, shall not be considered as an extortionate credit transaction under this section.

168. Obligations under contracts. -

(1) This section shall apply where a contract has been entered into by the bankrupt with a person before the bankruptcy commencement date.

(2) Any party to a contract, other than the bankrupt under sub-section (1), may apply to the Adjudicating Authority for –

(a) an order discharging the obligations of the applicant or the bankrupt under the contract; and

(b) payment of damages by the party or the bankrupt, for non-performance of the contract or otherwise.

(3) Any damages payable by the bankrupt by virtue of an order under clause (b) of subsection (2) shall be provable as bankruptcy debt.

(4) When a bankrupt is a party to the contract under this section jointly with another person, that person may sue or be sued in respect of the contract without joinder of the bankrupt.

169. Continuance of proceedings on death of bankrupt. -

If a bankrupt dies, the bankruptcy proceedings shall, continue as if he were alive.

170. Administration of estate of deceased bankrupt. -

(1) All the provisions of Chapter V relating to the administration and distribution of the estate of the bankrupt shall, so far as the same are applicable, apply to the administration of the estate of a deceased bankrupt.

(2) While administering the estate of a deceased bankrupt, the bankruptcy trustee shall have regard to the claims by the legal representative of the deceased bankrupt to payment of the proper funeral and testamentary expenses incurred by them.

(3) The claims under sub-section (2) shall rank equally to the secured creditors in the priority provided under section 178.

(4) If, on the administration of the estate of a deceased bankrupt, any surplus remains in the hands of the bankruptcy trustee after payment in full of all the debts due from the deceased bankrupt, together with the costs of the administration and interest as provided under section 178, such surplus shall be paid to the legal representatives of the estate of the deceased bankrupt or dealt with in such manner as may be prescribed.

171. Proof of debt. -

(1) The bankruptcy trustee shall give notice to each of the creditors to submit proof of debt within fourteen days of preparing the list of creditors under section 132.

(2) The proof of debt shall –

(a) require the creditor to give full particulars of debt, including the date on which the debt was contracted and the value at which that person assesses it; (b) require the creditor to give full particulars of the security, including the date on which the security was given and the value at which that person assesses it;

(c) be in such form and manner as may be prescribed.

(3) In case the creditor is a decree holder against the bankrupt, a copy of the decree shall be a valid proof of debt.

(4) Where a debt bears interest, that interest shall be provable as part of the debt except in so far as it is owed in respect of any period after the bankruptcy commencement date.

(5) The bankruptcy trustee shall estimate the value of any bankruptcy debt which does not have a specific value.

(6) The value assigned by the bankruptcy trustee under sub-section (5) shall be the amount provable by the concerned creditor.

(7) A creditor may prove for a debt where payment would have become due at a date later than the bankruptcy commencement date as if it were owed presently and may receive dividends in a manner as may be prescribed.

(8) Where the bankruptcy trustee serves a notice under sub-section (1) and the person on whom the notice is served does not file a proof of security within thirty days after the date of service of the notice, the bankruptcy trustee may, with leave of the Adjudicating Authority, sell or dispose of any property that was subject to the security, free of that security.

172. Proof of debt by secured creditors. -

(1) Where a secured creditor realises his security, he may produce proof of the balance due to him.

(2) Where a secured creditor surrenders his security to the bankruptcy trustee for the general benefit of the creditors, he may produce proof of his whole claim.

173. Mutual credit and set-off. -

(1) Where before the bankruptcy commencement date, there have been mutual dealings between the bankrupt and any creditor, the bankruptcy trustee shall -

(a) take an account of what is due from each party to the other in respect of the mutual dealings and the sums due from one party shall be set off against the sums due from the other; and

(b) only the balance shall be provable as a bankruptcy debt or as the amount payable to the bankruptcy trustee as part of the estate of the bankrupt.

(2) Sums due from the bankrupt to another party shall not be included in the account taken by the bankruptcy trustee under sub-section (1), if that other party had notice at the time they became due that an application for bankruptcy relating to the bankrupt was pending.

174. Distribution of interim dividend. -

(1) Whenever the bankruptcy trustee has sufficient funds in his hand, he may declare and distribute interim dividend among the **creditors in respect of the bankruptcy debts which they have respectively proved.**

(2) Where the bankruptcy trustee has declared any interim dividend, he shall give notice of such dividend and the manner in which it is proposed to be distributed.

(3) In the calculation and distribution of the interim dividend, the bankruptcy trustee shall make provision for -

(a) any bankruptcy debts which appear to him to be due to persons who, by reason of the distance of their place of residence, may not have had sufficient time to tender and establish their debts; and

(b) any bankruptcy debts which are subject of claims which have not yet been determined;

(c) disputed proofs and claims; and

(d) expenses necessary for the administration of the estate of the bankrupt.

175. Distribution of property. –

(1)The bankruptcy trustee may, with the approval of the committee of creditors, divide in its existing form amongst the creditors, according to its estimated value, any property in its existing form which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

(2)An approval under sub-section (1) shall be sought by the bankruptcy trustee for each transaction, and a person dealing with the bankruptcy trustee in good faith and for value shall not be required to enquire whether any approval required under sub-section (1) has been given.

(3)Where the bankruptcy trustee has done anything without the approval of the committee of creditors, the committee may, for the purpose of enabling him to meet his expenses out of the estate of the bankrupt, ratify the act of the bankruptcy trustee.

(4)The committee of the creditors shall not ratify the act of the bankruptcy trustee under sub-section (3) unless it is satisfied that the bankruptcy trustee acted in a case of urgency and has sought its ratification without undue delay.

176. Final dividend. -

(1) Where the bankruptcy trustee has realised the entire estate of the bankrupt or so much of it as could be realised in the opinion of the bankruptcy trustee, he shall give notice -

(a) of his intention to declare a final dividend; or

(b) that no dividend or further dividend shall be declared.

(1) The notice under sub-section (1) shall contain such particulars as may be prescribed and shall require all claims against the estate of the bankrupt to be established by a final date specified in the notice.

(2) The Adjudicating Authority may, on the application of any person interested in the administration of the estate of the bankrupt, postpone the final date referred to in sub-section (2).

(3) After the final date referred to in sub-section (2), the bankruptcy trustee shall -

(a) defray any outstanding expenses of the bankruptcy out of the estate of the bankrupt; and

(b) if he intends to declare a final dividend, declare and distribute that dividend among the creditors who have proved their debts, without regard to the claims of any other persons.

(5) If a surplus remains after payment in full with interest to all the creditors of the bankrupt and the payment of the expenses of the bankruptcy, the bankrupt shall be entitled to the surplus.

(6) Where a bankruptcy order has been passed in respect of one partner in a firm, a creditor to whom the bankrupt is indebted jointly with the other partners in the firm or any of them shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.

177. Claims of creditors. -

(1) A creditor who has not proved his debt before the declaration of any dividend is not entitled to disturb, by reason that he has not participated in it, the distribution of that dividend or any other dividend declared before his debt was proved, but –

(a) when he has proved the debt, he shall be entitled to be paid any dividend or dividends which he has failed to receive, out of any money for the time being available for the payment of any further dividend; and

(b) any dividend or dividends payable to him shall be paid before that money is applied to the payment of any such further dividend.

(2) No action shall lie against the bankruptcy trustee for a dividend, but if the bankruptcy trustee refuses to pay a dividend payable under sub-section (1), the Adjudicating Authority may order him to –

(a) pay the dividend; and

(b) pay, out of his own money -

(i) interest on the dividend; and

(ii) the costs of the proceedings in which the order to pay has been made.

178. Priority of payment of debts. –

(1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or the State Legislature for the time being in force, in the distribution of the final dividend, the following debts shall be paid in priority to all other debts —

(a) firstly, the costs and expenses incurred by the bankruptcy trustee for the bankruptcy process in full;

(b) secondly, -

(i) the workmen's dues for the period of twenty-four months preceding the bankruptcy commencement date; and

(ii) debts owed to secured creditors

(c) thirdly, wages and any unpaid dues owed to employees, other than workmen, of the bankrupt for the period of twelve months preceding the bankruptcy commencement date;

(d) fourthly, any amount due to the Central Government and the State Government including the amount to be received on account of Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the bankruptcy commencement date;

(e) lastly, all other debts and dues owed by the bankrupt including unsecured debts.

(2) The debts in each class specified in sub-section (1) shall rank in the order mentioned in that sub-section but debts of the same class shall rank equally amongst themselves, and shall be paid in full, unless the estate of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3) Where any creditor has given any indemnity or has made any payment of moneys by virtue of which any asset of the bankrupt has been recovered, protected or preserved, the Adjudicating Authority may make such order as it thinks just with respect to the distribution of such asset with a view to giving that creditor an advantage over other creditors in consideration of the risks taken by him in so doing.

(4) Unsecured creditors shall rank equally amongst themselves unless contractually agreed to the contrary by such creditors.

(5) Any surplus remaining after the payment of the debts under sub-section (1) shall be applied in paying interest on those debts in respect of the periods during which they have been outstanding since the bankruptcy commencement date.

(6) Interest payments under sub-section (5) shall rank equally irrespective of the nature of the debt.

7) In the case of partners, the partnership property shall be applicable in the first instance in payment of the partnership debts and the separate property of each partner shall be applicable in the first instance in payment of his separate debts.

(8) Where there is a surplus of the separate property of the partners, it shall be dealt with as part of the partnership property; and where there is a surplus of the partnership property, it shall be dealt with as part of the respective separate property in proportion to the rights and interests of each partner in the partnership property.

CHAPTER VI
ADJUDICATING AUTHORITY FOR
INDIVIDUALS AND PARTNERSHIP FIRMS

179. Adjudicating Authority for individuals and partnership firms. -

(1) Subject to the provisions of section 60, the Adjudicating Authority, in relation to insolvency matters of individuals and firms shall be the Debt Recovery Tribunal having territorial jurisdiction over the place where the individual debtor actually and voluntarily resides or carries on business or personally works for gain and can entertain an application under this Code regarding such person.

(2) The Debt Recovery Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain or dispose of -

(a) any suit or proceeding by or against the individual debtor;

(b) any claim made by or against the individual debtor;

(c) any question of priorities or any other question whether of law or facts, arising out of or in relation to insolvency and bankruptcy of the individual debtor or firm under this Code.

(3) Notwithstanding anything contained in the Limitation Act, 1963 (14 of 1963) or in any other law for the time being in force, in computing the period of limitation specified for any suit or application in the name and on behalf of a debtor for which an order of moratorium has been made under this Part, the period during which such moratorium is in place shall be excluded.

180. Civil court not to have jurisdiction. –

(1) No civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any matter on which the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal has jurisdiction under this Code.

(2) No injunction shall be granted by any court, tribunal or authority in respect of any action taken, or to be taken, in pursuance of any power conferred on the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal by or under this Code.

181. Appeal to Debt Recovery Appellate Tribunal. -

(1) An appeal from an order of the Debt Recovery Tribunal under this Code shall be filed within thirty days before the Debt Recovery Appellate Tribunal.

(2) The Debt Recovery Appellate Tribunal may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within thirty days, allow the appeal to be filed within a further period not exceeding fifteen days.

182. Appeal to Supreme Court. -

(1) An appeal from an order of the Debt Recovery Appellate Tribunal on a question of law under this Code shall be filed within forty-five days before the Supreme Court.

(2) The Supreme Court may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within forty-five days, allow the appeal to be filed within a further period not exceeding fifteen days.

183. Expeditious disposal of applications. -

Where an application is not disposed of or order is not passed within the period specified in the Code, the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal, as the case may be, shall record the reasons for not doing so within the period so specified; and the Chairperson of the Debt Recovery Appellate Tribunal, after taking into account the reasons so recorded, extend the period specified in this Code, but not exceeding ten days.

CHAPTER VII

OFFENCES AND PENALTIES

184. Punishment for false information etc. by creditor in insolvency resolution process. -

- 1) If a debtor or creditor provides information which is false in any material particulars to the resolution professional, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both. If a creditor promises to vote in favour of the repayment plan dishonestly by accepting any money, property or security from the debtor, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to three times the amount or its equivalent of such money, property or security accepted by such creditor, as the case may be, or with both:
- 2) Provided that where such amount is not quantifiable, the total amount of fine shall not exceed five lakh rupees.

185. Punishment for contravention of provisions. -

If an insolvency professional deliberately contravenes the provisions of this Part, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, which shall not be less than one lakh rupees, but may extend to five lakhs rupees, or with both.

186. Punishment for false information, concealment, etc., by bankrupt. -

If the bankrupt -

a. knowingly makes a false representation or wilfully omits or conceals any material information while making an application for bankruptcy under section 122 or while providing any information during the bankruptcy process, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five lakh rupees, or with both;

Explanation. – For the purposes of clause (a), a false representation or omission includes non-disclosure of the details of disposal of any property, which but for the disposal, would be comprised in the estate of the bankrupt, other than dispositions made in the ordinary course of business carried on by the bankrupt;

b.fraudulently has failed to provide or deliberately withheld the production of, destroyed, falsified or altered, his books of accounts, financial information and other records under his custody or control, he shall be punishable with imprisonment which may extend to one year, or with fine, which may extend to five lakh rupees, or with both;

c.has contravened the restrictions under section 140 or the provisions of section 141, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to five lakh rupees, or with both;

d.has failed to deliver the possession of any property comprised in the estate of the bankrupt under his possession or control, which he is required to deliver under section 156, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to five lakh rupees, or with both;

e.has failed to account, without any reasonable cause or satisfactory explanation, for any loss incurred of any substantial part of his property comprised in the estate of the bankrupt from the date which is twelve months before the filing of the bankruptcy application, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, which may extend to three times of the value of the loss, or with both:

Provided that that where such loss is not quantifiable, the total amount of fine imposed shall not exceed five lakh rupees;

f. has absconded or attempts to absconds after the bankruptcy commencement date, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to five lakh rupees, or with both;

Explanation. – For the purposes of this clause, a bankrupt shall be deemed to have absconded if he leaves, or attempts to leave the country without delivering the possession any property which he is required to deliver to the bankruptcy trustee under section 156.

187. Punishment for certain actions. -

(1) If a bankruptcy trustee, –

(a) has fraudulently misapplied, retained or accounted for any money or property comprised in the estate of the bankrupt; or

(b) has wilfully acted in a manner that the estate of the bankrupt has suffered any loss in consequence of breach of any duty of the bankruptcy trustee in carrying out his functions under section 149, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, which shall not be less than three times the amount of the loss caused, or likely to have been caused, to persons concerned on account of such contravention, or with both:

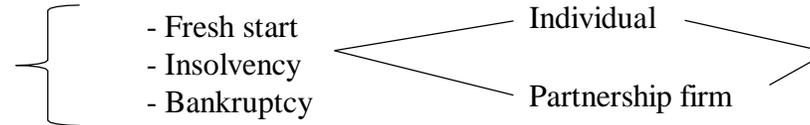
Provided that where such loss or unlawful gain is not quantifiable, the total amount of fine imposed shall not exceed five lakh rupees: Provided further that the bankruptcy trustee shall not be liable under this section if he seizes or disposes of any property which is not comprised in the estate of the bankrupt and at that time had reasonable grounds to believe that he is entitled to seize or dispose that property

Part-III Chapter 1

SECTION 78 TO 79

IP & Bankruptcy for Individuals & Partnership firm-Section 78

This Chapter applies to



Associates means -immediate family member

- Relative or Spouse of relative
- Partner or Spouse of Partner or relative of Partner
- Employer or Employee of Debtor
- Trustee of a trust, where Debtor is beneficiary
- Company, where Debtor along with its associates owns more than 50% Capital

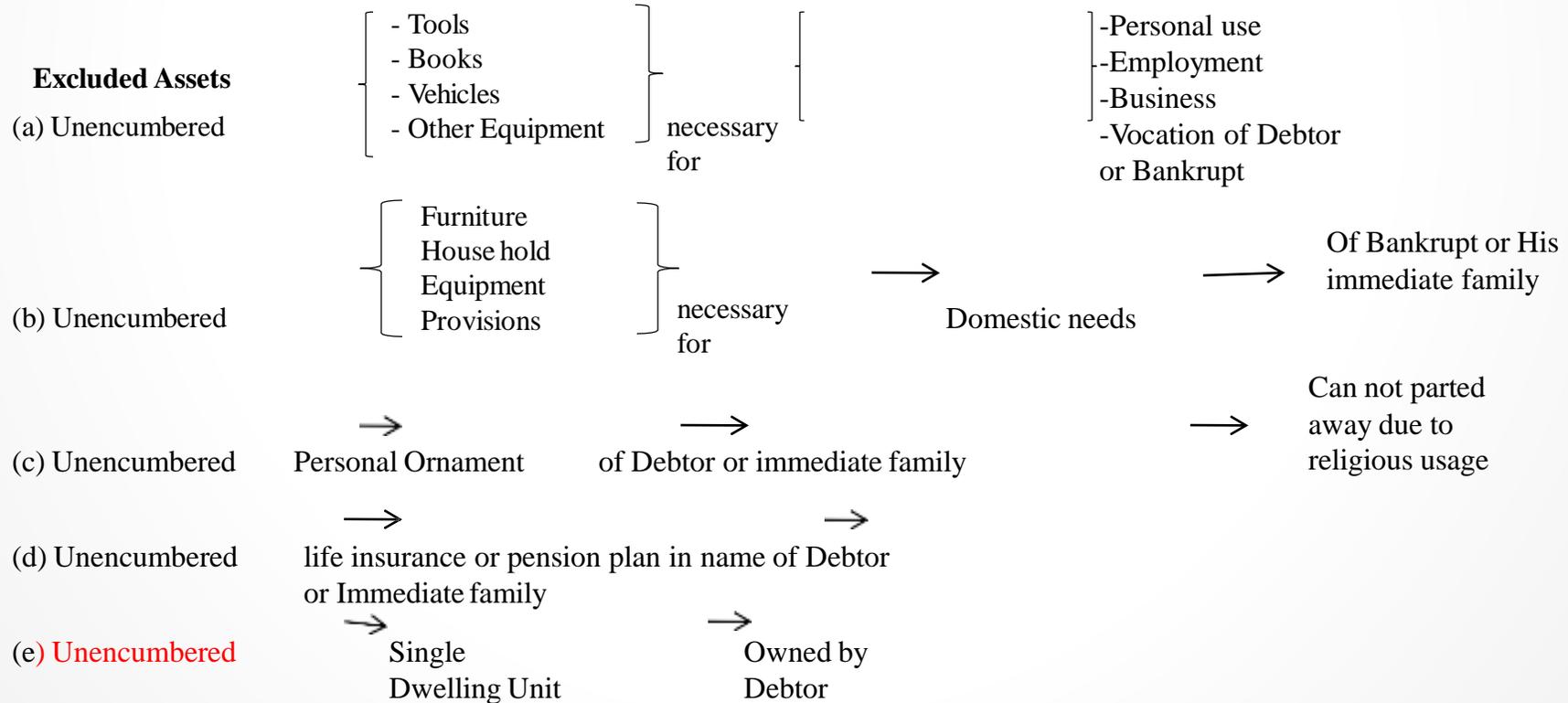
* Relative means if they are related as member of HUF [only for this part] or in the manner as prescribed.

Section-79 (5)

- Bankruptcy Debt- (a) Any Debt owed on Bankruptcy Commencement date
 (b) Debt in which he become liable after Bankruptcy Commencement date by reason of transaction entered before Commencement.
 (c) Any interest which is a part of Debt U/S 171.

Bankruptcy Commencement date → on which order is passed by AA (DRT)
 Bankruptcy Trustee → IP appointed as trustee for the estate of Bankrupt

Section-79 (14)



Part -III Chapter 2

FRESH START PROCESS-Sections 80-93

Section 80-Eligibility Debtor Either personally or through RP.

For fresh start in respect of his qualifying assets
to AA, if

- (a) Gross Income does not exceed Rs 60,000
- (b) Aggregate value of asset does not exceed Rs 20,000
- (c) Aggregate value of Qualifying Debt does not exceed Rs 35,000
- (d) He is not an undischarged insolvent
- (e) He does not own any dwelling unit, whether encumbered or not
- (f) Fresh start, Insolvency, Bankruptcy process is not Subsisting against him
- (g) No fresh start order for him in the preceding 12 months from the date of application for fresh start.

↓
Section 81-Interim Moratorium period commence on filling of application
legal Proceeding & all Existing stayed

→ Effect → No new

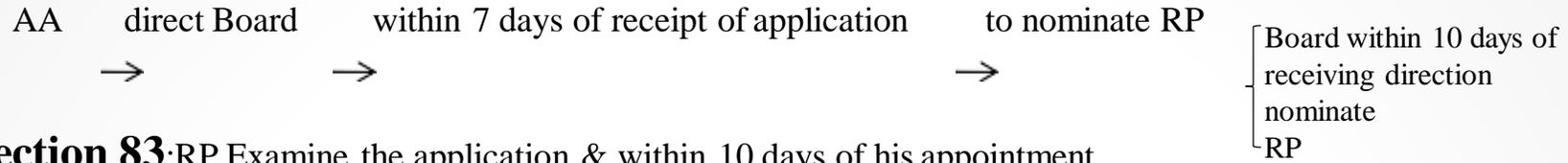
Cease to effect on date of admission or rejection of application

↓
Section 82: →

Where application is filed through RP

↓
AA Board to confirm within 7 days of receipt of application No disciplinary proceeding pending

Where application is filed by Debtor



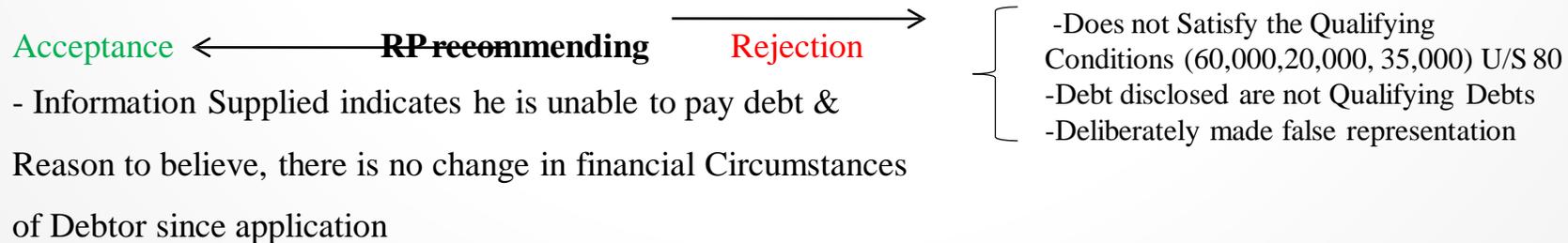
Section 83: RP Examine the application & within 10 days of his appointment

Submit a report to AA recommending either accepting or rejecting the application of application

Application Contents (Supported by an Affidavit)

- (a) List of all debts owed & name of Creditor
- (b) Interest payable on Debt
- (c) List of Security held in respect of any Debt
- (d) Financial information, himself & immediate family 2 prior years
- (e) Particulars of Debtor's personal defaults
- (f) The reason for making the application
- (g) Particulars of known legal proceedings
- (h) Confirmation No previous fresh start in proceeding 12 months of application

Section 84:



AA within 14 days of Submission of report by RP

Accept

Reject

Copy provided to Creditor within 2 days of order

Section 85:

Moratorium Commence

1. No legal proceeding, Existing stayed
2. Not act as director, directly or indirectly control company.
3. Not dispose any assets – can not travel outside India Except with AA permission

Moratorium ceases to effect

At the end of 180 days of admission unless revoked by AA

Section 86: Creditor within 10 days of receipt of order

Can file objection to RP



Section 87:

Where Debtor or any Creditor

Wants to replace RP

Make application to AA

direct Board

in 7 days of receipt of application

Section-88-General Duties of Debtor:

To make available to RP all information, attend meetings and comply with requests of RP reg fresh start process.

Inform the RP regarding any error, omission, change in financial circumstances etc.

Section-89 -Replacement of RP

Debtor or creditor may apply to AA for replacement of RP

AA to refer to Board within 7 days of receipt of application.

Board to revert within 10 days.

RP being replaced may be directed by AA to share information and extend cooperation to new RP

Section-90

Directions for compliances of restrictions RP

to apply to AA for:

Compliance of restrictions placed on debtor in section 85(3) during moratorium period regarding directorship, travel, disposal or alienation of assets.

Any other matter

Section 91:RP may submit application to AA

For revoking fresh start order

if (a) Due to change in financial circumstances Debtor is ineligible for fresh start

(b) Non- Compliance by Debtor of restriction imposed

(c) Debtor has acted malafide



↓ AA within 14 days of receipt of application ↓

Admit

reject

Moratorium ceases

Send a copy to Board for recording in the register U/S 196

Section 92:* RP prepare a list of Qualifying debts & submit list to AA at least 7 days before end of moratorium period AA pass discharge orders

Section-93

Standard of conduct

Code of conduct for RP provided under section 208

Part III- Chapter 3

Sections 94 to 120

Insolvency Resolution Process Firm, Individual

Individual Commits default Apply personally or through RP

Partnership Firm Can not apply UNLESS ALL or majority of partner file application Jointly

Debtor Can not file application if

- Undischarged Bankrupt
- Undergoing fresh start
- Undergoing Insolvency
- Undergoing Bankruptcy process
- 12 Months preceding the date of submission of application have not elapsed

Application shall be accompanied by

- Debt owed to the creditor on date of application
- Failure by debtor to pay debt within 14 days of services of demand notice
- Relevant Evidence of such default/ non- payment

- Creditor may apply himself or Jointly with *other* Creditors or through RP
- In Case of application against partnership firm, he can file (a) any one or more partner OR (b) the firm

* Interim moratorium period will commence on filing of application & cease to effect on date of admission /rejection



Where application is filed through RP

Where application is filed by Debtor/Creditor himself



AA direct Board within 7 days of receipt of application



AA direct board within 7 days of receipt of appl.
Board within days nominate the RP

Confirms no disciplinary proceeding pending within days of direction AA by order appoint RP

* Where Debtor/ Creditor wants to replace RP makes application to AA 7 + 10 days Board

RP Examine application & within 10 days of his appointment

Recommend AA to

Accept

Reject

AA within 14 days of receipt of report from RP pass the order

Copy of order provide to Creditor within 7 days of order

Moratorium Commence & Cease to effect at the end of period of 180 days beginning within 180 days of admission of **application**

Moratorium shall operate against all the partners of the firm

AA

Issue a Public Notice

within 7 days of passing order

Inviting Claims from all Creditors within 21 days of such issue

(in case of CIRP claim period 14 days, and in case of voluntary liquidation 30Day)

Communications/ Courier / speed post / registered letters

RP submit a repayment plan Along with his Report within 21 days from the last date of submission of claim

May call for meeting of Creditors (After 14 days but before 28days)

by giving notice of 14 days

Creditor may approve / modify / reject

RP obtain Consent of Debtor

- Creditor shall Entitled to vote with the Voting share assigned
- A Creditor shall not be entitled to vote in respect of a debt for an unliquidated amount.
- Secured Creditors shall be entitled to participate & Vote in the meeting of Creditor

But forfeit his right to enforce Security during repayment plan
 Creditor approved the plan by 3/4th value.

AA reject or approve the repayment plan

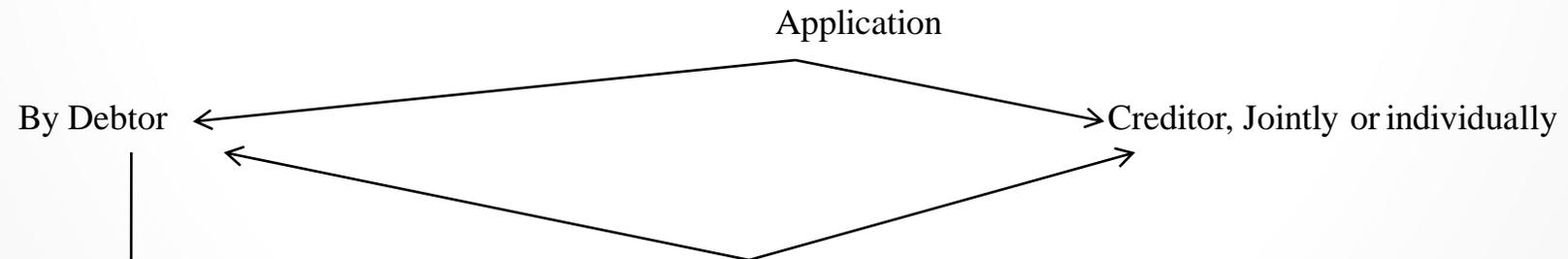
Where AA rejects plan

Debtor/ Creditor shall be entitled to file application for Bankruptcy under Chapter IV

Section-121-148

Chapter –IV

BANKRUPTCY ORDER FOR INDIVIDUAL & PARTNERSHIP



within 3 months from the date of order passed by AA rejecting insolvency plan 100 (4), 115 (2) & 118 (3)
 Application by Debtor Can not be withdrawn without the permission of AA

An application for Bankruptcy in case of deceased debtor may be filed against his legal representative.



An interim moratorium Commence on making of application

Which shall operate against all the partners of the firm (in case of firm)

If IP



If not proposed



is proposed as Bankruptcy trustee

AA direct within 7 days to Board

AA shall direct the Board within 7 days of receipt of application

To nominate the trustee

To confirm that no disciplinary proceeding pending

Board shall nominate within 10 days
Of receipt of director

Board within 10 days of receipt of direction confirm/ reject the
appointment (In waiting)

The AA shall pass Bankruptcy order within 14 days of receiving the Confirmation

A copy of order provided to Creditor within 7 days of passing the order

Effect of Bankruptcy order

- The Estate of Bankrupt vests in Bankruptcy trustee
- The Estate shall be divided among his Creditors

- ❖ A Bankruptcy order shall not effect the right of secured Creditor to realise his security interest, it take action to realise within 30 days from the said order.



Where Bankruptcy order is passed on application of Creditor



Bankrupt(Debtor) shall submit a Statement of his financial position to trustee within 7 days from commencement date/ order.

- ❖ AA shall



Send notice to Creditor [within 10 days of Bankruptcy order]

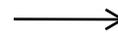
+

Issue a Public order to invite claims from Creditors

English + local language

Affixed in premises of AA

Placed on website of AA



Creditors shall submit their claims to Bankruptcy trustee

within 7 days of notice.



Bankruptcy trustee within 14 days of Commencement date prepare a list of Creditor



& within 21 days call meeting of Creditors



* Trustee shall be the convenor of meeting he shall decide the Quorum & not adjourn the **meeting of creditors for more than 7 days at a time.**

* A Creditor shall not be entitled to vote in respect of a debt for an unliquidated amount.

- (a) Bankruptcy trustee shall submit the report on Estate of Bankrupt in the meeting of Creditor
- (b) COC shall approve the report within 7 days of receipt of report & determine whether he can be released or not.

The trustee shall apply to AA for discharge order

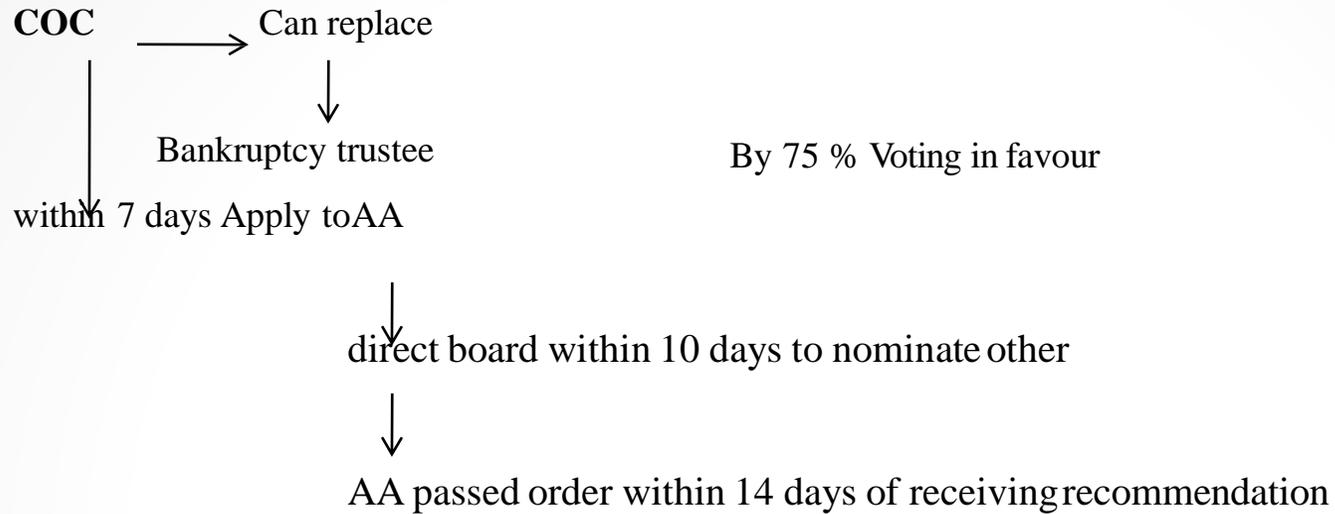
- (a) on the expiry of 1 year from commencement date OR
- (b) within 7 days of approval of COC of Completion of administration

* A Bankrupt shall be disqualified from

- (a) Being appointed as a trustee for any trust
- (b) Being appointed or acting as public servant
- (c) Being Elected to Public office
- (d) Being Elected as member of any local authority.

* He shall not act as (from the date of commencement of order)

- (a) Director of any company
- (b) Prohibited from Creating any charge on his asset
- (c) Required to inform his partner that he is going through Bankruptcy process
- (d) Not permitted to travel overseas



* A Bankruptcy trustee may resign, it

- a. Intent to cease practice, as IP or
- b. there is a conflict of interest.

↓

AA within 7 days → direct board → 10 days nominate → AA 14 days passed order

The Estate of Bankrupt shall not include

- a) Excluded Assets
- b) Property held by the Bankrupt on trust for any other person
- c) All sums due to workman / Employee from the provident fund/ pension/ Gratuity fund.
- d) Such **assets notified** by C.G in consultation with any financial regulator

* Where estate of Bankrupt Consist of Actionable claims they shall be deemed to assigned to Bankruptcy trustee, without any notice of assignment.

* Transfer of property by Bankrupt Between \longrightarrow application to commencement date is void \longrightarrow & not given any right to any person

Even if he obtained property

- a) In good faith
- b) For value &
- c) Without notice of filing of application for Bankruptcy.

However, if any person, acquired any After- acquired property from Bankrupt, in good faith & for value

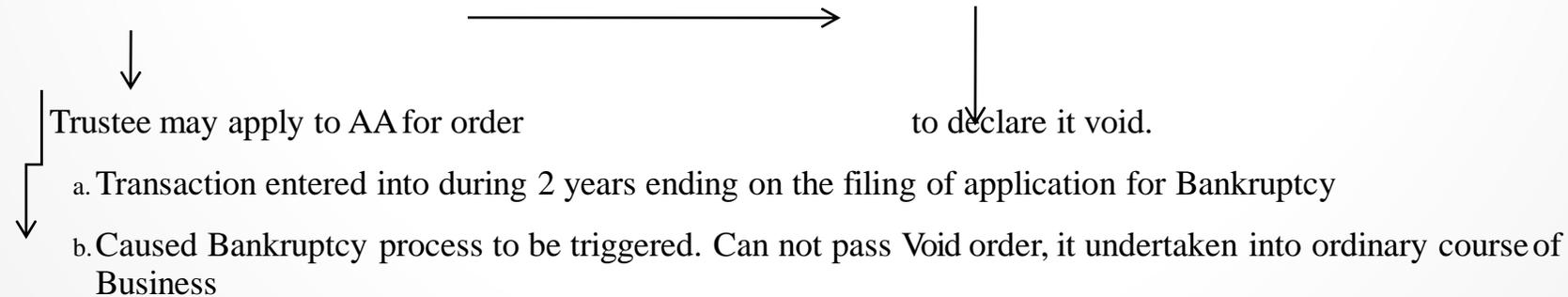
Cannot be taken back by Bankruptcy trustee.

Onerous property

- (a) Any unprofitable contract and
- (b) Any property which is unsalable or may give rise to a claim

Trustee may disclaim \downarrow with the permission of COC.

Undervalued transactions \longrightarrow



1. Makes a gift to a person, (2) No Consideration has received by Bankrupt, (3) It is in consideration of marriage and (4) Consideration is significantly less than value provided by Bankrupt.

Preference Transaction

- If entered with Associates during the period of 2 years from the date of application for Bankruptcy within 6 months in case of other person Extortionate Credit Transaction Entered into by the Bankrupt during the period of 2 years ending on the Bankruptcy commencement date
- If a Bankrupt dies during Bankruptcy, proceeding shall continue, as if he were alive.
- Legal representative of the deceased Bankrupt claim the funeral & testamentary Exp.

Which shall rank Equally to the Secured Creditors in priority followed U/S178

❖ If surplus remains

After-payment in full with interest to all Creditors

- Payment of bankruptcy Exp
- Bankrupt/ Legal representative shall be entitled to the surplus.

Priority of Payment of Debt

1. Cost of Bankruptcy process
2. Workmen dues 24 months preceding Commencement date
 - Debts owed to Secured Creditors
3. Wages & Unpaid dues to employees
 - 12 month proceeding commencement date
4. Amount due to Govt – 2 year preceding the Commencement date
5. All other unsecured Creditors / Debts.
6. Surplus, remaining for paying interest on Debt for the period of O/standing SINCE Bankruptcy **Commencement date**

AA for Individual & Partnership Firms

- DRT having territorial jurisdiction over the place
- (1) where Debtor actually or Voluntarily resides OR
 - (2) Carries on business
 - (3) Personally work for gain

Not outstanding anything in other act, DRT shall have jurisdiction to entertain

- (a) any seat, proceeding by or against individual Debtor
- (b) Question of priorities, law & facts under this code.

* Moratorium Period shall be excluded for limitation Act, 1963

DRT (30 days + 15 days Extension)
↓

Appeal lies in DRAT

order can be challenged [45 days + 15 days extension]

in Supreme court if it is Question of law

* If appeal is not filed within the prescribed period, chair person of DRAT Can extend by 10 days

Chapter V-Administration And Distribution Of The Estate Of The Bankrupt

Sections-(149-187)

Section-149-Functions Of Bankruptcy Trustee

Investigate the affairs, realize the estate and distribute the estate

Section-150-Duties Of Bankrupt towards Bankruptcy trustee

Information regarding his affairs, attending to Bankruptcy trustee, informing him reg any acquisition/devolution of property or increase in income etc.

Section-151-Rights Of Bankruptcy Trustee

May by his official name-hold property, make contracts, sue and be sued, enter into agreements, employ people , execute any POA etc.

Section-152-General Powers Of Bankruptcy Trustee

Sell, give receipt, avail dividend, redemption of pledge or hypothecation, exercise the right of transfer of property or any beneficial interest in any property of the bankrupt.

Section-153-Approval Of Creditors For Certain Acts

The bankruptcy trustee may after procuring the approval of the committee of creditors:

carry on any business of the bankrupt and do all acts necessary for carrying on such business

Section-154-Vesting Of Estate Of Bankrupt In Bankruptcy Trustee

The estate of the bankrupt shall vest in the bankruptcy trustee and there is no need of any conveyance, assignment or transfer for such vesting.

Section-155-Estate Of Bankrupt

Exclusions: excluded assets, property held in trust, PF, Pension Fund, Gratuity fund of workmen/employees, or any assets notified.

Section-156-Delivery Of Property & Documents To Bankruptcy

Trustee By Bankrupt, his banker, agent or any other person.

Section-157

Acquisition Of Control By Bankruptcy
Trustee

Section-158

Restrictions On Disposition Of
Property

Section-159

After Acquired Property Of
Bankrupt

Section-160

Onerous Property OF
Bankrupt

Section-161

Notice To Disclaim
Property

Section-162

Disclaimer Of
Leaseholds

Section-163

Challenge Against Disclaimed
Property

Section-164

Undervalued
Transactions

Section-165

Preference Transactions

2 years in case of associate and 6 months in case of any other person

Section-166

Effect Of
Order

Section-167

Extortionate Credit
Transactions

Section-168

Obligations Under
Contracts

Section-169

Continuance Of Proceedings On Death Of
Bankrupt

Section-170

Administration Of Estate Of Deceased
Bankrupt

Section-171

Proof Of
Debt

Section-172

Proof Of Debt By Secured
Creditors

Section-173

Mutual Credit & Set-
Off

Section-174

Distribution Of Interim
Dividend

Section-175

Distribution Of
Property

Section-176

Final
Dividend

Section-177

Claims Of
Creditors

Section-178

Priority Of Payment Of
Debts

Section-179

Adjudicating Authority For Individuals & Partnership
Firms

Section-180

Civil Court Not To Be Have
Jurisdiction

Section-181

Appeal To Debt Recovery Appellate
Tribunal

Section-182

Appeal To Supreme
Court

Section-183

Expeditious Disposal Of
Applications

Section-184

Punishment For False Information By Creditor Insolvency
Resolution Process

Section-185

Punishment Of Contravention Of Provisions

Section-186

Punishment For False Information, Concealment By Bankrupt

Section-187

Punishment For Certain Actions

Period Specified Under the Code for Performance of Acts by IBBI

Section	Matter	Period in Days
82(2)	To communicate to the Adjudicating Authority in writing either (a) confirmation of the appointment of the resolution professional who filed an application under sub-section (1) of section 82, or (b) rejection of the appointment of the resolution professional who filed an application under sub-section (1) of section 82 and nominate a resolution professional suitable suitable for the fresh start process.	No period specified
82(40)	To nominate a resolution professional within ten days of receiving the direction issued by the adjusting Authority under sub-section (3) of section 82.	10 days
97(2)	To confirm the appointment of the resolution professional or reject the appointment of the resolution professional and nominating another resolution professional for the insolvency resolution process.	7 Days
98(3)	To recommend the name of the resolution professional to the adjudicating Authority against whom no disciplinary proceeding are pending.	10 Days

98(6)	To send a communication either (a) confirming appointment of the nominated resolution professional and recommend a new resolution of professional.	10 days
125(2)	To confirm the appointment of the proposed insolvency professional as the bankruptcy trustee for the bankruptcy process, or reject the appointment of the proposed insolvency professional as the bankruptcy trustee and nominate another bankruptcy trustee for the bankruptcy process.	10 Days
125(4)	To Nominate a bankruptcy trustee.	10 days
145(5)	To recommended a bankruptcy trustee for replacement against whom no disciplinary proceeding are pending.	10 days
146(3)	To recommended another bankruptcy trustee as a replacement	10 days
147(3)	Recommended a bankruptcy trustee as a replacement.	10 days

FRESH START PROCESS			
83	Examination of Application of Fresh Start by RP from his appointment	10	RP
83	Providing further information by Debtor or any other person as requested by RP from date request	7	Debtor
84	Passing of Order on application for Fresh Start by NCLT	14	NCLT
85	Copy of Order passed u/s 84 to Creditors by NCLT	7	NCLT
85	Period of Moratorium under Fresh Start from the date of admission of application	180	
86	Objection agt. NCLT order by Creditors under Fresh Start to RP	10	Creditor
86	Examination of Objection and decision thereon by RP	10	RP
87	Challenge application by Debtor or Creditor agt. Decision of RP u/s 86 to NCLT	10	Debtor/creditor
87	Decision by NCLT on challenge application u/s 87	14	NCLT
91	Revocation of order passed u/s 84 by NCLT on application by RP on following grounds: i) change in financial circumstances of debtor and hence becomes ineligible; or ii) non-compliance by the debtor of the restrictions imposed u/s 85(3); or iii) if the debtor has acted in a mala fide manner and has willfully failed to comply with the provisions of this Chapter	14	NCLT

INSOLVENCY RESOLUTION PROCESS			
95	Period for payment of debts by debtor from service of notice of demand	14	debtor
99	Examination of application u/s 94,95 and submission of report by RP	10	RP
99	Further information by Debtor or any other person as requested by RP	7	Debtor / creditor
100	Order by AA on application u/s 94,95 from the date of submission of report by RP	14	AA
100	Copy of order passed to creditor	7	AA
101	Moratorium period from the date of admission of application	180	
102	Publication of notice by AA from passing of order of insolvency u/s 100	7	AA
102	Period for submission of claims by creditors from the date of publication	21	Creditor
104	Preparation of list of creditor by RP from the date of publication	30	RP
106	Submission of repayment plan with his report to AA from the last date of submission of claims	21	RP
106	Convening Meeting of creditors from the date of submission of report	14 -28	RP
107	Notice period for meeting of creditor	Atleast 14 days	RP
108	Adjournment of meeting	Not more than 7 days at a time	RP
117	Forwarding of following documents by RP to parties bound by	14 + 7	RP

BANKRUPTCY ORDER FOR INDIVIDUALS AND PARTNERSHIP FIRMS

126	Passing of bankruptcy order by AA from confirmation or nomination by IBBI	14	AA
126	Copy of bankruptcy order to bankrupt , creditors, BT by AA from passing order	7	AA
129	Submission of statement of financial position to BT by bankrupt from BCD	7	Bankrupt
130	Notice to creditor by AA from BCD	10	AA
130	Issue of public notice inviting claims from BCD	10	AA
131	Registration of claims by creditors with BT from publication of Notice	7	Creditors
132	Preparation of list of creditors by BT from BCD on the basis of: i) application u/s 118, ii) ii) Statement of affairs filed by bankrupt u/s 125 and iii) iii) claims recd. u/s 130	14	BT
133	Convening of meeting of creditors by BT from BCD	21	BT
134	Adjournment of meeting	Not more than 7 days at a time	BT
137	Approval of report of BT by COC from receipt of report	7	Creditors
138	Application to AA for discharge order by BT	1 year or with in 7 days from	BT

145	Appointment of BT in replacement by AA	14	AA
145	Notice of appointment to bankrupt by BT from his appointment	7	BT
146	Appointment of BT by AA in case of resignation	14	AA
146,147	Notice of appointment to bankrupt by New BT(New BT appointed in case of replacement/vacancy)	7	BT
150	Notice by bankrupt for increase in income or acquisition of property	7	Bankrupt
159	Notice by BT to bankrupt for after acquired property from the date of knowledge	15	BT
161	Period for taking decision by BT regarding disclaimer of onerous property	7	BT
162	Objection agt. Disclaim of lease hold interest by interest person from receipt of notice	14	Interested person
171	Notice to creditors for submission of proof of debt from preparation of list of creditors	14	BT
172	Right to sell secured property with the permission of AA if creditors does not submit proof of security with in	30	Creditor
201	Ack. Of application for registration of IPA by IBBI	7	IBBI
201	Communication of rejection order to IPA	15	IBBI
210	Ack. Of application for registration of IJ by IBBI	7	IBBI

Offence & Penalties

S.NO	Particulars	Section No.	When	Fine (Not Less than)	Imprisonment	Remarks
1	Punishment for false information etc. by creditor in insolvency resolution process.	184	Debtor or Creditor provides materially false information to RP	Up to 5 Lakhs	Up to 1 year	Or Both
			Creditor promises to vote dishonestly in favour of repayment plan	Up to 3times the amount accepted	Up to 2 years	Or Both
			In case amount not quantifiable	Not to exceed 5lakh		

S.NO	Particulars	Section No.	When	Fine (Not Less than)	Imprisonment	Remarks
2	Punishment for contravention of provisions	185	IP deliberately contravenes provisions	Not less than 1lakh But may extend to 5 lakh	Up to 6 months	Or Both
3	Punishment for false information, concealment, etc., by bankrupt	186	False representation or wilful omission while applying for bankruptcy or providing information during bankruptcy process	Up to 5 lakh	Up to 6 months	Or Both
			Falsification/Alteration / Destruction of books of account financial information and other records	Up to 5 Lakh	Up to 1 year	Or Both

S.NO	Particulars	Section No.	When	Fine (Not Less than)	Imprisonment	Remarks
			Contravention of restrictions placed on disqualification of bankrupt/ restriction on bankrupt	Up to 5 Lakh	Up to 6 months	Or both
			Failure to deliver possession to bankruptcy trustee	Up to 5 Lakh	Up to 6 months	Or both
			Failure to account for any substantial loss to the property 12 months before filing for bankruptcy application	3times value of the loss	Up to 2 year	Or Both
			In case amount not quantifiable	Not to exceed 5lakh		
			Absconded and attempting to abscond after the bankruptcy commencement date	Up to 5lakh	Up to 1 year	Or Both

S.NO	Particulars	Section No.	When	Fine (Not Less than)	Imprisonment	Remarks
4	Punishment for certain actions (of bankruptcy trustee)	187	Fraudulent misapplication retention or non-accounting or Acting wilfully in a manner causing loss to the estate of the bankrupt	Not less than 3 times the amount of the loss caused	Up to 3 years	Or Both
			In case amount not quantifiable	Not to exceed 5lakh		
			Note: No liability in case of seizure or disposal of property on having reasonable grounds to believe that he is entitled to seize or dispose that property			

Part IV

DAY 4

CHAPTER-I-

THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

- - Procedure/Governing Board -30th Jan 2017 (188-195)
- Advisory Committee -30th Jan 2016
- In operation - 29th Aug 2017

IBC 2016

Central Government

Apex Court

↓
Regulator (IBBI)

↓
Authorities

↓
IBBI.Gov.in

↓
Appellate authorities

NCLAT

DRAT

↓
Professionals (IP & IPE)

↓
Agencies

↓
Information Utilities

↓
Adjudicating authorities

NCLT

DRT

Limited insolvency exam

IPA

NESL

50hrs Training

iiipicai.in

(nesl.co.in)

Enrolment with IPA &

ipaicmai.in

Registration with IBBI

icsiiip.com

(May assume different roles

IRP, RP, Liquidator,

Bankruptcy Trustee

↓
Applicant

F
C

O
C

C
D

Part IV(Section-188-223)

The Insolvency & Bankruptcy Board of India



A body Corporate



Common Seal, perpetual Succession

Can sue or be sued

Head office - in NCR → may establish office in India

Constitution of Board

(1) Chair person (Not below Secretary Rank)

(2) 3 members – Ex- officio

(3) 1 member nominated by RBI (Ex- officio)

(4) 5 other Nominated by C Govt [At least 3 shall be the whole time members]

{
-Ministry of finance
- Ministry of Corporate affairs
- Ministry of Law

Appointment of chairman & members other than Ex- officio

office obtaining selection committee consists of

- cabinet Secretary

- Secretary to the Govt

- Chairperson of IBBI

- 3 Experts of repute from Finance, Law ,Management, Insolvency and related subject

Chairman -1 Nos
&
Members – 5 Nos

Other than
Ex-officio

Appointed for 5 years
or
Till attain Age of 65
Whichever is earlier
↓
& Eligible for re- appointment

C Govt may remove a member if

1. He is an undischarged bankrupt
2. Has become physically or mentally incapable
3. Convicted of an offence, involving moral turpitude
4. Abused the position, detrimental to Interest of Public

Salary
Chairperson

Rs 4,50,000

- Salary admissible to
secretary to Govt

Whole- Time
Members

Rs 4,00,000

- Salary admissible to
Additional secretary to Govt

- (1) Rent free unfurnished accommodation
- (2) If using personal house then gets 10% of Basic pay
- (3) Staff car for official purpose
- (4) Dearness Allowances as entitled under grade.

* No Bonus

* No Sitting fees

Entitled for

- Leaves Earned, casual
- Entertainment Allowance Rs. 6,000 P.A.
- **P. Fund**
- Travelling Allowance
- Medical treatment

* If they are receiving any pension Gratuity Government, then their Salary is reduced to that extent

*They shall not accept any employment before the expiry of a period of 1 year from the date of demitting the Board, except with the previous sanction of C. Govt.

Part – time Members

1. Every Part- time member holds office for period not- exceeding 3 years eligible for reappointment
2. Entitled to receive remuneration Rs 6,000 /- per meeting + Travelling allowance

IBBI Governing Board

Shall have at least 4 meeting / 1 in each Quarter

Member may attend through video conferencing

resolution can be passed through circulation

Any three members may require chairman / secretary to convene meeting

Not less **than 10 days notice** (unless dispensed by chairman)

Quorum → 5 Members, if board has 8 or more members: 3 members, if board has less than 8 Members

Code of Conduct

- ✓ Any Gift above 5,000 should be handed over to IBBI
- ✓ Shall not accept gift to the extent possible

Advisory Committee

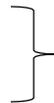
IBBI → Constitute Advisory Committee → To obtain expert advice



Comprises of

-Professional members

-General Members



2:1 ratio

* Term of Member → shall not exceed 3 years

* 50% of the Existing strength Consists of required Quorum

* Member is entitled for Rs 10,000 as sitting fee for a meeting

• Any member, who is director in a Co & if any matters related to that company come up → should disclose the fact

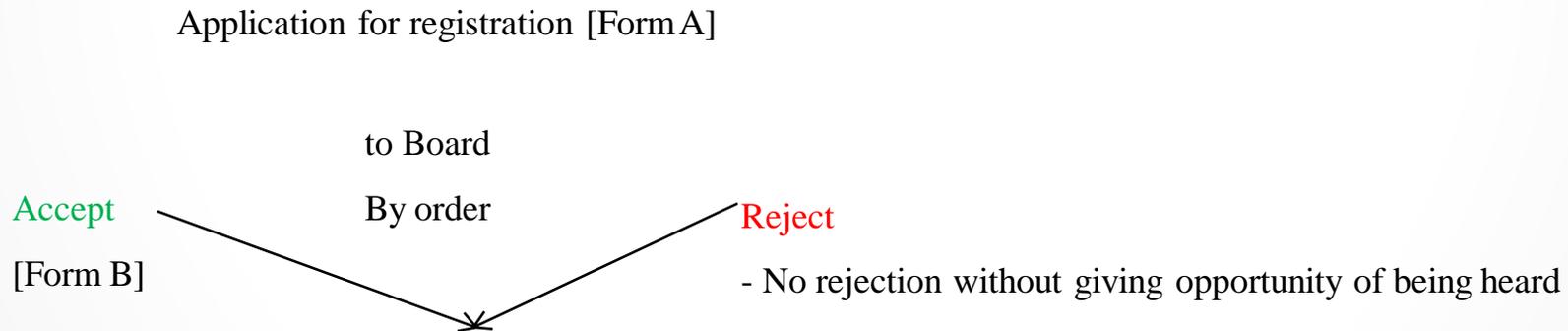
Section – 196(3)

Board shall have power of civil court under the code of civil procedure (CPC), 1908 while trying suit in respect of

- (a) Discovery & production of books of A/Cs and other documents
- (b) Summoning & enforcing the attendance of person examining oath
- (c) Inspection of any book, register of any person at any place
- (d) Issuing of Summons for the examination of witnesses or document.

Insolvency Professional Agencies (IPA)

* No person to function as Insolvency agency without valid certificate of registration issued by Board



Order should be Communicated to applicant within 15 days

Registration can be renewed

IPA

Shall Submit its bye-laws

Along with application for registration as IPA

] to IBBI

Governing Board (Board of Directors) of IPA



Can amend its Bye- laws (By 75% of Votes in Favour)

Amendment come into effect on the 7th day of receipt of approval, unless specified otherwise

IPA shall file a printed Copy of amended Bye-laws with Board within 15 days from the date, when such amendment is made effective.

Resolution shall be filed within 7 days of its passing to Board for its approval

Governing Board

Minimum 7 directors



- More than 1/2th shall be person resident in India
- Not more than 1/4th shall be Insolvency professional
- More than 1/2th shall be Independent director
- * More than half rounded off to next higher level
- * Not more than 1/2 rounded off to next lower number

No meeting of Governing Board without presence of at least one Independent director

- No pecuniary relationship with IPA
- Not a stakeholder of IPA
- Not a relative of director of the Governing Body

Director shall elect **an Independent** director as the chairperson of the Governing Board..

IPA

* Shall maintain a register of its professional member

Records relating to Professional member shall be available for Inspection to

(1) The Board (2) AA (3) COC, where IP is appointed as IRP (4) Any other person, who has obtained the consent of the member for such inspection.

* A professional member submit information (ATLEAST TWICE A YEAR) included on going & concluded Engagement as insolvency professional

Disciplinary Proceeding IPA

shall convene disciplinary proceeding against member

Suo moto, court of law, Board reference given by grievance redressal committee

May passed order for

- Expulsion
- Suspension for certain period
- Admonishment of the professional member
- Imposition of monetary penalty

Expulsion order can be passed

(a) On offence under any law, punishable with imprisonment for a term exceeding Six month or an offence involving moral turpitude

(b) A gross violation of code, rules, regulations

DC order shall be placed on IPA website within 7 days of passing order & copy provided to the parties

Aggrieved person Can appeal to Appellate Board within 30 days of receipt of order

Consist of one Independent Director + One technical member + One member appointed by Board

(c) Upon non-payment of membership fee despite at least two notices served in writing.

Temporary Suspension

(a) Becomes a person not resident in India

(b) Takes up employment

(c) Starts any business, Except permitted under code of Conduct

Surrender of Professional membership

- Name Struck from register after 30 days of its acceptance of surrender application

Form A Certificate of Professional membership [Issued under Bye-law 10 of IPA bye- laws]

IPA should be a Company U/S 8 of Co's Act, 2013

- (a) Sole objective carry function of IPA
- (b) By laws as per regulations
- (c) Minimum Net-worth of the applicant Rs.10 Crore
- (d) Paid- up Share Capital of IPA Rs.5 Crore
- (e) Not under the Control of Person resident outside India
- (f) Not more than 49 % of its share held by person resident O/S India
- (g) Not a subsidiary of a body corporate through more than one layer
- (h) are fit & proper
 - Integrity
 - absence of Conviction
 - Financial Solvency

(2)itself, its promoters, directors & person holding 5%(15%)(100%) of the paid up capital

Board Grant registration in [Form B] within 60 days of receipt of application

Certificate of registration is valid for 5 years from the date of issue

For renewal Apply in form A with fees of Rs. 5.00 lakh before the

expiry of Six month of registration

IPA shall

Pay a fee of Rs. 5.00 lakhs every year after the year in which certificate is granted /renewed

Seek approval of Board, when a person, other than statutory body, seeks to hold more them 10% of share capital, directly or indirectly

Board

within 45 days of receipt of application

Accept

IPA
not rejected

reject

Give 15 days of notice to provide Opportunity to explain, why

Can Surrender/ Registration

Board within 7 days invite objection to be submitted within 14 days of publication of notice

Satisfy publish a notice of its website

In Principle Approval

Board may grant, if applicant submit the application with a non refundable fee of Rs. 10.00 lakh

such approval is valid for one year

if within one year Form A for registration is submitted no need to pay fees

Form A Application for Certificate of registration

Form B Certificate of registration issued

-Board by order suspend or cancel the certificate/ grounds are

- (a) obtained registration by false statement / mis-representation
 - (b) failed to comply with regulations / Bye – laws
 - (c) Contravened provisions of Act/ rules
 - (d) any other ground, as specified by regulations
- No order shall be passed by any member except whole time members of the Board



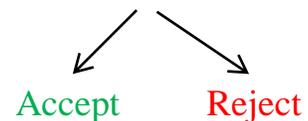
IPA Can appeal to NCLAT

Information Utilities

No person act as IU

without a certificate from

Board



* Board, may by order suspend or cancel the certificate, if

- a) Obtain by false statement / mis- representation
 - b) failed to comply with regulations/ bye – laws
 - c) Contravened provision of Act/ rules
 - d) Any other ground, as specified
- No order shall passed by any member except whole time member
- No order shall be made without giving opportunity of being heard

Appeal lies with NCLAT

(within 30 days of receipt of order)

* Any person, FC, OC shall submit the financial information to IU can access by payment of fees.

* Any person who intends to update, security error in financial information make application to IU.

IU Not eligible, unless it is a Public company

(A) Sole objective is to provide service under these regulates

(B) Shareholding (1) No person shall hold, directly or indirectly 10% of paid-up equity capital / voting power

(2) following hold, singly or jointly up to 25% of paid up equity capital / voting power

-Govt Co

-Stock exchange

-Depository

-Bank

-Insurance Company

-Public Financial Institution.

(3) C Govt. & state Govt – no restriction applies

(A) Governing Board- (1) More than ½ of its directors shall be independent directors

(2) No meeting shall be held without the presence of at least one independent director

(3) The director shall elect an Independent director as chairperson of the G Board

(B) Bye- laws are in consistent with code

(E) Minimum Net worth of 50 Crore.

(F) Not under the Control of person resident outside India

(G) Not more than 49 % of its paid up capital/voting power is directly/ indirectly held by the person resident O/S India

(H) Itself, its promoters, its paid up capital/ voting power are fit & fine - integrity - absence of Conviction - financial insolvency

IU

Application to Board in Form A + non-refundable fees Rs 5.00 lakh

Renewal at least 6 months prior to expiry in Form A + Non – refundable fees of Rs. 5.00 ;

Board shall act on application within 7 days of receipt

Satisfy

Reject/further details req

Issue certificate of registration

within 45 days communicate the reason

Form B

within 60 days of receipt of application
communicate

give opportunity to be heard within 15 days of above

Then Accept /reject the application within 30 days

Certificate of registration is valid for 5 years from date of issue

Condition

- Pay a fee of Rs. 50.00 lakh (annual fees) within 15 days of issuing certificate & every year thereafter. (within 15 days from the end of every year)

Seek prior approval of Board if

- (a) person acquiring more than 5 % of paid up/voting power directly or indirectly
- (b) Change of control
- (c) Merger, acquisition or restructuring
- (d) sale, disposal of whole/ substantial whole of the undertaking
- (e) Voluntarily Liquidation or discontinuance of business

Intimate Board if person holding more than 5 % of paid up equity / voting power cease to hold within 15 days

In – principle approval Application + fee 5.00 lakh

Approval valid for 1 year



Amendment IU Bye- laws

Governing body Amend [75% of votes]

Resolution file with Board within 7 days of its approval

Amendment shall effect on 7 days of receipt of approval

IU shall file a printed amended bye-laws within 15 days from the effective date to Board

Registration of User

- A person shall register —→ Submitting information to OR Accessing information stored

* A person registered with an IU shall not register itself with any IU again.

* A information utility shall accept information submitted by Co user in Form C

On receipt of information, IU shall authenticate & Verify

After authentication, communicate to the creditor of the Debtor who is defaulted

└─→ Partner & sureties to the debt

* IU shall store all information in a facility located in India.

Access to Information (1) The user who has submitted

(2) Partner to the debt and the host Bank

(3) CD & its auditors

(4) IP

(5) Board

(6) AA

(7) Person authorised under any law

* An IU shall not outsource the provision of Core-service to a third party service provider

* The fees charged for access to information shall not exceed the fees charged for submission of Information to IU.

IV **Form A – Application** for Certificate of Registration

Form B – Certificate of Registration Issued

Form C – Submission of information to IU

INSOLVENCY PROFESSIONAL

- No individual shall be eligible to be registered as IP, if he

(a) is a minor

(b) is not a person resident in India

(c) Does not have Qualification & Experience as per regulation 5&9/

(d) Convicted for offence with imprisonment exceeding 6 months or involving moral turpitude and a period of 5 yrs not expired provided if Convicted for a period of 7 years or more he shall not be eligible to be registered

(e) Undischarged insolvent

(f) unsound mind or

(g) Not a fit & proper person - integrity - absence of conviction - financial insolvencies

- shall be eligible for registration

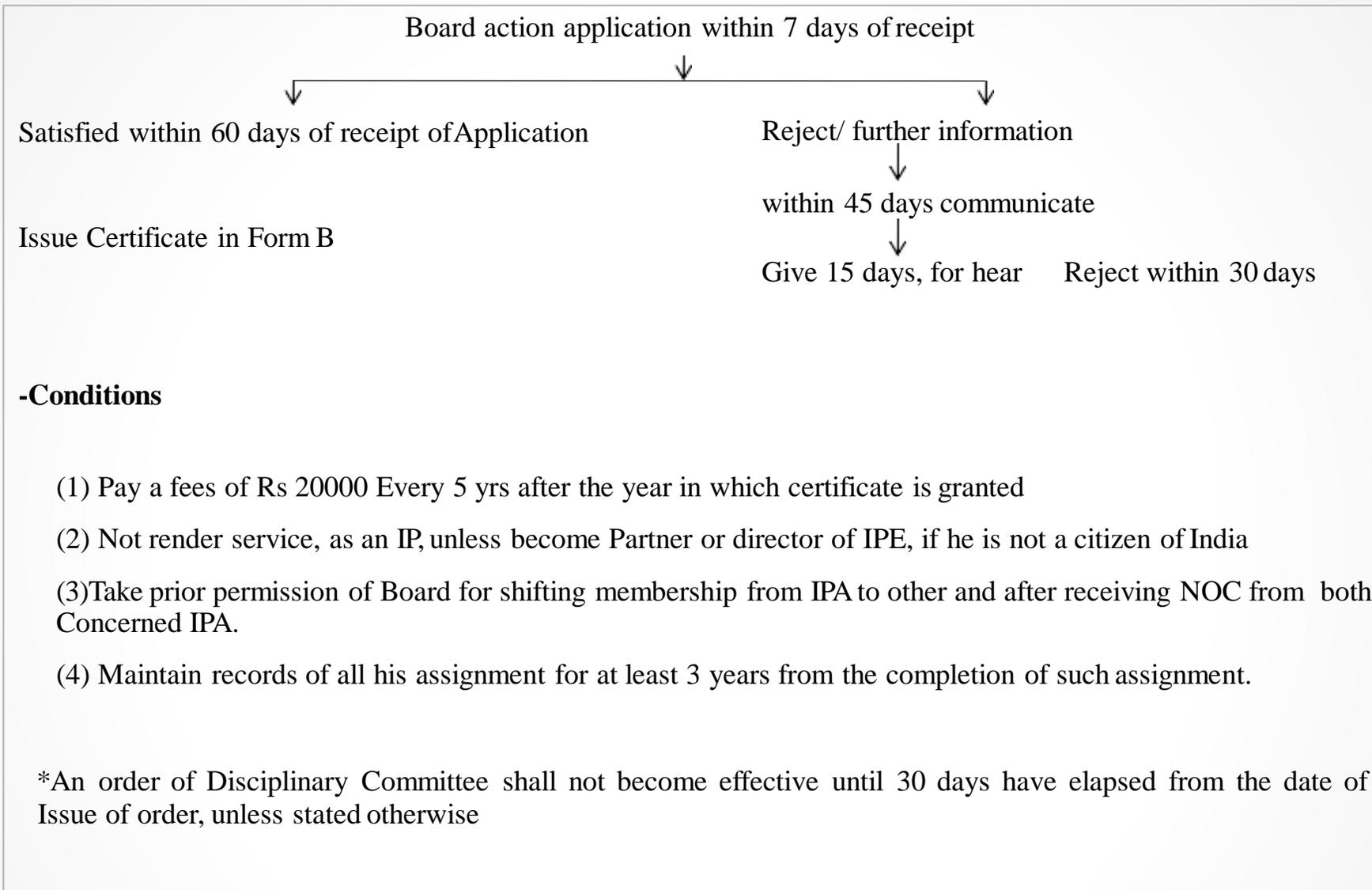
(a) Passed National Insolvency Exams

(b) Passed limited Insolvency + 15 years exp in management after received Bachelor degree from a recognised university

(c) Passed Limited Insolvency + 10 years exp as

- member of ICAI, ICSI, ICWAI, Bar Council

* A person who Passed Exam + Enrolled with IPA shall Make application to Board in Form A + Fees of Rs. 10,000



Insolvency Professional Entity

An LLP, Registered Partnership firm or a company may be recognised as IPE, If

- a. Sole objective –to provide support services to IPs
- b. Net worth not less than one crore
- c. Majority of shares held by IPs who are its directors in case it is a company
- d. Majority of capital contribution by IPs who are its partners in case of firm/LLP
- e. Majority of partners or directors are IPs
- f. Majority of its whole time directors are IPs
- g. None of its partners or directors is a partner or director in another IPE..

Make application in **form C of Ind** schedule Fee Rs.200000 Issue Certificate in Form – D

Condition

- (a) Inform Board, within 30 days when an IP Joins/ ceases to be its partner/Director
- (b) 1% of turnover in the preceding financial year on or before 30th April in Form G of the Second Schedule.
Interest @ 12% p.a thereafter

First Schedule

Code of Conduct for IPs

Second Schedule

Form A- Application for Registration of IP

Form B- Certificate of Registration for IP

Form C- Application for Recognition of IPE

Form D- Certificate of Recognition to IPE

Inspection & Investigation

any person aggrieved with the functioning of IPA, IU, or IP

Complaint to Board

may direct any person to investigate/ inspection

Investigating authority submit report to Board

Board issue show cause notice & Can Constitute a disciplinary Committee

Consists of whole-time members only

If satisfy, impose penalty, suspend a cancel registration

Penalty

3 times of amount of loss caused

or

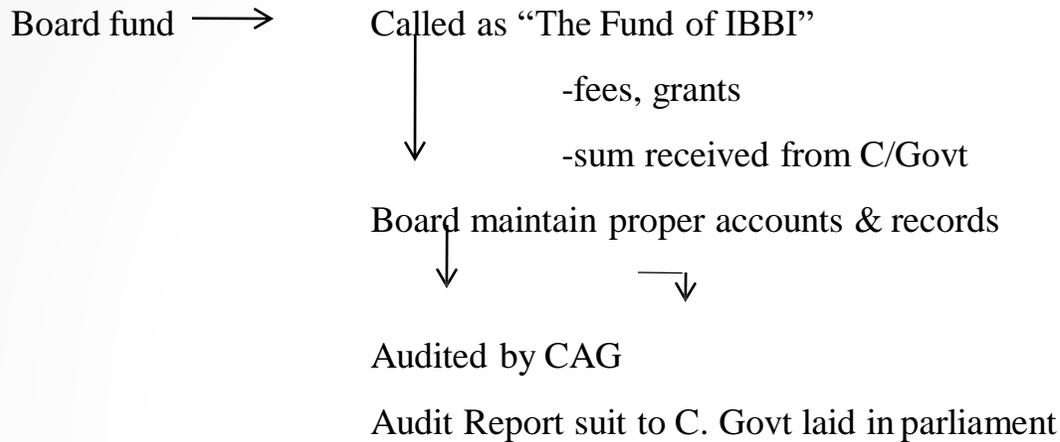
3 times of amount of unlawful gain made



Whichever is higher

Where unlawful gain are not quantifiable, amount of penalty can not exceed Rs. 1.00 crore

Finance, Accounts & Audit



Any person Contributed to fund, if insolvency proceeding initiated against him, make application to Board to take back the Contribution for payment to workmen

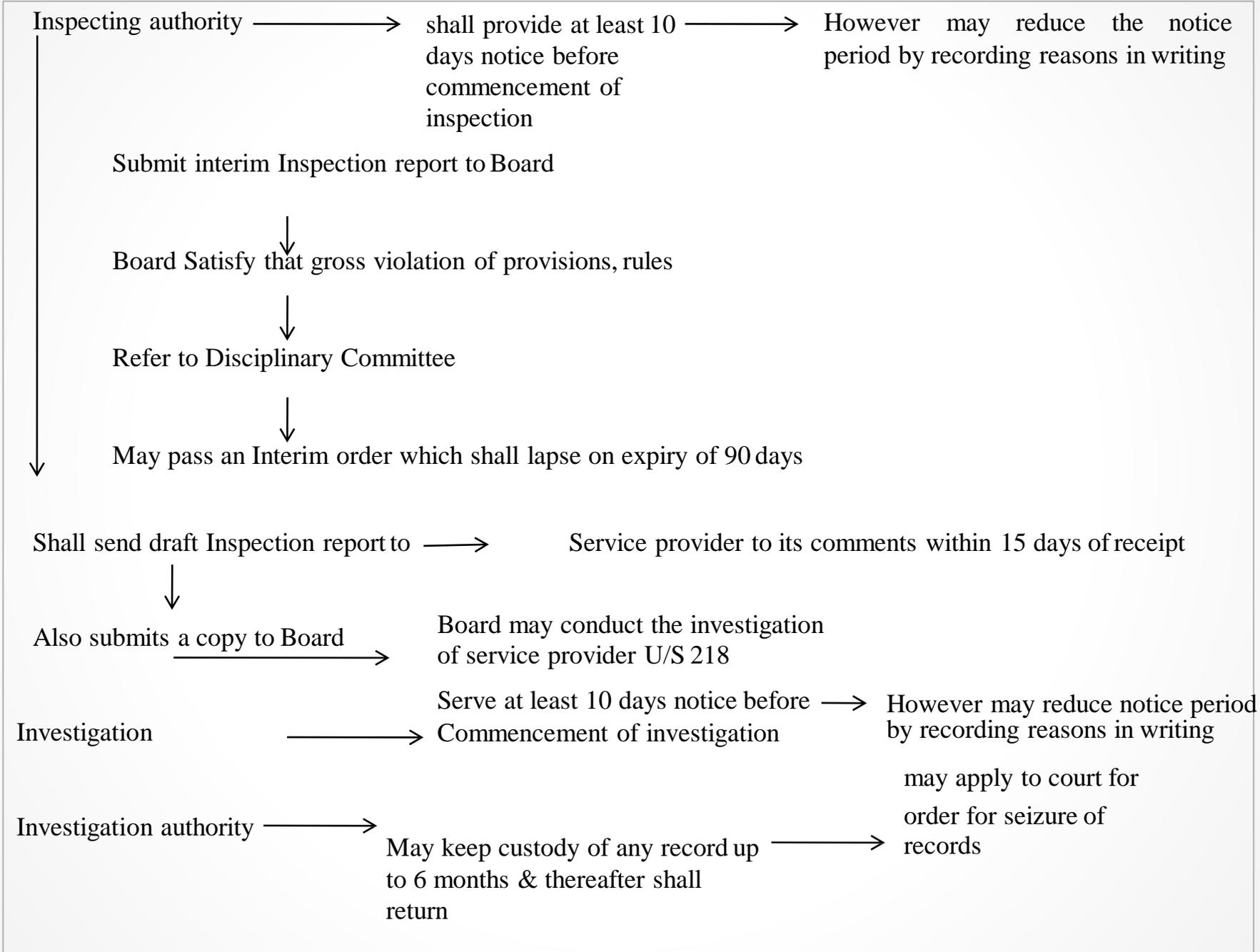
C. Govt Opinion that Board is not able to discharge its duties

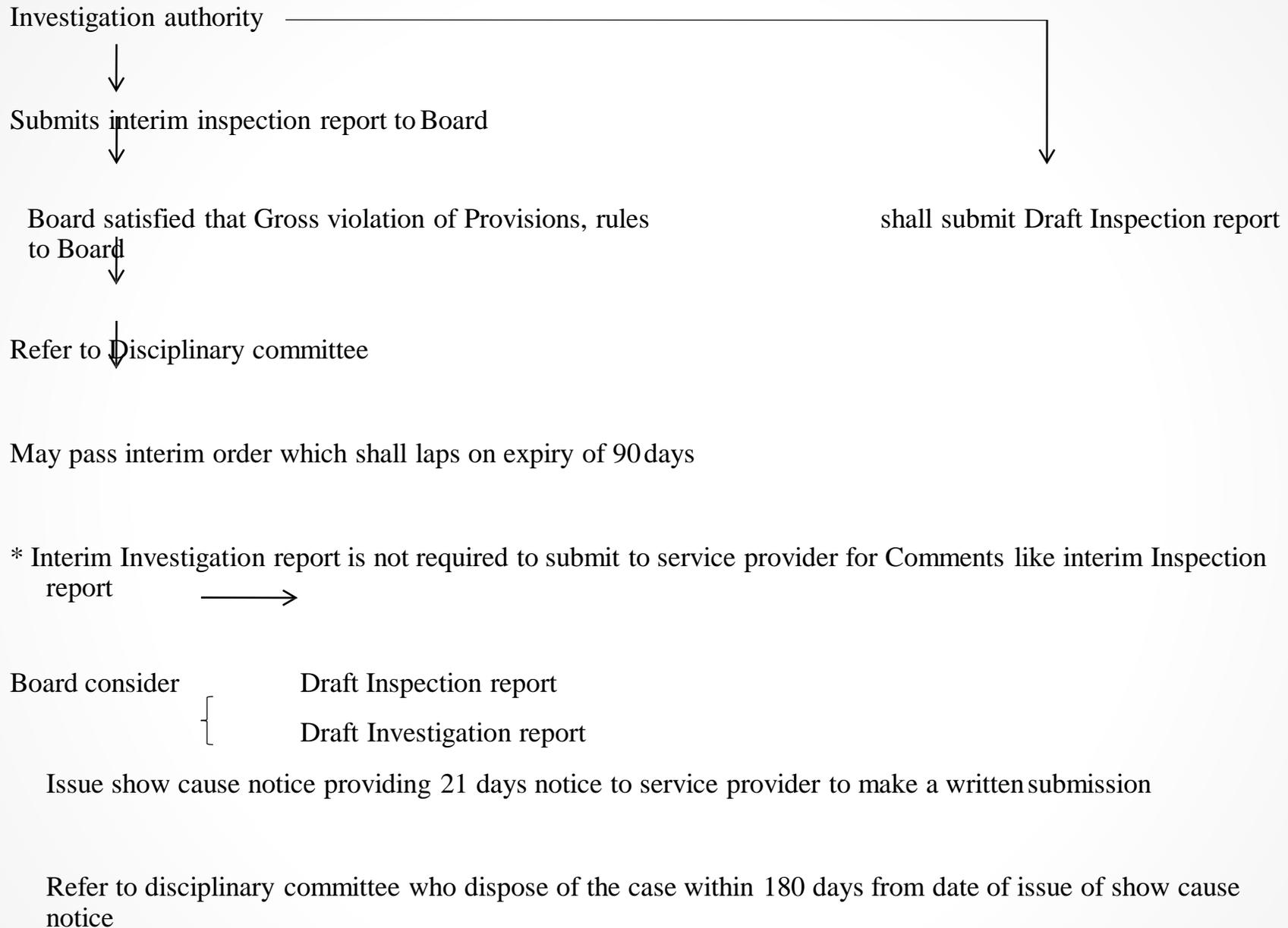
 By notification, suspend the Board for Six months

 All member shall vacate office Can be appointed when new Board is formed

Inspection Board may

- Conduct inspection of IPE, IP, IPA
- Direct an inspecting authority to inspect the records





Form A

To be filed for claim

U/S 220 (4)

who has made losses



For submitting claim where

amount is disgorge by service provider by indulging the activities in contravention of this code.

- Board by special order delegate the power to any member Except power to make regulation (as defined U/S 240)
- Chairperson, members & officers of Board shall be deemed to be Public Servant within meaning of IPC (Indian Penal code)
- C. Govt may enter into agreement with the Govt of any country O/side India for entering provision of this code.
- Provision of this code to override other laws (Non- obstante clause) (sec-238)
- Repealed the acts ————— The Presidency Towns Insolvency Act, 1909
The Provincial Insolvency Act, 1920

All proceeding pending there will continue

QUESTIONS & ANSWERS

1. Main functions of the Board are:-
 - To Register Insolvency Professional Agencies
 - To Register Insolvency Professionals
 - To Register Information Utilities
2. The Board will levy fee or other charges for the registration of Insolvency Professional agencies, insolvency professionals and information utilities
3. The Board will specify by regulations, standards for the functioning of insolvency professional agencies, insolvency professional and information utilities

4. The board will carry out inspections and investigations on IP agencies, IPs and IA
5. While exercising the powers under I & B Code, the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit
6. The Board may, for the efficient discharge of its functions, may constitute advisory and executive committees or such other committees, as it may deem fit, consisting of a Chairperson and such other members as may be specified by regulations
7. Where the Board does not perform any act within the period specified under this code, The Relevant Adjudicating Authority may, for reasons to be recorded in writing, condone the delay
8. No person shall carry on its business as IPA under this code and enroll IP as its members except under and in

9. Application for registration of IPA shall be made to the Board and every such application so received by the Board shall be acknowledged **within 7 days** of its receipt
10. The Board, after receiving application for registration of IPA may, grant a certificate of registration to the applicant or else, reject, by order, and every order so made shall be communicated to the applicant **within a period of 15 days**
11. These grounds the board may, by order, suspend or cancel the certificate of registration granted to an IPA:-
 - It has obtained registration by making a false statement or misrepresentation or by any other unlawful means
 - It has failed to comply with the requirements of the regulations made by the Board or Bye-law made by the insolvency professional agency
 - It has contravened any of the provisions of the Act or the

12. The Board may, by order, suspend or cancel the certificate of registration granted to an IPA and no such order shall be passed by any member except Whole time members

13. Any IPA which is aggrieved by the order of the Board made under section 201 may prefer an appeal to the NCLAT in such form, within such period, and in such manner, as may be specified by regulations

14. Main Functions of IPA are:-

- Grant membership to persons who fulfill all requirements set out in its bye laws on payment or membership fee
- Lay down standards for professional conduct for its members
- Monitor the performance of its members

15. The IPA, after obtaining the approval of the board, shall make bye-laws consistent with the model bye-law

16. What are the pre-requisites for practicing as an IP?

Passing LIE Examination

50 hours of Mandatory Practical Training
Enrolment with IPA
and Registration with Board

17. An IP cannot refuse IPA to get his records inspected. It is against the code of Conduct of an IP

18. An IP can render the following services:

- A fresh start process under Chapter II of Part III
- Individual IP process under Chapter III of Part III
- CIRP under Chapter II of Part II
- Individual Bankruptcy process under Chapter IV of part III
- Liquidation of a corporate debtor firm under chapter III of Part II

19. A person can carry on its business as information utility under this code by obtaining a certificate of registration issued in that behalf by the Board
20. Any person for the purpose of carrying of business as information utility shall make an application for registration to the Board, which shall be acknowledged by the Board within 7 days of its receipt
21. Grounds on which the Board may, by order, suspend or cancel the certificate of registration granted to an information utility
- It has obtained registration by making a false statement or misrepresentation or any other unlawful means
 - It has failed to comply with the requirements of the regulations made by the Board
 - It has contravened any of the provisions of the act or the rules or the regulations made there under

22. Any information utility which is aggrieved by the order of the Board made under section 210 may prefer an appeal to the NCLAT in such form, within such period, and in such manner, as may be specified by regulations
23. A Financial Creditor shall submit to the Information Utility financial information and information relating to assets in relation to which any security interest has been created, in such form and manner as may be specified by regulations
24. An Operational Creditor may submit financial information to the information utility in such form and manner as may be specified
25. Once a person who submits financial information to an information utility shall not provide such information to any other person, except to such extent, under such circumstances, and in such manner, as may be specified

26. Any person aggrieved by the functioning of an IPA or IP or an IU may file a complaint to The Board in such form, within such time and in such manner as may be specified
27. The total amount of the penalty imposed shall not exceed more than one crore rupees, where such loss or unlawful gain is not quantifiable
28. Penalty which the disciplinary committee may impose where any IPA or IP or an IU has contravened any provision of this code or rules or regulations made there under:

It shall be 3 times the amount of the loss caused, or likely to have been caused, to persons concerned on account of such contravention: or three times the amount of the unlawful gain made on account of such contravention, whichever is higher

29. DC shall consist of whole time members of the Board .only whole time member may be member of a disciplinary committee constituted by the board, to consider the reports of the investigating Authority submitted under section 218(6)

30. During the course of inspection or investigation ordered by the Board, the Investigating Authority may, enter any building or place where they may have reasons to believe that any such document, record or information relating to the subject matter of the inquiry may be found and may seize any such document, record or information or take extracts or copies there from, subject to the provisions of Code of Criminal Procedure, 1973

31. The Board, can conduct an inspection or investigation of the IPA or IP or an IU:-

On receipt of a complaint under section 217

Has reasonable grounds to believe that any insolvency professional agency or insolvency professional or an information utility has contravened any of the provision of the code or the rules or regulations made or directions issued by the Board there under

Direct any person to act as an investigating authority to conduct an inspection or investigation

32. The fund of the Insolvency and Bankruptcy Board shall not be credited with any sums received from Political Parties
33. The professional fee payable to the IP has to be in connection with the case assigned to him
34. The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the central government in consultation with the Comptroller and Auditor-General of India
35. The accounts of the Board shall be audited by the Comptroller and Auditor-General of India.
36. The accounts of the Board as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the central government and that government shall cause the same to be laid before Each House of Parliament

PART IV
REGULATION OF INSOLVENCY PROFESSIONALS, AGENCIES AND
INFORMATION UTILITIES

CHAPTER I
THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

188. Establishment and incorporation of Board. –

(1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Code, a Board by the name of the Insolvency and Bankruptcy Board of India.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Code, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Board shall be at such place in the National Capital Region, as the Central Government may, by notification, specify.

Explanation. - For the purposes of this section, the expression “National Capital Region” shall have the same meaning as assigned to it in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985 (2 of 1985).

(4) The Board may establish offices at other places in India.

189. Constitution of Board. -

(1) The Board shall consist of the following members who shall be appointed by the

Central Government, namely: -

(a) a Chairperson;

(b) three members from amongst the officers of the Central Government not below

the rank of Joint Secretary or equivalent, one each to represent the Ministry of Finance, the Ministry of Corporate Affairs and Ministry of Law, ex -officio;

(d) five other members to be nominated by the Central Government, of whom at least three shall be the whole-time members.

(2) The Chairperson and the other members shall be persons of ability, integrity and standing, who have shown capacity in dealing with problems relating to insolvency or bankruptcy and have special knowledge and experience in the field of law, finance, economics, accountancy or administration.

(3) The appointment of the Chairperson and the members of the Board other than the appointment of an ex-officio member under this section shall be made after obtaining the recommendation of a selection committee consisting of -

(a) Cabinet Secretary- Chairperson;

(b) Secretary to the Government of India to be nominated by the Central Government-Member;

(c) Chairperson of the Insolvency and Bankruptcy Board of India (in case of selection of members of the Board)- Member;

(d) three experts of repute from the field of finance, law, management, insolvency and related subject, to be nominated by the Central Government- Members.

(4) The term of office of the Chairperson and members (other than ex-officio members) shall be five years or till they attain the age of sixty-five years, whichever is earlier, and they shall be eligible for re-appointment.

(5) The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and members (other than the ex-officio members) shall be such as may be prescribed.

190. Removal of member from office. -

The Central Government may remove a member from office if he—

(a) is an undischarged bankrupt as defined under Part III;

(b) has become physically or mentally incapable of acting as a member;

(c) has been convicted of an offence, which in the opinion of Central Government involves moral turpitude;

(d) has, so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed under clause (d) unless he has been given a reasonable opportunity of being heard in the matter.

191. Powers of Chairperson. -

Save as otherwise determined by regulations, the Chairperson shall have powers of general superintendence and direction of the affairs of the Board and may also exercise such other powers as may be delegated to him by the Board.

192. Meetings of Board. -

(1) The Board shall meet at such times and places, and observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be determined by regulations.

(2) The Chairperson, or if, for any reason, the Chairperson is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have a second or casting vote.

193. Member not to participate in meetings in certain cases. -

Any member, who is a director of a company and who as such director has any direct

or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge,

disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.

194. Vacancies etc., not to invalidate proceedings of Board, and Officers and employees of Board. -

(1) No act or proceeding of the Board shall be invalid merely by reason of –

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

(2) The Board may appoint such other officers and employees as it considers necessary

for the efficient discharge of its functions in such manner as may be specified.

(3) The salaries and allowances payable to, and other terms and conditions of service

of, officers and employees of the Board appointed under sub-section (2) shall be such as

may be specified by regulations.

195. Power to designate financial sector regulator. –

Until the Board is established, the Central Government may by notification, designate

any financial sector regulator to exercise the powers and functions of the Board under this Code.

CHAPTER II

POWERS AND FUNCTIONS OF THE BOARD

196. Powers and functions of Board. -

(1) The Board shall, subject to the general direction of the Central Government, perform all or any of the following functions namely: -

(a) register insolvency professional agencies, insolvency professionals and information utilities and renew, withdraw, suspend or cancel such registrations;

(aa) promote the development of, and regulate, the working and practices of, insolvency

professionals, insolvency professional agencies and information utilities and other institutions, in furtherance of the purposes of this Code;

- (b) specify the minimum eligibility requirements for registration of insolvency professional agencies, insolvency professionals and information utilities;
- (c) levy fee or other charges [for carrying out the purposes of this Code, including fee for registration and renewal] of insolvency professional agencies, insolvency professionals and information utilities;
- (d) specify by regulations standards for the functioning of insolvency professional agencies, insolvency professionals and information utilities;
- (e) lay down by regulations the minimum curriculum for the examination of the insolvency professionals for their enrolment as members of the insolvency professional agencies;
- (f) carry out inspections and investigations on insolvency professional agencies, insolvency professionals and information utilities and pass such orders as may be required for compliance of the provisions of this Code and the regulations issued hereunder;

(g) monitor the performance of insolvency professional agencies, insolvency professionals and information utilities and pass any directions as may be required for compliance of the provisions of this Code and the regulations issued hereunder;

(h) call for any information and records from the insolvency professional agencies, insolvency professionals and information utilities;

(i) publish such information, data, research studies and other information as may be specified by regulations;

(j) specify by regulations the manner of collecting and storing data by the information utilities and for providing access to such data;

(k) collect and maintain records relating to insolvency and bankruptcy cases and disseminate information relating to such cases;

(l) constitute such committees as may be required including in particular the committees laid down in section 197;

(m) promote transparency and best practices in its governance;

(n) maintain websites and such other universally accessible repositories of electronic information as may be necessary;

(o) enter into memorandum of understanding with any other statutory authorities;

(p) issue necessary guidelines to the insolvency professional agencies, insolvency

professionals and information utilities

(q) specify mechanism for redressal of grievances against insolvency

professionals, insolvency professional agencies and information utilities and pass orders relating to

complaints filed against the aforesaid for compliance of the provisions of this Code and the regulations issued hereunder;

(r) conduct periodic study, research and audit the functioning and performance of

to the insolvency professional agencies, insolvency professionals and

(s) specify mechanisms for issuing regulations, including the conduct of public consultation processes before notification of any regulations;

(t) make regulations and guidelines on matters relating to insolvency and bankruptcy as may be required under this Code, including mechanism for time bound disposal of the assets of the corporate debtor or debtor; and

(u) perform such other functions as may be prescribed.

(2) The Board may make a model bye-laws to be adopted by the insolvency professional agency which may provide for –

(a) the minimum standards of professional competence of the members of insolvency professional agencies;

(b) the standard for professional and ethical conduct of the members of insolvency professional agencies;

(c) requirements for enrolment of person as members of insolvency professional agency which shall be non-discriminatory;

Explanation. - For the purposes of this clause, the term “non-discriminatory” means lack of discrimination on the ground of religion, caste, gender or place of birth and such other grounds as may be specified;

(d) the manner of granting membership;

(e) setting up of a governing board for the internal governance and management of insolvency professional agency in accordance with the regulations specified by the Board;

(f) the information required to be submitted by members including the form and the time for submitting such information;

(g) the specific classes of persons to whom services shall be provided at concessional rates or for no remuneration by members;

(h) the grounds on which penalties may be levied upon the members of insolvency professional agencies and the manner thereof;

(i) a fair and transparent mechanism for redressal of grievances against the members of insolvency professional agencies;

(j) the grounds under which the insolvency professionals may be expelled from the membership of insolvency professional agencies;

(k) the quantum of fee and the manner of collecting fee for inducting persons as its members;

(l) the procedure for enrolment of persons as members of insolvency professional agency;

(m) the manner of conducting examination for enrolment of insolvency professionals;

(n) the manner of monitoring and reviewing the working of insolvency professional who are members;

(o) the duties and other activities to be performed by members;

(p) the manner of conducting disciplinary proceedings against its members and imposing penalties;

(q) the manner of utilising the amount received as penalty imposed against any insolvency professional.

(3) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under this Code, the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a

suit in respect of the following matters, namely:

- (i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;
- (ii) summoning and enforcing the attendance of persons and examining them on oath;
- (iii) inspection of any books, registers and other documents of any person at any place;
- (iv) issuing of commissions for the examination of witnesses or documents.

197. Constitution of advisory committee, executive committee or other committee. -

The Board may, for the efficient discharge of its functions, may constitute advisory and executive committees or such other committees, as it may deem fit, consisting of a Chairperson and such other members as may be specified by regulations.

198. Condonation of delay. -

Notwithstanding anything contained in this Code, where the Board does not perform any act within the period specified under this Code, the relevant Adjudicating Authority may, for reasons to be recorded in writing, condone the delay.

CHAPTER III

INSOLVENCY PROFESSIONAL AGENCIES

199.No person to function as insolvency professional agency without valid certificate of registration. –

Save as otherwise provided in this Code, no person shall carry on its business as insolvency professional agencies under this Code and enrol insolvency professionals as its members except under and in accordance with a certificate of registration issued in this behalf by the Board.

200.Principles governing registration of insolvency professional agency. -

The Board shall have regard to the following principles while registering the insolvency professional agencies under this Code, namely: –

(a) to promote the professional development of and regulation of insolvency professionals;

(b) to promote the services of competent insolvency professionals to cater to the needs of debtors, creditors and such other persons as may be specified;

(c) to promote good professional and ethical conduct amongst insolvency professionals;

(d) to protect the interests of debtors, creditors and such other persons as may be specified;

(e) to promote the growth of insolvency professional agencies for the effective resolution of insolvency and bankruptcy processes under this Code.

201. Registration of insolvency professional agency. -

(1) Every application for registration shall be made to the Board in such form and manner, containing such particulars, and accompanied by such fee, as may be specified by regulations:

Provided that every application received by the Board shall be acknowledged within

seven days of its receipt

(b) to promote the services of competent insolvency professionals to cater to the needs of debtors, creditors and such other persons as may be specified;

(c) to promote good professional and ethical conduct amongst insolvency professionals;

(d) to protect the interests of debtors, creditors and such other persons as may be specified;

(e) to promote the growth of insolvency professional agencies for the effective resolution of insolvency and bankruptcy processes under this Code.

201. Registration of insolvency professional agency. -

(1) Every application for registration shall be made to the Board in such form and manner, containing such particulars, and accompanied by such fee, as may be specified by regulations:

Provided that every application received by the Board shall be acknowledged within seven days of its receipt.

(2) On receipt of the application under sub-section (1), the Board may, on being satisfied that the application conforms with all requirements specified under sub-section (1), grant a certificate of registration to the applicant or else, reject, by order, such application:

Provided that no order rejecting the application shall be made without giving an opportunity of being heard to the applicant:

Provided further that every order so made shall be communicated to the applicant within a period of fifteen days.

(3) The Board may issue a certificate of registration to the applicant in such form and manner and subject to such terms and conditions as may be specified.

(4) The Board may renew the certificate of registration from time to time in such manner and on payment of such fee as may be specified.

(5) The Board may, by order, suspend or cancel the certificate of registration

(a) that it has obtained registration by making a false statement or misrepresentation or by any other unlawful means;

(b) that it has failed to comply with the requirements of the regulations made by the Board or bye-laws made by the insolvency professional agency;

(c) that it has contravened any of the provisions of the Act or the rules or the regulations made thereunder;

(d) on any other ground as may be specified by regulations:

Provided that no order shall be made under this sub-section unless the insolvency professional agency concerned has been given a reasonable opportunity of being heard: Provided further that no such order shall be passed by any member except whole-time members of the Board.

202. Appeal to National Company Law Appellate Tribunal. -

Any insolvency professional agency which is aggrieved by the order of the Board made under section 201 may prefer an appeal to the National Company Law Appellate Tribunal in such form, within such period, and in such manner, as may be specified by regulations.

203. Governing Board of insolvency professional agency. –

The Board may, for the purposes of ensuring that every insolvency professional agency takes into account the objectives sought to be achieved under this Code, make regulations to specify—

- (a) the setting up of a governing board of an insolvency professional agency;
- (b) the minimum number of independent members to be on the governing board of the insolvency professional agency; and
- (c) the number of the insolvency professionals being its members who shall be on the governing board of the insolvency professional agency.

204. Functions of insolvency professional agencies. -

An insolvency professional agency shall perform the following functions, namely: –

- (a) grant membership to persons who fulfil all requirements set out in its bye-laws on payment of membership fee;
- (b) lay down standards of professional conduct for its members;
- (c) monitor the performance of its members;
- (d) safeguard the rights, privileges and interests of insolvency professionals who are its members;
- (e) suspend or cancel the membership of insolvency professionals who are its members on the grounds set out in its bye-laws;
- (f) redress the grievances of consumers against insolvency professionals who are its members; and
- (g) publish information about its functions, list of its members, performance of its members and such other information as may be specified by regulations.

205. Insolvency professional agencies to make bye-laws. –

Subject to the provisions of this Code and any rules or regulations made thereunder and after obtaining the approval of the Board, every insolvency professional agency shall make

bye-laws consistent with the model bye-laws specified by the Board under sub-section (2) of section 196.

CHAPTER IV INSOLVENCY PROFESSIONALS

206. Enrolled and registered persons to act as insolvency professionals. -

No person shall render his services as insolvency professional under this Code without being enrolled as a member of an insolvency professional agency and registered with the Board.

207. Registration of insolvency professionals. -

- (1) Every insolvency professional shall, after obtaining the membership of any insolvency professional agency, register themselves with the Board within such time, in such manner and on payment of such fee, as may be specified by regulations.
- (2) The Board may specify the categories of professionals or persons possessing such qualifications and experience in the field of finance, law, management, insolvency or such other field, as it deems fit.

208. Functions and obligations of insolvency professionals. –

(1) Where any insolvency resolution, fresh start, liquidation or bankruptcy process has been initiated, it shall be the function of an insolvency professional to take such actions as may be necessary, in the following matters, namely: –

- (a) a fresh start order process under Chapter II of Part III;
- (b) individual insolvency resolution process under Chapter III of Part III
- (c) corporate insolvency resolution process under Chapter II of Part II.
- (d) individual bankruptcy process under Chapter IV of Part III; and
- (e) liquidation of a corporate debtor firm under Chapter III of Part II.

(2) Every insolvency professional shall abide by the following code of conduct: –

- (a) to take reasonable care and diligence while performing his duties;
- (b) to comply with all requirements and terms and conditions specified in the byelaws of the insolvency professional agency of which he is a member;
- (c) to allow the insolvency professional agency to inspect his records;

CHAPTER V

INFORMATION UTILITIES

209. No person to function as information utility without certificate of registration. –

Save as otherwise provided in this Code, no information utility shall carry on its business under this Code except under and in accordance with a certificate of registration issued in that behalf by the Board.

210. Registration of information utility. –

(1) Every application for registration shall be made to the Board in such form and manner, containing such particulars, and accompanied by such fee, as may be specified by regulations:

Provided that every application received by the Board shall be acknowledged within seven days of its receipt.

(2) On receipt of the application under sub-section (1), the Board may, on being satisfied that the application conforms with all requirements specified under sub-section (1), grant a certificate of registration to the applicant or else, reject, by order, such application.

(3) The Board may issue a certificate of registration to the applicant in such form and manner and subject to such terms and conditions as may be specified.

(4) The Board may renew the certificate of registration from time to time in such manner and on payment of such fee as may be specified by regulations.

(5) The Board may, by order, suspend or cancel the certificate of registration granted to an information utility on any of the following grounds, namely: –

(a) that it has obtained registration by making a false statement or misrepresentation or any other unlawful means;

(b) that it has failed to comply with the requirements of the regulations made by the Board;

(c) that it has contravened any of the provisions of the Act or the rules or the regulations made thereunder:

(d) on any other ground as may be specified by regulations:

Provided that no order shall be made under this sub-section unless the information utility concerned has been given a reasonable opportunity of being heard:

Provided further that no such order shall be passed by any member except whole-time members of the Board.

211. Appeal to National Company Law Appellate Tribunal. –

Any information utility which is aggrieved by the order of the Board made under section 210 may prefer an appeal to the National Company Law Appellate Tribunal in such form, within such period, and in such manner, as may be specified by regulations.

212. Governing Board of information utility. –

The Board may, for ensuring that an information utility takes into account the objectives sought to be achieved under this Code, require every information utility to set up a governing board, with such number of independent members, as may be specified by regulations.

213. Core services, etc. of information utilities. –

An information utility shall provide such services as may be specified including core services to any person if such person complies with the terms and conditions as may be specified by regulations.

214. Obligations of information utility. –

For the purposes of providing core services to any person, every information utility shall–

- (a) create and store financial information in a universally accessible format;
- (b) accept electronic submissions of financial information from persons who are under obligations to submit financial information under sub-section (1) of section 215, in such form and manner as may be specified by regulations;
- (c) accept, in specified form and manner, electronic submissions of financial information from persons who intend to submit such information;
- (d) meet such minimum service quality standards as may be specified by regulations;
- (e) get the information received from various persons authenticated by all concerned parties before storing such information;

- (f) provide access to the financial information stored by it to any person who intends to access such information in such manner as may be specified by regulations;
- (g) publish such statistical information as may be specified by regulations.
- (h) have interoperability with other information utilities.

215. Procedure for submission, etc. of financial information. –

- (1) Any person who intends to submit financial information to the information utility or access the information from the information utility shall pay such fee and submit information in such form and manner as may be specified by regulations.
- (2) A financial creditor shall submit financial information and information relating to assets in relation to which any security interest has been created, in such form and manner as may be specified by regulations.
- (3) An operational creditor may submit financial information to the information utility in such form and manner as may be specified.

216. Rights and obligations of persons submitting financial information. -

(1) A person who intends to update or modify or rectify errors in the financial information submitted under section 215, he may make an application to the information utility for such purpose stating reasons therefor, in such manner and within such time, as may be specified

(2) A person who submits financial information to an information utility shall not provide such information to any other person, except to such extent, under such circumstances, and in such manner, as may be specified.

CHAPTER VI

INSPECTION AND INVESTIGATION

217. Complaints against insolvency professional agency or its member or information utility. -

Any person aggrieved by the functioning of an insolvency professional agency or insolvency professional or an information utility may file a complaint to the Board in such form, within such time and in such manner as may be specified.

218. Investigation of insolvency professional agency or its member or information utility. -

(1) Where the Board, on receipt of a complaint under section 217 or has reasonable grounds to believe that any insolvency professional agency or insolvency professional or an information utility has contravened any of the provisions of the Code or the rules or regulations made or directions issued by the Board thereunder, it may, at any time by an order in writing, direct any person or persons to act as an investigating authority to conduct an inspection or investigation of the insolvency professional agency or insolvency professional or an

(2)The inspection or investigation carried out under sub-section (1) of this section shall be conducted within such time and in such manner as may be specified by regulations.

(3)The Investigating Authority may, in the course of such inspection or investigation, require any other person who is likely to have any relevant document, record or information to furnish the same, and such person shall be bound to furnish such document, record or information:

Provided that the Investigating Authority shall provide detailed reasons to such person before requiring him to furnish such document, record or information.

(4)The Investigating Authority may, in the course of its inspection or investigation, enter any building or place where they may have reasons to believe that any such document, record or information relating to the subject-matter of the inquiry may be found and may seize any such document, record or information or take extracts or copies therefrom, subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as they may be applicable.

(5)The Investigating Authority shall keep in its custody the books, registers, other documents and records seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the concerned person from whose custody or power they were seized:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(6) A detailed report of inspection or investigation shall be submitted to the Board by the Investigating Authority.

219. Show cause notice to insolvency professional agency or its member or information utility. -

The Board may, upon completion of an inspection or investigation under section 218, issue a show cause notice to such insolvency professional agency or insolvency professional or information utility, and carry out inspection of such insolvency professional agency or insolvency professional or information utility in such manner, giving such time for giving reply, as may be specified by regulations.

220. Appointment of disciplinary committee. –

(1) The Board shall constitute a disciplinary committee to consider the reports of the investigating Authority submitted under sub-section (6) of section 218:

Provided that the members of the disciplinary committee shall consist of whole-time members of the Board only.

(2) On the examination of the report of the Investigating Authority, if the disciplinary committee is satisfied that sufficient cause exists, it may impose penalty as specified in subsection (3) or suspend or cancel the registration of the insolvency professional or, suspend or cancel the registration of insolvency professional agency or information utility as the case may be.

(3) Where any insolvency professional agency or insolvency professional or an information utility has contravened any provision of this Code or rules or regulations made thereunder, the disciplinary committee may impose penalty which shall be –

(i) three times the amount of the loss caused, or likely to have been caused, to persons concerned on account of such contravention; or

(ii) three times the amount of the unlawful gain made on account of such contravention, whichever is higher:

Provided that where such loss or unlawful gain is not quantifiable, the total amount of the penalty imposed shall not exceed more than one crore rupees.

(4) Notwithstanding anything contained in sub-section (3), the Board may direct any person who has made unlawful gain or averted loss by indulging in any activity in contravention of this Code, or the rules or regulations made thereunder, to disgorge an amount equivalent to such unlawful gain or aversion of loss.

(5) The Board may take such action as may be required to provide restitution to the person who suffered loss on account of any contravention from the amount so disgorged, if the person who suffered such loss is identifiable and the loss so suffered is directly attributable to such person.

(6) The Board may make regulations to specify-

(a) the procedure for claiming restitution under sub-section (5)

(b) the period within which such restitution may be claimed; and

(c) the manner in which restitution of amount may be made.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

221. Grants by Central Government. -

The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilised for the purposes of this Code.

222. Board's Fund. –

(1) There shall be constituted a Fund to be called the Fund of the Insolvency and Bankruptcy Board and there shall be credited thereto –

(a) all grants, fees and charges received by the Board under this Code;

(b) all sums received by the Board from such other sources as may be decided upon by

the Central Government;

(c) such other funds as may be specified by the Board or prescribed by the Central Government.

(2) The Fund shall be applied for meeting –

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(b) the expenses of the Board in the discharge of its functions under section 196;

(c) the expenses on objects and for purposes authorised by this Code.

(d) such other purposes as may be prescribed.

223. Accounts and audit. –

(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor- 137 General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

PART-V
Miscellaneous
Section-(224-244)

Section-224

Insolvency & Bankruptcy
Fund

Section-225

Power Of Central Government To Issue Directions to the Board. Decision of Central Govt. shall be final.

Section-226

Power Of Central Government To Supersede Board.
Not exceeding six months as may be specified in the
notification

Section-227

Power Of Central Government To Notify Financial Service Providers

Section-228

Budget

Board shall prepare Budget for next financial year and forward it to Central Government.

Section-229

Annual Report

Preparation and copy to Central Government

Section-230

Delegation except the powers under Section 240

Section-231

Bar Of Jurisdiction

No civil court
jurisdiction

Section-232-Members, Officers & Employees Of Board To be Public Servants

Within the meaning of Section 21 of IPC.

Section-233-Protection Of Action Taken In Good Faith

No suit, proceeding or legal action

Section-234

Agreements With Foreign Countries

For properties or assets of corporate debtor or personal guarantor of corporate debtor

Section-235-Letter Of Request To A Country Outside India In Certain Cases

Regarding properties or assets of corporate debtor or personal guarantor-AA may issue a letter of request to court or authority of foreign country

Section-235(A)-Punishments Where No Specific Penalty Or Punishment Is
Provided One lakh to two crores.

Section-236-Trial Of Offences By Special Court

Special court established under Chapter XVIII of the Companies Act,2013 to be treated as Sessions Court.

Section-237-Appeal & Revision

High court may exercise powers given in Chapter XXIX and XXX of CrPC,1973 as a special court within its jurisdiction.

Section-238 - Provisions Of This Code To Override Other Laws Non obstante clause

Section-238(A)-Limitations

Provisions of Limitation Act to apply.

Section-239-Power To make Rules

Central Govt may make rules by
notification

Section-240-Power To Make Regulations

IBBI may make regulations.

Section 240A-Applicability to MSME

Provisions of clauses © and (h) of Section 29A not to apply in case of CIRP of
MSME.

Central Govt may relax provisions for MSME

Section-241 :Rules & Regulations To Be Laid Before Parliament

Section-242-Power To Remove Difficulties

Central Govt. has the powers. However, No order after the expiry of five years from the commencement of the code.

Section-243-Repeal Of Certain Enactments & Savings

The Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920 repealed. However pending proceedings to continue.

Section-244-Transitional Provisions Sections 245

to 255

Refer to schedules through which amendments have been made in various Acts.

SECTION	AMENDMENT
240	In section 240 of the principal Act, in sub-section (2), in clause (w), for the words “repayment of debts of operational creditors”, the words “payment of debts” shall be substituted.
SECTION	AMENDMENT
227	(i) for the words "examined in this Code", the words "contained in this Code" shall be substituted; (ii) the following Explanation shall be inserted, namely:— "Explanation.—For the removal of doubts, it is hereby clarified that the insolvency and liquidation proceedings for financial service providers or categories of financial service providers may be conducted with such modifications and in such manner as may be prescribed."
239(2)	In section 239 of the principal Act, in sub-section (2), after clause (f), the following clauses shall be inserted, namely:— "(fa) the transactions under the second proviso to sub-section (2) of section 21; (fb) the transactions under Explanation I to clause (c) of section 29A; (fc) the transactions under the second proviso to clause (j) of section 29A;"
240(2)	In section 240 of the principal Act, in sub-section (2), after clause (i), the following clause shall be inserted, namely:— "(ia) circumstances in which supply of critical goods or services may be terminated, suspended or interrupted during the period of moratorium under sub-section (2A) of section 14;". 14. (1) The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019 is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the Insolvency and Bankruptcy Code, 2016, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the

Cross Border Insolvency

Case to Cross the Border Beyond the UNCITRAL Sudhakar Shukla and Kokila Jayaram

- Along with globalisation spreading its wing rapidly, inherent fears of possible economic contagion like the one that unfolded in the form of the 2008 financial crisis also gained currency. It became increasingly evident that resorting to national solutions alone in relation to multinational players may not be effective. In turn, need for having robust institutional arrangement to deal with cross border insolvency issues in an efficient and swift manner gained momentum. The UNCITRAL Model Law (Model Law) was heralded as harbinger of standards which can be emulated by all the countries with suitable modifications as they may deem fit. However, even after over two decades, the number of countries who declared their affiliation with the initiative has just reached 47. In this backdrop, this article explores evolution of the UNCITRAL framework and alternatives which can be pursued in moving forward.
- Though the ongoing pandemic is compelling countries to scramble through and roll out suitable cross border insolvency frameworks, the difference in terms of integration with global economy and the maturity of financial and legal systems amongst various jurisdictions appear to be compelling enough to press for a framework that thinks beyond the Model Law.

Introduction

Globalisation – in normal parlance is defined as the state of being globalised especially, in the context of the positive shifts in production possibility curves through development of an increasingly integrated global economy marked especially by free trade, free flow of capital, the tapping of cheaper foreign labour markets, and removal of information asymmetries. Amartya Sen, while pointing out the efficacy of integrated global system highlighted, that presenting globalisation as an economic phenomenon is based on partial analysis. He opined, ‘Globalisation is a complex issue, partly because economic globalisation is only one part of it. Globalisation is greater global closeness, and that is cultural, social, political, as well as economic.’² However, the decade leading to 2020 and the recent pandemic, in particular, is leading us to think otherwise. Thoughts like ‘globalisation has peaked’³ or ‘globalisation is dead’⁴ are being deliberated and debated.

The pandemic-induced lockdown has brought economic activities to a grinding halt. Global growth⁵ in 2020 is projected at - 4.9 per cent and 2021 at 6½ percentage points lower than the pre-COVID-19 projections of January 2020. FDI flows⁶ are forecast to decrease by up to 40 per cent in 2020, by further 5-10 per cent in 2021 with a slow rebound in 2022.

Global trade flows⁷ are projected to contract between 12.9 per cent (optimistic scenario) and 31.9 per cent (pessimistic scenario) in 2020 with gradual recovery in 2021. Looming uncertainty and bleak outlook have led to a new wave of pessimism, writing off globalisation. The impact of the pandemic is set to have long term scarring for businesses. As the pandemic continues to spread, market-led probabilities of default have increased⁸ in G-20 and emerging market economies alike. Bankruptcies are to become more common as firms exhaust cash buffers. The failure of a large multinational company can have widespread ramifications in the industry of which it is an integral part; in countries in which its operations are largely based and even the entire global market chain.

Excepting the recent (starting 2019) slowdown in global growth and trade, this decade saw world merchandise trade reach a record USD 19.67 trillion in 2018⁹. India was 17th in the list leading traders of goods and services in 2008 and rose to 11th position in 2018¹⁰.

Global Foreign Direct Investment (FDI) flow¹¹ was a record USD 1.41 trillion in 2018 and of which India received USD 42 billion and was the 8th largest host country for investments.

The year 2018 saw cross border mergers and acquisitions valued at USD 816 billion and FDI greenfield projects of USD 999 billion announced across the world. There were an estimated 164 million¹² people who worked in other countries in 2017 and in mid-2019,

5.2 million¹³ Indians were working abroad. By all measures India is today more integrated with the world than ever before and globalisation continues to be an irresistible force today as it was in 1991. Having an insolvency law that can deal effectively with cross border issues would provide necessary comfort, in a worst-case scenario where many multinational enterprises are forced into insolvency resolution proceedings

The ongoing pandemic has posed several challenging questions regarding robustness of insolvency laws dealing with cross border insolvencies and has necessitated a comprehensive response. The choice of framework however depends on the country's level of integration with global economy, maturity of insolvency system currently in place, maturity of legal systems in general etc., among other things. The Insolvency and Bankruptcy Code, 2016 (Code) sought to address cross border insolvency by enabling the Central Government to enter into agreements or reciprocal arrangements with other countries for enforcing provisions of the Code¹⁴. It has also provided that the Adjudicating Authority (AA) under the Code can issue letter of request to a Court or an authority competent to deal with request for evidence or action in connection with proceedings under the Code in these countries¹⁵. The Insolvency Law Committee¹⁶ in its October 2018 report on cross border insolvency recommended to the Government adoption of the Model Law.

With this backdrop, this article explores regional efforts to address cross border insolvency. In this regard, it also discusses the UNCITRAL framework and then evaluates the alternatives for India in moving forward. Following this introductory section, the next section presents the evolution of cross border insolvency measures including the Model Law. Section III assesses whether India needs a cross border insolvency framework and section IV assesses the alternatives available. The assessment favours bilateral arrangements over an overarching framework and we suggest that such arrangements may look beyond the Model Law for doing so.

EVOLUTION OF CROSS BORDER INSOLVENCY REGIMES

- **Regional efforts since the 19th century**

The earliest attempt to address international aspects of insolvency was made in Latin America in the South American Congress of Private International Law of 1888-1889. The Montevideo Treaty of 1889 provided rules for liquidation, the concept of unity of proceedings and vesting jurisdiction in the State of the debtor's commercial domicile.

The Treaty, revised in 1940, defined 'commercial domicile' and provided guidance for compositions, suspension of payments and analogous proceedings (Majumdar, 2009)¹⁷. Even as the Treaty existed, the Havana Conference in 1928 gave the Bustamante Code adopted by 15 Latin American countries. It provided both the concept of unity and universality for some countries. These were initial attempts to provide any guidance on insolvency matters between countries that were integrated economically and had similar legal cultures. These had broad application but gave preference to local creditors (Cunningham & Werlen, 1996)

In 1933, the Nordic States of Denmark, Finland, Iceland, Norway and Sweden concluded a convention regarding bankruptcy. This convention was later amended in 1977 and 1982.

The convention provided for amalgamation of assets into one estate and distribution according to the rules of the State where proceedings were opened in the bankrupt's residence or registered office. It provided for recognition of bankruptcy proceedings in other states, judicial assistance, and recognition of judicial decisions.

In Europe work started in 1894 as part of the Hague Conference and in 1928 it was decided to transform the multilateral convention into a model bilateral treaty, which saw very little adoption. The Council of Europe concluded the European Convention on Certain International Aspects of Bankruptcy in 1990, which provided for 'main' and 'secondary' bankruptcy proceedings. In May, 2002 EU Regulation 1346 came into force repealed in

May 2015 by the Regulation (EU) 2015/848 and issued a 'Recommendation of 12.3.2014 on a New Approach to Business Failure and Insolvency.' Regulation 1346 provided uniform rules for the settlement of cross border insolvencies and focussed on coordinating insolvency proceedings as they existed in member states rather than creating uniform

The objective is to foster the creation of a homogenous legal framework for business restructurings across EU while also striving to promote a common and uniform legal, economic, and financial environment between the European Union and the United States (Manganelli, 2016) 19. The latest EU Regulation also is short on cooperation with non-EU countries in insolvency matters.

UNCITRAL Model Law on Cross Border Insolvency

At the Congress on International Trade Law in May 1992 in New York countries proposed that the UNCITRAL (Commission) to consider undertaking work on international aspects of bankruptcy. Work initiated in 1992 then led to the adoption of the Model Law on Cross- Border Insolvency on May 30, 1997. Working Group on Insolvency Law of the Commission continues to work on issues cross border insolvencies of multinational enterprises.

The Model Law is unlike other multilateral conventions merely offers legislative guidance for states. The objective of the law, as stated, is 'to assist states to equip their insolvency laws with a modern, harmonised and fair framework to address more effectively instances of cross border insolvency.' It focusses on encouraging cooperation and coordination between countries, rather than attempting unification, and respects the differences among national laws.

The Model Law is based on four main principles²³: Access, Recognition, Cooperation and Coordination. It allows foreign professionals and creditors direct access to domestic courts and enables them to participate in and commence domestic insolvency proceedings against a debtor. It allows recognition of foreign proceedings and enables courts to determine relief accordingly. It provides a framework for cooperation between insolvency professionals and courts of countries and for coordination in the conduct of concurrent proceedings in different jurisdictions. It appears to be a comprehensive instrument as it builds upon the prevailing bilateral frameworks and extends the flexibility for deviations as per the requirement of any particular jurisdiction. The Model Law, at best, provides a broad framework leaving individual jurisdictions to decide about the operational nitty gritty and altogether refrain from suggesting any mechanism through which differences in approaches within the ambit of Model Laws, as adopted by the various countries, can be resolved.

It has been adopted in 47 States²⁴ in a total of 50 jurisdictions. An interesting mix of countries have adopted the Model Law. It includes advanced economies like UK, USA, Canada, Australia, New Zealand, Japan, Singapore and small developing economies like Chad, Chile, Congo, Togo, Myanmar, Uganda etc

The emerging market of BRIC economies (except or South Africa), whole of ASEAN (except Singapore and Malaysia) and whole of European Union except for UK are yet to adopt the Model Law. Several economically advanced jurisdictions have refrained from joining the multilateral solution offered by the UNCITRAL Model Laws and their absence undermines the utility of the Model Law.

CROSS BORDER INSOLVENCY LAW IN INDIA

- **Efforts towards a cross border regime**

India saw its first cross border insolvency in 1908, the Macfadyen & Co. case. The proceeding was the liquidation of an Anglo-Indian partnership, after the death of one of the partners. The London and Madras trustees came to an agreement, confirmed by Courts in both jurisdictions, on admitted claims and promised that surplus sums would be remitted to the other proceeding for a global distribution. When the agreement was challenged, the English Court stated that the agreement was 'clearly a proper and common-sense business arrangement' and that it was 'manifestly for the benefit of all parties interested' (Wessels et al., 2008).

In May, 2000, the Eradi Committee Report took into account the fact that globalisation of trade and opening up of the economy has taken place and with these sweeping changes, that the issues relating to cross border insolvency have become increasingly important and recommended that the Model Law be implemented in India by amending Part VII of the Companies Act, 1956. In the following year, the Advisory Group on Bankruptcy Law (Mittra Committee) stated that the Indian law, (as existed then) 'is not comparable to the standard set in international legal requirement and as such stands apart and alone and has not taken into consideration of any cross-border relation.' Both committees recommended adoption of the Model Law as well as the revamping of the domestic insolvency and bankruptcy laws. Despite several reports acknowledging the need for a cross border insolvency law and recommending adoption of the Model Law for more than two decades it is yet to be accomplished. This warrant answering the question: Whether such a law is required?

Economic Imperatives

India's economic interaction with the rest of the world has been increasing over the last three decades since the start of liberalisation and more so with deepening of the financial markets.

The Reserve Bank of India's annual census on foreign liabilities and assets reported that 20,732 companies had FDI/ODI in their balance sheet in March 2018 and the total flow of FDI (inwards and outwards) was Rs. 33,526 billion. Indian companies continue to expand and operate across borders. Around 70 per cent of these flows happened in six countries namely, Mauritius, USA, UK, Singapore, Netherlands, and Switzerland.

Today, financial markets are a vast network consisting of credit (borrowing-lending relationships, counterparty exposures and implicit relationships), derivative contracts, collateral obligations, market impact of overlapping asset portfolios and the network of crossholdings interact in several complex layers across countries. The extent and magnitude of inter-connectedness in financial markets and institutions across countries has led to transmission of systemic risk and ensuing contagion which has been a cause of concern especially after the financial crisis (IMF, 2011). An assessment of cross border inter-bank contagion risk analysis for Indian banking sector (Sharma, 2018), has brought out that the United States, United Kingdom, France, Germany and Japan are among the most important players in the cross-border banking network pertaining to India.

The banking channel remains predominant for cross-border capital flows with India, though external commercial borrowings have increased in the recent years. Global cross-border bank claims continued to expand rapidly, growing at 9 per cent year on year reaching USD 31 trillion at end-September 2019. Banks of Indian origin had an equity of USD 8.9 billion, which is 0.15 per cent of the total global bank equity. Total foreign claims of banks of Indian nationality stands at USD 212.8 billion (0.37 per cent of total foreign claims). Of this, non-bank private sector claims form the largest counter party at USD 33.5 billion. Other potential exposures include derivatives contracts of USD 58.9 billion, guarantees extended at USD 30.0 billion and credit commitments of USD 2 billion. Analysis by the Bank of International Settlement states that in India, the corporate sector has been the dominant recipient of debt flows, though bank flows increased considerably after 2010.

The share of India's merchandise exports in world exports has gone up from 0.5 per cent in 1990 to 1.7 per cent in 2018. Top ten trading partners supported half (49.6 per cent) of

India's trade in goods, during the year 2018-19. India has trade deficits with eight of these countries and has trade surplus with only two of its top ten trade partners, namely USA and UAE.

India's services exports have grown rapidly over the past two decades. At USD 81.9 billion, net services exports financed 45 per cent of India's trade deficit in 2018-19. At the global level, up to 80 per cent of trade is supported by some form of credit, guarantee or insurance. As far as the role of bank-intermediated cross border trade credit accounts for about one-third of the global merchandise trade credit³⁶. Importers in India meet their funding needs largely through buyers' trade credit which in turn may be influenced by both demand (e.g., size of imports) and supply-side factors (e.g., ability and willingness of banks to extend credit)³⁷. A sizeable amount of cross-border trade credit raised by importers in India is intermediated by domestic banks though foreign banks hold a major share. Domestic banks generally cater to trade finance needs of importers from the MSME sector while large corporates are serviced by foreign banks with large international presence. Domestic banks with large overseas presence in the form of bank branches, overseas subsidiaries and representative offices have higher share in total trade credit approvals.

As all the above factors indicate, as India continues to grow, Indian businesses will expand operations across countries and with increasing financial market linkages, financing needs will also be met from resources across the world.

ASSESSMENT OF AVAILABLE ALTERNATIVES

Existing means for cross border judicial / legal cooperation

India has acceded to the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters and the Hague Convention on Taking of Evidence Abroad in Civil and Commercial Matters, 2007. They provide mechanisms for cooperation in accessing judicial systems across countries.

With respect to the civil matters, the Code of Civil Procedure (CPC) supports recognition and enforcement of foreign judgments. Judgments by foreign courts are considered generally conclusive for the parties with few exceptions identified in Section 13 of the CPC. Section 44A of the CPC provides that the decree of foreign courts may be executed in Indian territory, when conditions such as it being a decree from a superior court and from a 'reciprocating territory.

Such decrees will have the same effect as a decree of the local District Court in India. There are 11 countries recognised as such by the Central Government so far, the latest being the UAE. Some of the other countries notified as reciprocating territories include United Kingdom, Republic of Singapore, Federation of Malaya, and Hong Kong. A decree from a non-reciprocating country can be enforced through a new suit filed before the relevant Court in India, based on the judgment from the foreign Court or the original cause of action, or both.

Section 45 of the CPC provides for execution of decrees of an Indian Court outside the territory of India under conditions that the Central Government establish the transferee court in the foreign country and the State Government notify that the said decree will apply to the foreign court. The CPC also provides for simultaneous execution at more than one place. Section 51 provides for execution of decrees by delivery or/and sale of property for repayment of debt, appointment of a receiver, and arrest and detention with reasonable opportunity for judgement -debtor to present his side.

These sections are being used despite the wide differences in interpretation given by the Indian Courts in interpreting foreign judgments⁴⁴. The use of these sections for cross border insolvency issues (in India for foreign creditors and vice versa) will be further constrained by lack of clear understanding about complex foreign laws and the need to engage legal support in one or more territories. This has implications for cost of insolvency proceedings and may be prohibitive. Furthermore, this option is restricted to enforcement of Court decrees but not cooperation in proceedings, cooperation between courts/insolvency professionals etc., which are required in a cross border insolvency situation. The use is also constrained by long drawn judicial processes and is limited to enforcement of orders from courts only. In insolvency proceedings the insolvency representatives are also empowered to make decisions which are not enforceable through these sections. Enforcement of decrees from non-reciprocating countries is more constrained since a new suit in the Indian Courts is bound to be plagued by delays and consequent costs. Indian businesses use similar provisions available in other countries, (most common law countries have them) to enforce decrees of Indian Courts and would face similar constraints abroad. A mix of instruments, multiple authorities and Courts mean additional costs and delays for enforcing foreign Court orders in India and could be a significant factor influencing countries thinking of reciprocation arrangements with India.

UNCITRAL Model Law

The Model Law comes with strong recommendation as the global solution for resolving cross border issues. The World Bank⁴⁵ noted that insolvency proceedings may have international aspects, and insolvency laws should provide for rules of jurisdiction, recognition of foreign judgments, cooperation among courts in different countries and choice of law. The IMF⁴⁶ encourages its adoption as it would provide an effective means of achieving cooperation and coordination among courts and administrators of different countries. Questions of legitimacy are minimum, as India has been a member of the Commission and part of the consultation and drafting of the Model Law. However, the legitimate concern is that till date global consensus on the framework is lacking. Firstly, major economies which are important from the point of view of economic interest for India, have not adopted the Model Law. These countries include European economies such as Germany, France and major economies like Brazil, Russia, and China. Secondly, even the countries which have adopted the Model Law have done so with tailor-made changes to foster their economic interests which may be difficult to comply at bi-lateral level.

The countries that have adopted the Model Law have done so for various reasons. USA adopted the Model Law and it is nearly verbatim in 2005 in Chapter 15 of its Bankruptcy Code. The introductory section details the rationale and benefits of adopting the Model Law and reflecting the reasons as cooperation, legal certainty, fairness, maximising value of debtor's assets, and rescuing financially troubled businesses. While adopting the law, Australia saw it as a policy to promote efficiency, reduce legal uncertainties and transaction costs and enhance international trading efficiency (Government of Australia, 2002). Malaysia, while considering the Model Law, has opined that the law represents perhaps the most important step taken thus far in trying to achieve a truly international framework for cooperation in insolvencies, in contrast to the limitations of uniquely domestic legislation as well as previous efforts on a regional scale, not all of which have met with success (Omar, 2000). Singapore adopted the Model Law in 2017 and indicated that it provided a clear and internationally recognised framework (Government of Singapore, 2016) 49. The Law was considered a firmer and more predictable platform for cross border cooperation in insolvency matters, thereby lowering the risks and cost of international financing and reduced cost of litigation.

Access and recognition of Indian proceedings will be easier in the jurisdictions that have already adopted the Law. Of these jurisdictions, India has significant economic ties with six countries namely, USA, UK, UAE, Japan, Korea, Singapore, and Mauritius. It is stated that adoption of Model Law will serve as a strong signalling factor. It may be seen as a progressive and forward-looking market reform and will project a positive international image when its peers Brazil, Russia and China continue to have laws based on territorialism (Kargman, 2012). Russia's bankruptcy law is silent on recognition of foreign proceedings (Trunk, 2007) and only recognises foreign judgments regarding insolvency where an international treaty exists with that country. Brazil has encountered from the growing number of mergers and acquisitions between local and foreign companies originating from Europe and the USA but so far has not moved for adoption of the Model Law even as it has regional agreements with other Latin American countries. As a general rule, Brazilian courts do not recognise foreign insolvency proceedings and do not coordinate and cooperate with courts and insolvency administrators from these states (Locatelli, 2008). China enacted the Enterprise Bankruptcy Law in 2007 and removed the distinction between domestic and foreign creditors. The law is considered as an acknowledgment of the global nature of Chinese business operations and the need to protect Chinese creditors. As of 2013, China also had civil and commercial judicial assistance treaties/agreements with 32 countries, often including provisions for cross border insolvency (Gong, 2013) despite which, cross border resolutions have not been smooth.

Advocacy in favour of adoption of the Model Law heavily rests on its flexibility and to accommodate our domestic laws (Code) with the necessary modifications. Nevertheless, the major issue is that it is more a procedural law than substantive, allowing for customisation. Such flexibility seems to militate against the objective of harmonisation across jurisdictions. The exceptions adopted by countries have been much wider than contemplated by the Model Law. The Model Law does not require reciprocity, there is no requirement that a foreign representative wishing to access facilities under it must have been appointed, or foreign proceedings commenced, under the law of a State which has adopted it. A lot of the countries adopt Model Law with the reciprocity requirement incorporated in their modified model such as South Africa, Mexico, Romania, and Mauritius. Such reciprocity requirement can exist in different forms too for e.g. in some countries the reciprocity requirement is automatically met when other country adopts Model Law whereas in some countries the reciprocating requirement is met when the government of the enacting country notifies specific foreign countries. There is a lack of standard approach for interpretation of 'public policy' is a major hindrance in the Model Law. Many countries have dropped the word 'manifestly' while adopting law which has created a mismatch in the standard of care that a court need to apply while interpreting the term public policy.

Other concerns regarding the Model Law

Firstly, the role and powers granted to a foreign representative under the Model Law may not be very pleasing to legislators as it gives wide powers without any regulatory check on them. It fails to provide appropriate measures to curb the instances of misfeasance in cross border cases. The only check provided is Article 21(2) which requires the court to be satisfied that the interests of local creditors are 'adequately protected' before the foreign representative is entrusted with the distribution of the debtor's assets within the State.

Secondly, in its present form, it fails to address the issue of conflict of laws in a cross- border insolvency proceeding and leaves the issue at the mercy of application of private international law by the Courts in respective jurisdictions. It does not expressly deal with conflict of laws; however, it does allow for cross border insolvency agreements which have been effectively used by parties to address the issue. Jurisdictions with different stages of maturity cannot protect the advantages emanating from Model Law uniformly.

Differing interpretations offered to crucial provisions of the Model Law by courts in the US and the UK despite both having adopted the Model Law early on has led to the question of whether the objective of harmonisation has failed.

Case laws in the US and UK have been informing the UNCITRAL legislative and practical guides heavily and such differences in interpretation weakens the attractiveness of the Model Law.

At the core of any economic contagion are financial instruments and multinational enterprise groups with cross country value chains managed through subsidiaries. The Model Law does not have any clear solution to offer for these aspects.

Use of the Model Law in adopting countries

Use of the Model Law in adopting countries

The USA is not only an early adopter, but the Model Law was substantially influenced by the US Bankruptcy Code 1978 (section 304 and 305). Model Law was later adopted as Chapter 15 of the US Bankruptcy Code⁵⁶ and both offer cooperative territorial approach⁵⁷. Adoption of the Model Law led to increased willingness of Courts to recognise foreign proceedings (Westbrook, 2013) ⁵⁸ however has not led to adoption of all the principles in the right spirit. In order to obtain relief the foreign representative has to approach the US courts for recognition of foreign proceedings but the Courts are not required to adjudge the foreign proceeding as a main proceeding even if Courts in the other jurisdiction have done so. Sufficient protection of domestic creditors continues to be an important factor in the Court's decision to grant relief. Relief granted can be conditional, as found appropriate by the Courts including the giving of security or a bond.

The Courts are not required to defer to foreign Court orders in terms of the distribution of assets to foreign proceedings. While the Model Law has been adopted almost verbatim but there is 'significant rewriting to comport with procedural terminology and concepts in United States vernacular'. An empirical study (Leong, 2010) finds that though Courts recognised foreign proceedings in almost every Chapter 15 case, assets were entrusted to foreign proceedings in only 45.5 per cent of cases. Even when entrusted, there were accompanying orders to protect US creditors by seeking that the distribution priority scheme be in accordance with US laws or assurances that they be paid in full or in priority. US Courts have also placed the requirement that an applicant seeking recognition of foreign proceedings should qualify as a debtor under the domestic Bankruptcy Code, which is not in line with the Model Law. Courts in the USA seem reluctant to relinquish control over assets to proceedings in other jurisdictions. The Model Law was implemented in Great Britain through the Cross-Border Insolvency Regulations 2006 and added another law to deal with cross border insolvency framework provided by common law and section 426 of the Insolvency Act 1986. Though Courts have used the Model Law provisions to allow access to foreign representatives and relief to creditors in several cases there has been reluctance to implementing reorganisation plans approved in foreign proceedings without a parallel domestic proceeding. There is an emerging view that the Model Law is enabling softer form of cooperation which may not be aligned to implementing the Model Law in its spirit.

Divergence in the implementation strategies of the Model Law in Australia, Singapore, Japan, and Korea, are attributed to legal origin and path dependence, compatibility with approach to insolvency in the existing domestic laws, commitment towards adopting global norms and the changing judicial attitudes (Wan & McCormack, 2020). Whatever the explanation for the divergence, it is irrefutable that divergence exist, and that harmonisation has been limited in letter and more so in spirit.

PROTOCOLS IN CROSS BORDER INSOLVENCY

Protocols are agreements or arrangements entered in insolvency cases and may cover a broad range of issues arising in cross border situations. It was first used in 1991 for insolvency proceedings of Maxwell Communication Corporation plc for coordination between proceedings in the UK and USA and was accompanied by the appointment of an Examiner to facilitate such coordination. Since then protocols have been used by US Courts in many cross-border insolvency situations. Protocols have been used in complex cross border insolvency cases such as Lehman Brothers (2009), involving 2985 legal entities in over 50 countries. They have also been used successfully in complex cases such as Bernard Madoff, Nortel Networks, Singer International, and Owens Corning.

The Model Law in Article 27 (d) provides for 'Approval or implementation by courts of agreements concerning the coordination of proceedings;' as a form of cooperation between parties. This covers the use of protocols as well as.

Protocols offer a set of solutions designed to meet case specific needs and considers bankruptcy principally a private dispute between parties. They do not predetermine substantive legal issues but aim to harmonise management of the case even before conflict arises. They generally create a framework for communication, data sharing, asset preservation, claims reconciliation, and dealing with inter-company claims. Protocols provide necessary flexibility for amendments to accommodate the emerging needs as a proceeding may require. The use of protocol in the Ever fresh case lead to an estimated aggregate value maximisation of 40 per cent.

Apprehension about effectiveness of protocols have been noted regarding cooperation between common law and civil law countries where the approach to insolvency and powers of the Courts vary widely regarding the making and enforcement of such arrangements/protocols. It is also observed that larger the number of territories and many-layered corporate structure of large multinational enterprises may require protocols that are complicated. The compatibility of protocols with national insolvency laws has also been raised along with the considerable cost and effort required to conclude successful negotiations of them.

Protocols are hence, seen as an imperfect yet effective tool in encouraging cooperation in cross border insolvency proceedings. The EU has considered detailed Guidelines⁶⁸ for its member states on the framing and dealing of such protocols. These are case specific and are more complicated than bilateral arrangements. Given the complexities in cross border insolvency situations negotiating an agreement for every case could debilitate the process itself let alone the time required for such understanding.

THE JET AIRWAYS (INDIA) LIMITED CASE

The corporate insolvency resolution process of Jet Airways (India) Limited commenced on June 20, 2019 after application under section 7 of the Code filed by State Bank of India was admitted. The resolution professional (RP) set up an Asset Preservation Team. It was later found that a Dutch Court had initiated insolvency proceedings earlier and appointed a Bankruptcy Trustee in Netherlands, the company's Europe hub. The process was initiated based on claims of unpaid dues worth Rs. 280 crore by two European creditors and seizure of the company's aircraft parked at Schiphol airport in Amsterdam was ordered. The Dutch administrator's petition for recognition of the Netherlands proceeding was allowed by the NCLAT (earlier refused by the NCLT). The administrator was allowed to be part of the committee of creditors (CoC) and attend its meetings but with no voting rights.

The Appellate Court directed the RP and COC 'to consider the prospect of co-operating with the Dutch Trustee so as to have a joint corporate insolvency resolution process of the company and 'to reach an arrangement/agreement with the Dutch Trustee to extend such cooperation to each other, further allowing the COC to guide the RP to enable him to prepare an agreement in reaching the terms of arrangement of cooperation with the Dutch Trustee in the best interest of the Company and all its stakeholders

The parties entered into the 'Cross Border Insolvency Protocol' with terms and conditions agreed upon; with a clear aim and purpose; communication and information; rights of the RP and Trustee to appear and attend in Courts of both jurisdictions; cooperation in preserving assets; collation and review of claims and costs; and COMITY (centre of main interest). Based on this Protocol, the Dutch Trustee and the RP collated claims in their respective jurisdiction and reviewed each other's verification process of claim admission / disputes based on the sample received. Claims received have been recognised by courts of both jurisdictions.

The Protocol seems to be working successfully as seen from the fact that the resolution process has progressed since then. However, it remains to be seen if the Protocol will be flexible enough to allow for parties from other jurisdictions to be part of the process, what kind of cooperation will be extended by the other countries as part of such a Protocol and the effectiveness of such a Protocol in achieving the purpose of resolution of the impaired airline.

Purpose-specific bilateral agreements

India has certain purpose specific bilateral/multilateral arrangements. India has signed Mutual Legal Assistance Treaty⁷¹ in civil and commercial matters with six countries⁷² and Memorandum of Understandings with seven⁷³ others, for cooperation in the area of law and justice, exchange of information, legal assistance along with the Extradition treaties and arrangements. India has signed bilateral investment treaties⁷⁴ with several countries and has investment chapters⁷⁵ in its free trade agreements/partnerships which provide for protection of investments made in each other's territories. These instruments are specific to the purpose and are on a reciprocating basis. The Code enables the Government to enter into bilateral arrangements. If this option is to be used India would have to negotiate such arrangement with at least 1576 countries to begin with as required by the extent of flow of capitals, trade links and expansion of Indian businesses. The constraint with these arrangements is that they require extensive negotiations and take years before common ground is reached. In a field as complex and dynamic as cross border insolvency finding common ground may be harder and require regular reviews. It would be a challenge to design a comprehensive instrument with flexibility that allows for customisation to individual reciprocating jurisdictions.

Insolvency agreements are entered into for the purpose of facilitating cross border cooperation and coordination of multiple insolvency proceedings in different States concerning the same debtor.

Evaluating the alternatives

The suitability of any of the alternatives discussed above for adoption in India is considered through a cost-benefit framework. Adoption of any alternative involves costs in terms of framing of legislation, parliamentary approval, dissemination etc., and benefits in terms of flexibility in legislation, coverage in terms of jurisdiction, ease of use for stakeholders etc. The existing means for cross border judicial/legal cooperation under the CPC does not require any new legislations or approvals but lack the kind of flexibility required for facilitating cooperation in insolvency proceedings. It is accessible to representatives from all jurisdictions but is dependent on an already excessively burdened Indian judiciary and will be constrained by all existing limitations of the system. The judiciary will be forced to rely on international experience in dealing with such matters but be left without adequate domestic legal backing specific to the domain.

The Model Law would require amendments to the Code and Parliamentary approvals for all related regulations. These regulations would have to be framed afresh and educating the stakeholders on these will be important factors for its successful implementation. It offers the most comprehensive of provisions and required flexibility for modifications, but international experience shows that such modifications tend to reduce the impact of the law's adoption in the long run and reduces the universalist element of the law itself. There is also an undecided debate on the pros and cons of the deviations that countries have already used in their adoption of the Model Law. In terms of the technical and interpretative assistance for courts and other stakeholders the Model Law, provides ample material and guidance which cannot be said for any other alternative considered in this paper. In terms of jurisdictions covered the number is limited to 47 jurisdictions that have already adopted the law and these does not include countries that are significant for India in terms of its ties with them in the present and potential ties in the future.

Protocols in cross border insolvency have been successfully used internationally for resolving complex cross border insolvencies. Use of these as the instrument of choice would require amendments to the Code and framing of regulations accordingly. The need for education and dissemination of stakeholders also follow.

The judiciary and stakeholders have flexibility to tailor make the terms and conditions but will have to rely on international experience. The success of a protocol is ultimately dependent on the willingness of parties - private, governments and judiciaries, to cooperate. The lack of cooperation from a single party can derail the entire proceedings and cost resolution of the debtor altogether. The time required for confirmations of these protocols can be prohibitive if early resolutions are the objective. The judiciary bears the entire burden with no statutory fall back that can help with case specific issues. Insolvency-specific bilateral agreements as the instrument of cross border insolvency does not require any amendments to the Code. There will be considerable effort required to develop a model bilateral agreement that can be used with minimal modifications to suit the needs of the negotiating partner countries. India has experience with the model bilateral investment treaties that can be put to good use here. It will require establishment of basic principles in dealing with cross border insolvencies which can be based on the Code and the Model Law. In terms of coverage, prioritisation of countries that India has deep ties with becomes possible. There are limitations in terms of international experience in the use of this option but closer study of the regional agreements of Nordic countries and the EU Regulations will be of relevance.

CONCLUSION: GOING BEYOND THE ALTERNATIVES

Each of the alternatives considered have potential benefits and limitations. There is considerable advocacy for adoption of the Model Law but accounting for the fewer adoptions in the jurisdictions that are relevant for India is a dampener along with the evolving view that spirit of the Model Law is not reflected in the implementation of the Law in countries that have adopted it. It is difficult to discount the Model Law as it incorporates the distilled wisdom of cases over more than half a century and from a wide spectrum of countries with varying approaches to deal with insolvency but it still has glaring gaps in keeping out special types of entities such as banks. This gap is of grave concern as integration of the global economy is hastened by financial integration and leaving them out of cross border insolvency regime places it in a disadvantageous position. If India is looking for a regime that is more workable and extends the objectives laid down for domestic insolvency resolution to cross border situations, then the Model Law is clearly inadequate.

India will have to think beyond the Model Law. The Financial Stability Board (FSB), which works closely with the G20, in 2015 laid down a set of principles that would make cross border resolution of banks/ financial entities practicable and effective. This set of principles draws from the Model Law but goes beyond it. It suggests that a statutory framework should provide for recognition of measures from foreign resolution actions that is supplemented with supportive measures and complemented with contractual arrangements. While prescribing a framework for an effective regime for India is beyond the scope of this paper it certainly finds that the Model Law is inadequate and crossing the border set by the Model Law in lines of framework proposed by FSB may be a good starting point for India. It will enable India to think beyond the Model Law yet incorporate the essential principles that the Model Law recommends. Keeping in view the economic interests of the country, adoption of country by country approach will be a bold move and shall be targeted and may become an example in the future world where globalisation in its current form is undergoing significant change owing to prevailing pandemic situation.

PART V MISCELLANEOUS

224. Insolvency and Bankruptcy Fund. –

- (1) There shall be formed a Fund to be called the Insolvency and Bankruptcy Fund (hereafter in this section referred to as the “Fund”) for the purposes of insolvency resolution, liquidation and bankruptcy of persons under the Code.
- (2) There shall be credited to the Fund the following amounts, namely — (a) the grants made by the Central Government for the purposes of the Fund; (b) the amount deposited by persons as contribution to the Fund; (c) the amount received in the Fund from any other source; and (d) the interest or other income received out of the investment made from the Fund.
- (3) A person who has contributed any amount to the Fund may, in the event of proceedings initiated in respect of such person under this Code before an Adjudicating Authority, make an application to such Adjudicating Authority for withdrawal of funds not exceeding the amount contributed by it,

for making payment to workmen, protecting the assets of such persons, meeting the incidental cost during the proceedings or such purposes as may be prescribed.

(4) The Central Government shall, by notification, appoint an administrator to administer the fund in such manner as may be prescribed.

225. Power of Central Government to issue directions. –

(1) Without prejudice to the foregoing provisions of this Code, the Board shall, in exercise of its powers or the performance of its functions under this Code, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government as to whether a question is one of policy or not shall be final.

226. Power of Central Government to supersede Board. –

(1) If at any time the Central Government is of opinion –

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Code;

or

(b) that the Board has persistently not complied with any direction issued by the Central Government under this Code or in the discharge of the functions and duties imposed on it by or under the provisions of this Code and as a result of such noncompliance the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board, -

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions

(3), be exercised and discharged by such person or persons as the Central Government may direct; and (c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

227. Power of Central Government to notify financial sector providers etc.-

Notwithstanding anything to the contrary [contained in this Code] or any other law for the time being in force, the Central Government may, if it considers necessary, in consultation with the appropriate financial sector regulators, notify financial service providers or categories of financial service providers for the purpose of their insolvency and liquidation proceedings, which may be conducted under this Code, in such manner as may be prescribed.

[Explanation.- For the removal of doubts, it is hereby clarified that the insolvency and liquidation proceedings for financial service providers or categories of financial service providers may be conducted with such modifications and in such manner as may be prescribed.]

228. Budget. -

The Board shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the Central Government.

229. Annual Report. –

(1) The Board shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.

230. Delegation. -

The Board may, by general or special order in writing delegate to any member, officer of the Board or subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Code (except the powers under section 240 as it may deem necessary.

231. Bar of jurisdiction. -

No civil court shall have jurisdiction in respect of any matter in which the [Adjudicating Authority or the Board] is empowered by, or under, this Code to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by such [Adjudicating Authority or the Board] under this Code.

232. Members, officers and employees of the Board to be public servants. -

The Chairperson, Members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Code, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

233. Protection of action taken in good faith. –

No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government, or the Chairperson, Member, officer or other employee of the Board or an insolvency professional or liquidator for anything which is done or intended to be done in good faith under this Code or the rules or regulations made thereunder.

234. Agreements with foreign countries. -

(1) The Central Government may enter into an agreement with the Government of any country outside India for enforcing the provisions of this Code.

(2) The Central Government may, by notification in the Official Gazette, direct that the application of provisions of this Code in relation to assets or property of corporate debtor or debtor, including a personal guarantor of a corporate debtor, as the case may be, situated at any place in a country outside India with which reciprocal arrangements have been made, shall be subject to such conditions as may be specified.

235. Letter of request to a country outside India in certain cases. –

(1) Notwithstanding anything contained in this Code or any law for the time being in force if, in the course of insolvency resolution process, or liquidation or bankruptcy proceedings, as the case may be, under this Code, the resolution professional, liquidator or bankruptcy trustee, as the case may be, is of the opinion that assets of the corporate debtor or debtor, including a personal guarantor of a corporate debtor, are situated in a country outside India with which reciprocal arrangements have been made under section 234.

(2) The Adjudicating Authority on receipt of an application under sub-section (1) and, on being satisfied that evidence or action relating to assets under sub-section (1) is required in connection with insolvency resolution process or liquidation or bankruptcy proceeding, may issue a letter of request to a court or an authority of such country competent to deal with such request.

235A. Punishment where no specific penalty or punishment is provided. –

If any person contravenes any of the provisions of this Code or the rules or regulations made thereunder for which no penalty or punishment is provided in this Code, such person shall be punishable with fine which shall not be less than one lakh rupees but which may extend to two crore rupees.

236. Trial of offences by Special Court. –

(1) Notwithstanding anything in the Code of Criminal Procedure, 1973(2 of 1974), offences under of this Code shall be tried by the Special Court established under Chapter 141 XXVIII of the Companies Act, 2013 (18 of 2013).

(2) No Court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Board or the Central Government or any person authorised by the Central Government in this behalf.

(3) The provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in case of a complaint under sub-section (2), the presence of the person authorised by the Central Government or the Board before the Court trying the offences shall not be necessary unless the Court requires his personal attendance at the trial.

237. Appeal and revision. - .

The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974) on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

238. Provisions of this Code to override other laws. -

The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

238A. Limitation. –

The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to the proceedings or appeals before the Adjudicating Authority, the National Company Law Appellate Tribunal, the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal, as the case may be.]

239. Power to make rules. -

(1) The Central Government may, by notification, make rules for carrying out the provisions of this Code.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Central Government may make rules for any of the following matters, namely: —

(a) any other instrument which shall be a financial product under clause (15) of section 3;

(b) other accounting standards which shall be a financial debt under clause (d) of sub-section (8) of section 5;

(c) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate insolvency resolution process by financial creditor under sub-section (2) of section 7;

(d) the form and manner in which demand notice may be made and the manner of delivery thereof to the corporate debtor under sub-section (1) of section 8;

(e) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate insolvency resolution process by operational creditor under sub-section (2) of section 9; 1

(ea) other proof confirming that there is no payment of an unpaid operational debt by the corporate debtor or such other information under clause (e) of sub-section (3) of section 9;]

(f) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate insolvency resolution process by corporate applicant under sub-section (2) of section 10;

- (fa) the transactions under the second proviso to sub-section (2) of section 21;
- (fb) the transactions under the Explanation I to clause (c) of section 29A;
- (fc) the transactions under the second proviso to clause (j) of section 29A.]
- (g) the persons who shall be relative under clause (ii) of the Explanation to subsection (1) of section 79;
- (h) the value of unencumbered single dwelling unit owned by the debtor under clause
clause
(e) of sub-section (13) of section 79;
- (i) the value under clause (c), and any other debt under clause (f), of sub-section (14) of section 79;
- (j) the form, the manner and the fee for making application for fresh start order under sub-section (3) of section 81;
- (k) the particulars of the debtor's personal details under clause (e) of sub-section (3) of section 81;
- (l) the information and documents to support application under sub-section (3) of section 86;

(m) the form, the manner and the fee for making application for initiating the insolvency resolution process by the debtor under sub-section (6) of section 94;

(n) the form, the manner and the fee for making application for initiating the insolvency resolution process by the creditor under sub-section (6) of section 95;

(o) the particulars to be provided by the creditor to the resolution professional under sub-section (2) of section 103;

(p) the form and the manner for making application for bankruptcy by the debtor under clause (b) of sub-section (1) of section 122;

(q) the form and the manner of the statement of affairs of the debtor under subsection (3) of section 122;

(r) the other information under clause (d) of sub-section (1) of section 123;

(s) the form, the manner and the fee for making application for bankruptcy under sub-section (6) of section 123;

(t) the form and the manner in which statement of financial position shall be submitted under sub-section (2) of section 100.

(u) the matters and the details which shall be included in the public notice under sub-section (2) of section 130;

(v) the matters and the details which shall be included in the notice to the creditors under sub-section (3) of section 130;

(w) the manner of sending details of the claims to the bankruptcy trustee and other information under sub-sections (1) and (2) of section 131;

(x) the value of financial or commercial transaction under clause (d) of subsection (1) of section 141;

(y) the other things to be done by a bankrupt to assist bankruptcy trustee in carrying out his functions under clause (d) of sub-section (1) of section 150;

(z) the manner of dealing with the surplus under sub-section (4) of section 170;

(za) the form and the manner of proof of debt under clause (c) of sub-section (2) of section 171;

(zb) the manner of receiving dividends under sub-section (7) of section 171;

(zc) the particulars which the notice shall contain under sub-section (2) of section 176;

(zd) the salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and members of the Board under sub-section (5) of section 189; 144

(ze) the other functions of the Board under clause (u) of sub-section (1) of section 196; (zf) the other funds under clause (c) of sub-section (1) of section 222;

(zg) the other purposes for which the fund shall be applied under clause (d) of sub-section (2) of section 222;

(zh) the form in which annual statement of accounts shall be prepared under sub-section (1) of section 223;

(zi) the purpose for which application for withdrawal of funds may be made under sub-section (3) of section 224;

(zj) the manner of administering the fund under sub-section (4) of section 224;

(zk) the manner of conducting insolvency and liquidation proceedings under section 227; (zl) the form and the time for preparing budget by the Board under

(zn) the time up to which a person appointed to any office shall continue to hold such office under clause (vi) of sub-section (2) of section 243.

240. Power to make regulations. –

(1) The Board may, by notification, make regulations consistent with this Code and the rules made thereunder, to carry out the provisions of this Code.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely: —

(a) the form and the manner of accepting electronic submission of financial information under sub-clause (a) of clause (9) of section 3;

(b) the persons to whom access to information stored with the information utility may be provided under sub-clause (d) of clause (9) of section 3;

(c) the other information under sub-clause (f) of clause (13) of section 3;

(d) the other costs under clause (e) of sub-section (13) of section 5;

(e) the cost incurred by the liquidator during the period of liquidation which shall be liquidation cost under sub-section (16) of section 5;

(f) the other record or evidence of default under clause (a), and any other information under clause (c), of sub-section (3) of section 7; 145 1

(h) the period under clause (a) of sub-section (3) of section 10;

(i) the supply of essential goods or services to the corporate debtor under subsection

(2) of section 14; 2

(ia) circumstances in which supply of critical goods or services may be terminated, suspended or interrupted during the period of moratorium under sub-section (2A) of section 14;]

(j) the manner of making public announcement under sub-section (2) of section 15; 3

(ja) the last date for submission of claims under clause (c) of sub-section (1) of section 15;]

(k) the manner of taking action and the restrictions thereof under clause (b) of sub-section (2) of section 17;

(l) the other persons under clause (d) of sub-section (2) of section 17;

(m) the other matters under clause (d) of sub-section (2) of section 17;

(n) the other matters under sub-clause (iv) of clause (a), and the other duties to be performed by the interim resolution professional under clause (g), of section 18; 4

(na) the number of creditors within a class of creditors under clause (b) of sub-section (6A) of section 21;

(nb) the remuneration payable to authorised representative under clause (ii) of the proviso to sub-section (6B) of section 21;

(nc) the manner of voting and determining the voting share in respect of financial debts under sub-section (7) of section 21;]

(o) the persons who shall comprise the committee of creditors, the functions to be exercised such committee and the manner in which functions shall be exercised under the proviso to sub-section (8) of section 21;

(p) the other electronic means by which the members of the committee of creditors may meet under sub-section (1) of section 24;

(q) the manner of assigning voting share to each creditor under sub-section (7) of section 24;

- (r) the manner of conducting the meetings of the committee of creditors under subsection (8) of section 24;
- (s) the manner of appointing accountants, lawyers and other advisors under clause (d) of sub-section (2) of section 25; 1
- (sa) other conditions under clause (h) of sub-section (2) of section 25;
- (t) the other actions under clause (k) of sub-section (2) of section 25;
- (u) the form and the manner in which an information memorandum shall be prepared by the resolution professional sub-section (1) of section 29;
- (v) the other matter pertaining to the corporate debtor under the Explanation to subsection (2) of section 29;
- (w) the manner of making payment of insolvency resolution process costs under clause (a), the manner of 2 [payment of debts] under clause (b), and the other requirements to which a resolution plan shall conform to under clause (d), of subsection (2) of section 30;
- (wa) other requirements under sub-section (4) of section 30;

(x) the fee for the conduct of the liquidation proceedings and proportion to the value of the liquidation estate assets under sub-section (8) of section 34;

(y) the manner of evaluating the assets and property of the corporate debtor under clause (c), the manner of selling property in parcels under clause (f), the manner of reporting progress of the liquidation process under clause (n), and the other functions to be performed under clause (o), of sub-section (1) of section 35;

(z) the manner of making the records available to other stakeholders under subsection (2) of section 35;

(za) the other means under clause (a) of sub-section (3) of section 36;

(zb) the other assets under clause (e) of sub-section (4) of section 36; (zc) the other source under clause (g) of sub-section (1) of section 37;

(zd) the manner of providing financial information relating to the corporate debtor under sub-section (2) of section 37;

(zf) the time within which the liquidator shall verify the claims under sub-section (1) of section 39;

(zg) the manner of determining the value of claims under section 41;

(zh) the manner of relinquishing security interest to the liquidation estate and receiving proceeds from the sale of assets by the liquidator under clause (a), and the manner of realising security interest under clause (b) of sub-section (1) of section 52;

(zi) the other means under clause (b) of sub-section (3) of section 52;

(zj) the manner in which secured creditor shall be paid by the liquidator under subsection (9) of section 52;

(zk) the period and the manner of distribution of proceeds of sale under sub-section (1) of section 53;

(zl) the other means under clause (a) and the other information under clause (b) of section 57;

(zm) the conditions and procedural requirements under sub-section (2) of section 50;

(zn) the details and the documents required to be submitted under sub-section (7) of section 95;

(zo) the other matters under clause (c) of sub-section (3) of section 105;

(zp) the manner and form of proxy voting under sub-section (4) of section 107;

(zq) the manner of assigning voting share to creditor under sub-section (2) of section 109;

(zr) the manner and form of proxy voting under sub-section (3) of section 133; (zs) the fee to be charged under sub-section (1) of section 144;

(zt) the appointment of other officers and employees under sub-section (2), and the salaries and allowances payable to, and other terms and conditions of service of, such officers and employees of the Board under sub-section (3), of section 194;

(zu) the other information under clause (i) of sub-section (1) of section 196;

(zv) the intervals in which the periodic study, research and audit of the functioning and performance of the insolvency professional agencies

(zw) the place and the time for discovery and production of books of account and other

documents under clause (i) of sub-section (3) of section 196; 148

(zx) the other committees to be constituted by the Board and the other members of such committees under section 197;

(zy) the other persons under clause (b) and clause (d) of section 200;

(zz) the form and the manner of application for registration, the particulars to be contained therein and the fee it shall accompany under sub-section (1) of section 201;

(zza) the form and manner of issuing a certificate of registration and the terms and conditions thereof, under sub-section (3) of section 201;

(zzb) the manner of renewal of the certificate of registration and the fee therefor, under sub-section (4) of section 201;

(zzc) the other ground under clause (d) of sub-section (5) of section 201;

(zzd) the form of appeal to the National Company Law Appellate Tribunal, the period within which it shall be filed under section 202;

(zze) the other information under clause (g) of section 204;

(zzf) the other grounds under Explanation to section 196;

(zzg) the setting up of a governing board for its internal governance and management under clause (e), the curriculum under clause (l), the manner of conducting examination under clause (m), of section 196;

(zzh) the time within which, the manner in which, and the fee for registration of insolvency professional under sub-section (1) of section 207;

(zzi) the categories of professionals or persons, the qualifications and experience and the fields under sub-section (2) of section 207;

(zzj) the manner and the conditions subject to which the insolvency professional shall perform his function under clause (f) of sub-section (2) of section 208;

(zzk) the form and manner in which, and the fee for registration of information utility under sub-section (1) of section 210;

(zzl) the form and manner for issuing certificate of registration and the terms and conditions thereof, under sub-section (3) of section 210;

(zzm) the manner of renewal of the certificate of registration and the fee therefor, under sub-section (4) of section 210;

(zzn) the other ground under clause (d) of sub-section (5) of section 210;

(zzo) the form, the period and the manner of filing appeal to the National Company Law Appellate Tribunal under section 211;

(z zp) the number of independent members under section 212; 149

(zzq) the services to be provided by information utility and the terms and conditions under section 213;

(z zr) the form and manner of accepting electronic submissions of financial information under clause (b) and clause (c) of section 214;

(z zs) the minimum service quality standards under clause (d) of section 214;

(z zt) the information to be accessed and the manner of accessing such information under clause (f) of section 214;

(z zu) the statistical information to be published under clause (g) of section 214;

(z zv) the form, the fee and the manner for submitting or accessing information under sub-section (1) of section 215;

(z zw) the form and manner for submitting financial information and information relating to assets under sub-section (2) of section 215;

(zxx) the manner and the time within which financial information may be updated or modified or rectified under section 216;

(zzy) the form, manner and time of filing complaint under section 217;

(zzz) the time and manner of carrying out inspection or investigation under subsection (2) of section 218;

(zzza) the manner of carrying out inspection of insolvency professional agency or insolvency professional or information utility and the time for giving reply under section 219;

(zzzb) the procedure for claiming restitution under sub-section (6), the period within which such restitution may be claimed and the manner in which restitution of amount may be made under sub-section (7) of section 220;

(zzzc) the other funds of clause (c) of sub-section (1) of section 222.

240A. Application of this Code to micro, small and medium enterprises. –

(1) Notwithstanding anything to the contrary contained in this Code, the provisions of clauses (c) and (h) of section 29A shall not apply to the resolution applicant in respect of corporate insolvency resolution process of any micro, small and medium enterprises.

(2) Subject to sub-section (1), the Central Government may, in the public interest, by notification, direct that any of the provisions of this Code shall—

(a) not apply to micro, small and medium enterprises; or

(b) apply to micro, small and medium enterprises, with such modifications as may be specified in the notification.

(3) A draft of every notification proposed to be issued under subsection (2), shall be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions.

(4) If both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or shall be issued only in such modified form as may be agreed upon by

(5) The period of thirty days referred to in sub-section (3) shall not include any period during which the House referred to in sub-section (4) is prorogued or adjourned for more than four consecutive days.

(6) Every notification issued under this section shall be laid, as soon as may be after it is issued, before each House of Parliament.

Explanation.— For the purposes of this section, the expression "micro, small and medium enterprises" means any class or classes of enterprises classified as such under sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006).

241. Rules and Regulations to be laid before Parliament. –

Every rule and every regulation made under this Code shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

242. Power to remove difficulties. –

(1) If any difficulty arises in giving effect to the provisions of this Code, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Code as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Code.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

243. Repeal of certain enactments and savings. –

(1) The Presidency Towns Insolvency Act, 1909 (3 of 1909) and the Provincial Insolvency Act, 1920 (5 of 1920) are hereby repealed.

(2) Notwithstanding the repeal under sub-sections (1) –

(i) all proceedings pending under and relating to the Presidency Towns Insolvency Act 1909, and the Provincial Insolvency Act 1920 immediately before the commencement of this Code shall continue to be governed under the aforementioned Acts and be heard and disposed of by the concerned courts or tribunals, as if the aforementioned Acts have not been repealed;

(ii) any order, rule, notification, regulation, appointment, conveyance, mortgage, deed, document or agreement made, fee directed, resolution passed, direction given, proceeding taken, instrument executed or issued, or thing done under or in pursuance of any repealed enactment shall, if in force at the commencement of this Code, continue to be in force, and shall have effect as if the aforementioned Acts have not been repealed;

(iii) anything done or any action taken or purported to have been done or taken, including any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the repealed enactments shall be deemed valid;

(iv) any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed enactments;

(v) any prosecution instituted under the repealed enactments and pending immediately before the commencement of this Code before any court or tribunal shall, subject to the provisions of this Code, continue to be heard and disposed of by the concerned court or tribunal;

(vi) any person appointed to any office under or by virtue of any repealed enactment

shall continue to hold such office until such time as may be prescribed; and

(vii) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not in existence or in force shall not be revised or restored.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeal of the repealed enactments or provisions of the enactments mentioned in the Schedule.

244. Transitional provisions. –

- (1) Until the Board is constituted or a financial sector regulator is designated under section 195, as the case may be, the powers and functions of the Board or such designated financial sector regulator, including its power to make regulations, shall be exercised by the Central Government.
- (2) Without prejudice to the generality of the power under sub-section (1), the Central Government may by regulations provide for the following matters: -
 - (a) recognition of persons, categories of professionals and persons having such qualifications and experience in the field of finance, law, management or insolvency as it deems necessary, as insolvency professionals and insolvency professional agencies under this Code;
 - (b) recognition of persons with technological, statistical, and data protection capability as it deems necessary, as information utilities under this Code; and
 - (c) conduct of the corporate insolvency resolution process, insolvency resolution process, liquidation process, fresh start process and bankruptcy process under this Code.

245. Amendments of Act 9 of 1932.-

The Indian Partnership Act, 1932 shall be amended in the manner specified in the First Schedule.

246. Amendments of Act 1 of 1944.-

The Central Excise Act, 1944 shall be amended in the manner specified in the Second Schedule.

247. Amendments of Act 43 of 1961.-

The Income – Tax Act, 1961 shall be amended in the manner specified in the Third Schedule.

248. Amendments of Act 52 of 1962.-

The Customs Act, 1962 shall be amended in the manner specified in the Fourth Schedule.

249. Amendments of Act 51 of 1993.-

The Recovery of Debts due to Banks and Financial Institutions Act, 1993 shall be amended in the manner specified in the Fifth Schedule.

250. Amendments of Act 32 of 1994.-

The Finance Act, 1994 shall be amended in the manner specified in the Sixth Schedule.

251. Amendments of Act 54 of 2002.-

The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 shall be amended in the manner specified in the Seventh Schedule.

252. Amendments of Act 1 of 2004.-

The Sick Industrial Companies (Special Provisions) Repeal Act, 2003 shall be amended in the manner specified in the Eighth Schedule.

253. Amendments of Act 51 of 2007.-

The Payment and Settlement Systems Act, 2007 shall be amended in the manner specified in the Ninth Schedule.

254. Amendments of Act 6 of 2009.-

The Limited Liability Partnership Act, 2008 shall be amended in the manner specified in the Tenth Schedule.

255. Amendments of Act 18 of 2013.-

The Companies Act, 2013 shall be amended in the manner specified in the

THE ELEVENTH SCHEDULE

(See section 255)

)

AMENDMENTS TO THE COMPANIES ACT, 2013 (18 OF 2013)

1. In section 2, -

(a) for clause (23), the following clause shall be substituted, namely: -

“(23) “Company Liquidator”, means a person appointed by the Tribunal as the Company Liquidator in accordance with the provisions of section 275 for the winding up of a company under this Act”;

(b) after clause (94), the following clause shall be inserted, namely: -

“(94A) “winding up” means winding up under this Act or liquidation under the Insolvency and Bankruptcy Code, 2016, as applicable.”

2. In section 8, in sub-section (9), for the words “the Rehabilitation and Insolvency Fund formed under section 269”, the words “Insolvency and Bankruptcy Fund formed under section 224 of the Insolvency and Bankruptcy Code, 2016” shall be substituted.
3. In section 66, in sub-section (8), for the words, brackets and figures “is unable, within the meaning of sub-section (2) of section 271, to pay the amount of his debt or claim,” the words and figures “commits a default, within the meaning of section 6 of the Insolvency and Bankruptcy Code, 2016, in respect of the amount of his debt or claim,” shall be substituted.
4. In sections 77, in sub-section (3), after the words “the liquidator”, the words and figures “appointed under this Act or the Insolvency and Bankruptcy Code, 2016, as the case may be,” shall be inserted.
5. In section 117, in sub-section (3), in clause (f), for the word and figures “section 304”, the words and figures “section 59 of the Insolvency and Bankruptcy Code, 2016” shall be substituted.
6. In section 224, in sub-section (2), after the words “wound up under this Act”, the words and figures “or under the Insolvency and Bankruptcy Code, 2016” shall be inserted.

6A. In section 230, —

(a) in sub-section (1), after the word "liquidator", the words "appointed under this Act or under the Insolvency and Bankruptcy Code, 2016, as the case may be," shall be inserted;

(b) in sub-section (6), after the word "on the liquidator", the words "appointed under this Act or under the Insolvency and Bankruptcy Code, 2016, as the case may be," shall be inserted;

7. In section 249, in sub-section (1), for clause (e), the following clause shall be inserted, namely: -

“(e) is being wound up under Chapter XX of this Act or under the Insolvency and Bankruptcy Code, 2016.”

8. Sections 253 to 269 shall be omitted.

9. For section 270, the following section shall be substituted, namely: -

“270. Winding up by Tribunal. - The provisions of Part I shall apply to the winding up of a company by the Tribunal under this Act.”

10. For section 271, the following section shall be substituted, namely: -

“271. Circumstances in which company may be wound up by Tribunal. - A company may, on a petition under section 272, be wound up by the Tribunal, —

- (a) if the company has, by special resolution, resolved that the company be wound up by the Tribunal;
- (b) if the company has acted against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality;
- (c) if on an application made by the Registrar or any other person authorised by the Central Government by notification under this Act, the Tribunal is of the opinion that the affairs of the company have been conducted in a fraudulent manner or the company was formed for fraudulent and unlawful purpose or the persons concerned in the formation or management of its affairs have been guilty of fraud, misfeasance or misconduct in connection therewith and that it is proper that the company be wound up;

- (d) if the company has made a default in filing with the Registrar its financial statements or annual returns for immediately preceding five consecutive financial years; or
- (e) if the Tribunal is of the opinion that it is just and equitable that the company should be wound up.”

12. For section 272, the following section shall be substituted, namely: -

“272. Petition for winding up.- (1) Subject to the provisions of this section, a petition to the Tribunal for the winding up of a company shall be presented by—

- (a) the company;
- (b) any contributory or contributories;
- (c) all or any of the persons specified in clauses (a) and (b);
- (d) the Registrar;
- (e) any person authorised by the Central Government in that behalf; or
- (f) in a case falling under clause (b) of section 271, by the Central Government

(2) A contributory shall be entitled to present a petition for the winding up of a company, notwithstanding that he may be the holder of fully paid-up shares, or that the company may have no assets at all or may have no surplus assets left for distribution among the shareholders after the satisfaction of its liabilities, and shares in respect of which he is a contributory or some of them were either originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months immediately before the commencement of the winding up or have devolved on him through the death of a former holder.

(3) The Registrar shall be entitled to present a petition for winding up under section 271, except on any of the grounds specified in except on the grounds specified in clause (a) or clause (e) of that sub-section:

Provided that the Registrar shall obtain the previous sanction of the Central Government to the presentation of a petition:

Provided further that the Central Government shall not accord its sanction unless the

company has been given a reasonable opportunity of making representations.

(4) A petition presented by the company for winding up before the Tribunal shall be admitted only if accompanied by a statement of affairs in such form and in such manner as may be prescribed.

(5) A copy of the petition made under this section shall also be filed with the Registrar and the Registrar shall, without prejudice to any other provisions, submit his views to the Tribunal within sixty days of receipt of such petition.”

13. In section 275, -

(a) for sub-section (2), the following sub-section shall be substituted, namely: -

“(2) The provisional liquidator or the Company Liquidator, as the case may, shall be appointed by the Tribunal from amongst the insolvency professionals registered under the Insolvency and Bankruptcy Code, 2016.”;

(b) sub-section (4) shall be omitted.

14. For section 280, the following section shall be substituted, namely: -

“280. Jurisdiction of Tribunal. - The Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain, or dispose of, —

- (a) any suit or proceeding by or against the company;
- (b) any claim made by or against the company, including claims by or against any of its branches in India;
- (c) any application made under section 233;
- (d) any question of priorities or any other question whatsoever, whether of law or facts, including those relating to assets, business, actions, rights, entitlements, privileges, benefits, duties, responsibilities, obligations or in any matter arising out of, or in relation to winding up of the company, whether such suit or proceeding has been instituted, or is instituted, or such claim or question has arisen or arises or such application has been made or is made or such scheme has been submitted, or is submitted, before or after the order for the winding up of the company is made.”

15. Section 289 shall be omitted.

15A. The heading “Part II.- Voluntary winding up” shall be omitted.

16. Sections 304 to 323 shall be omitted.

17. Section 325 shall be omitted.

18. For section 326, the following section shall be substituted, namely: -

“326. Overriding preferential payments. - (1) In the winding up of a company under this Act, the following debts shall be paid in priority to all other debts:

(a) workmen’s dues; and;

(b) where a secured creditor has realised a secured asset, so much of the debts due to such secured creditor as could not be realised by him or the amount of the workmen’s portion in his security (if payable under the law), whichever is less, pari passu with the workmen’s dues:

Provided that in case of the winding up of a company, the sums referred to in sub-clauses

(i) and (ii) of clause (b) of the Explanation, which are payable for a period of two years preceding the winding up order or such other period as may be prescribed, shall be paid in priority to all other debts (including debts due to secured creditors), within a period of thirty days of sale of assets and shall be subject to such charge over the security of secured creditors as may be prescribed.

(2) The debts payable under the proviso to sub-section (1) shall be paid in full before any payment is made to secured creditors and thereafter debts payable under that sub-section shall be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions.

Explanation. – For the purposes of this section, and section 327—

- (a) “workmen”, in relation to a company, means the employees of the company, 163 being workmen within the meaning of clause (s) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947);
- (b) “workmen’s dues”, in relation to a company, means the aggregate of the following sums due from the company to its workmen, namely: —
 - (i) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any workman in respect of services rendered to the company and any compensation payable to any workman under any of the provisions of the Industrial Disputes Act, 1947 (14 of 1947);

- (ii) all accrued holiday remuneration becoming payable to any workman or, in the case of his death, to any other person in his right on the termination of his employment before or by the effect of the winding up order or resolution;
- (iii) unless the company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company or unless the company has, at the commencement of the winding up, under such a contract with insurers as is mentioned in section 14 of the Workmen's Compensation Act, 1923 (19 of 1923), rights capable of being transferred to and vested in the workmen, all amount due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any workman of the company;
- (iv) all sums due to any workman from the provident fund, the pension fund, the gratuity fund or any other fund for the welfare of the workmen, maintained by the company.
- (c) "workmen's portion", in relation to the security of any secured creditor of a company, means the amount which bears to the value of the security the same proportion as the amount of the workmen's dues bears to the aggregate of the amount of workmen's dues and the amount of the debts due to the secured creditors.

ILLUSTRATION

The value of the security of a secured creditor of a company is Rs. 1,00,000. The total amount of the workmen's dues is Rs. 1,00,000. The amount of the debts due from the company to its secured creditors is Rs. 3,00,000. The aggregate of the amount of workmen's dues and the amount of debts due to secured creditors is Rs. 4,00,000. The workmen's portion of the security is, therefore, one-fourth of the value of the security, that is Rs.25,000."

19. In section 327, -

(a) after sub-section (6), the following sub-sections shall be inserted, namely: -

“(7) Sections 326 and 327 shall not be applicable in the event of liquidation under the Insolvency and Bankruptcy Code 2016.”;

(b) in the Explanation, for clause (c), the following clause shall be substituted, namely; - “(c) the expression “relevant date” means in the case of a company being

wound up by

the Tribunal, the date of appointment or first appointment of a provisional liquidator, or

if no such appointment was made, the date of the winding up order, unless, in either case, the company had commenced to be wound up voluntarily before that date under the Insolvency and Bankruptcy Code 2016;”.

20. For section 329, the following section shall be substituted, namely: -

“329. Transfer not in good faith to be void.- Any transfer of property, movable or immovable, or any delivery of goods, made by a company, not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser or encumbrance in good faith and for valuable consideration, if made within a period of one year before the presentation of a petition for winding up by the Tribunal under this Act shall be void against the CompanyLiquidator.”.

21. For section 334, the following section shall be substituted, namely: -

“334. Transfer, etc., after commencement of winding up to be void. - In the case of a winding up by the Tribunal, any disposition of the property, including actionable claims, of the company, and any transfer of shares in the company or alteration in the status of its members, made after the commencement of the winding up, shall, unless the Tribunal otherwise orders, be void.”

22. In section 336, in sub-section (1), in the opening paragraph, for the words “whether by the Tribunal or voluntarily, or which is subsequently order to be wound up by the Tribunal or which subsequently passes a resolution for voluntary winding up,”, the words “by the Tribunal under this Act or which is subsequently ordered to be wound up by the Tribunal under this Act”, shall be substituted.
23. In section 337, for the words “or which subsequently passes a resolution for voluntary winding up,”, the words “under this Act”, shall be substituted.
24. In section 342 sub-sections (2), (3) and (4) shall be omitted.
25. In section 343, for sub-section (1), the following sub-section shall be substituted, namely-
- “(1) The Company Liquidator may, with the sanction of the Tribunal, when the company is being wound up by the Tribunal, -
- (i) pay any class of creditors in full;
 - (ii) make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, against the company, or whereby the company may be rendered liable; or

(iii) compromise any call or liability to call, debt, and liability capable of resulting in a debt, and any claim, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or alleged to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or liabilities or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.”

26. In section 347, for sub-section (1), the following sub-section shall be substituted, namely-

“(1) When the affairs of a company have been completely wound up and it is about to be dissolved, its books and papers and those of the Company Liquidator may be disposed of in such manner as the Tribunal directs.”

27. In section 348, for sub-section (1), the following sub-section shall be substituted, namely-

“(1) If the winding up of a company is not concluded within one year after its commencement, the Company Liquidator shall, unless he is exempted from so doing, either wholly or in part by the Central Government, within two months of the expiry of such year and thereafter until the winding up is concluded, at intervals of not more than one year or at such shorter intervals, if any, as may be prescribed, file a statement in such form containing such particulars as may be prescribed, duly audited, by a person qualified to act as auditor of the company, with respect to the proceedings in, and position of, the liquidation, with the Tribunal:

Provided that no such audit as is referred to in this sub-section shall be necessary where the provisions of section 294 apply.”

28. For section 357, the following section shall be substituted, namely:-

“357. Commencement of winding up by Tribunal. -The winding up of a company by the Tribunal under this Act shall be deemed to commence at the time of the presentation of the petition for the winding up.”

29. In section 370, in the proviso, after the words “obtained for the winding up of the company”, the words “in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016”

30. In section 372, after the words “The provisions of this Act”, the words “or of the Insolvency and Bankruptcy Code, 2016, as the case may be” shall be inserted.

31. In section 419, for sub-section (4), the following sub-section shall be substituted, namely:

“(4) The Central Government shall, by notification, establish such number of benches of the Tribunal, as it may consider necessary, to exercise the jurisdiction, powers and authority of the Adjudicating Authority conferred on such Tribunal by or under Part II of the Insolvency and Bankruptcy Code, 2016”.

32. In section 424, -

(i) in sub-section (1), after the words, “other provisions of this Act”, the words “or of the Insolvency and Bankruptcy Code, 2016” shall be inserted;

(ii) in sub-section (2), after the words, “under this Act”, the words “or under the Insolvency and Bankruptcy Code, 2016” shall be inserted.

33. In section 429, for sub section (1), the following sub-section shall be substituted, namely:—

“(1) The Tribunal may, in any proceedings for winding up of a company under this Act or in any proceedings under the Insolvency and Bankruptcy Code, 2016, in order to take into custody or under its control all property, books of account or other documents, request, in writing, the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector within whose jurisdiction any such property, books of account or other documents of such company under this Act or of corporate persons under the said Code, are situated or found, to take possession thereof, and the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector, as the case may be, shall, on such request being made to him,—

- (a) take possession of such property, books of account or other documents; and
- (b) cause the same to be entrusted to the Tribunal or other persons authorised by it.”.

34. For section 434, the following section shall be substituted, namely: -

“434. Transfer of certain pending proceedings. - (1) On such date as may be notified by
the Central Government in this behalf, —

“(1) The Tribunal may, in any proceedings for winding up of a company under this Act or in any proceedings under the Insolvency and Bankruptcy Code, 2016, in order to take into custody or under its control all property, books of account or other documents, request, in writing, the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector within whose jurisdiction any such property, books of account or other documents of such company under this Act or of corporate persons under the said Code, are situated or found, to take possession thereof, and the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector, as the case may be, shall, on such request being made to him,—

- (a) take possession of such property, books of account or other documents; and
- (b) cause the same to be entrusted to the Tribunal or other persons authorised by it.”.

34. For section 434, the following section shall be substituted, namely: -

“434. Transfer of certain pending proceedings. - (1) On such date as may be notified by
the Central Government in this behalf, —

(a) all matters, proceedings or cases pending before the Board of Company Law Administration (herein in this section referred to as the Company Law Board) constituted under sub-section (1) of section 10E of the Companies Act, 1956 (1 of 1956), immediately before such date shall stand transferred to the Tribunal and the Tribunal shall dispose of such matters, proceedings or cases in accordance with the provisions of this Act;

(b) any person aggrieved by any decision or order of the Company Law Board made before such date may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order:

Provided that the High Court may if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days; and

(c) all proceedings under the Companies Act, 1956 (1 of 1956), including proceedings relating to arbitration, compromise, arrangements and reconstruction and winding up of companies, pending immediately before such date before any District Court or High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer:

Provided that only such proceedings relating to the winding up of companies shall be transferred to the Tribunal that are at a stage as may be prescribed by the Central Government: 1[Provided further that any party or parties to any proceedings relating to the winding up of companies pending before any Court immediately before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, may file an application for transfer of such proceedings and the Court may by order transfer such proceedings to the Tribunal and the proceedings so transferred shall be dealt with by the Tribunal as an application for initiation of corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016.]

(2) The Central Government may make rules consistent with the provisions of this Act to ensure timely transfer of all matters, proceedings or cases pending before the Company Law Board or the courts, to the Tribunal under this section.”

35. In section 468, for sub-section (2), the following sub-section shall be substituted, namely :-

“(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

- (i) as to the mode of proceedings to be held for winding up of a company by the Tribunal under this Act;
- (ii) for the holding of meetings of creditors and members in connection with proceedings under section 230;
- (iii) for giving effect to the provisions of this Act as to the reduction of the capital;
- (iv) generally for all applications to be made to the Tribunal under the provisions of this Act;
- (v) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;
- (vi) the settling of lists of contributories and the rectifying of the register of members where required, and collecting and applying the assets;
- (vii) the payment, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;
- (viii) the making of calls; and
- (ix) the fixing of a time within which debts and claims shall be proved.”

36. In Schedule V, In Part II, in section III, for clause (b), the following clause shall be

substituted, namely: -

“(b) where the company—

(i) is a newly incorporated company, for a period of seven years from the date of its incorporation, or

(ii) is a sick company, for whom a scheme of revival or rehabilitation has been ordered by the Board for Industrial and Financial Reconstruction for a period of five years from the date of sanction of scheme of revival, or

(iii) is a company in relation to which a resolution plan has been approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 for a period of five years from the date of such approval, it may pay remuneration up to two times the amount permissible under section II.”

Case Studies on Business and Professional Ethics

Ten points on which the Board may grill an IRP/RP:-

1. Abdicating his authority in Favour of COC. E.g. in appointment of professionals include valuers
2. Acting against basic objectives of the code e.g. pushing for liquidation.
3. Fees not commensurate with work, experience.. when considerations for fixation of fees are extraneous and fees is not a reasonable reflection of the skill and expertise.
4. Siding with influential financial creditors in derogation of COC
5. Not acting at arm's length while dealing with related parties
6. Delay/failure in taking custody and control of the assets of the CD.
7. Inordinate delay in reporting irregular transactions
8. Sharing of fees
9. Inclusion of costs not admissible to be included in IRPC
10. Relying on the work of or engaging a professional working with financial creditors before CIRP.

Mr. S an IP, as an IRP of SNPL a Pvt. Ltd. Co., filed application for initiating CIRP against 14 corporate Debtors. In all these 14 cases, Mrs. B the spouse of Mr. S was appointed as an IRP on a fee of Rs. 269.25 Lakhs. While considering the application for initiation of CIRP of one of the companies, the AA observed on 15/03/2018 that a clarification was required from the Board as to whether the proposed IRP could be a relative of the IRP of the applicant. In another case not covered in the 14 cases mentioned above, AA had observed on 22/11/2017 that the professional who accepted to work an IRP was none other than the wife of the CA who filed the company petition u/s 9. Professional fee mentioned in this case was Rs. 5cr. The AA referred the matter to IBBI for taking appropriate action against the proposed IRP.

Based on the above facts, the Board issued a SCN to Mrs. S alleging the following:-

That Mrs. S compromised her independence, integrity and impartiality by consenting to act as IRP of 15 CIRPs simultaneously even though she has no experience and no capacity.

Mrs. S contracted to act as IRP at a fee of Rs. 5.15cr for one month and a fee of Rs. 3cr as RP per month besides out of pocket expenses for a default of Rs. 42.74 lakhs. The appointment as RP was locked in before COC was formed.

Mrs. S submitted the following:

1. She is not explicitly barred from acting as IRP/RP of the CDs as she has no relationships with any of them
2. At the time of giving consent, she had no assignment in hand. Therefore she consented to all 15 CIRPs. If she got 2-3 CIRPs, she would recuse herself from other CIRPs by filing withdrawal letter.
3. Her registration had already been suspended by the Board for a year in a similar accusation. It is trite law that a person cannot be held liable twice for the same mistake

In view of the submission of Mrs. S, please answer the following questions:

1. Whether trite law, as cited by Mrs. S would be applicable in this case or 15 separate CIRPs are a separate cause of action.
2. What should be the punishment for such a conduct of the IRP
 - a. Cancellation for a specified period
 - b. Monetary penalty
 - c. Both a and b
 - d. None of the above

4. Which of the following statements are false?
 - a. Appointment of RP is the discretion of the CD
 - b. Appointment of RP is done by the AA
 - c. Appointment of RP is the exclusive domain of the COC
 - d. Both (a) and (b)
5. Both Mr. A, husband and wife Mrs. B are qualified. Is there any prohibition that the spouse of the IRP i.e. Mrs. B can't be an IRP in cases filed by her spouse i.e. Mr. A on behalf of the applicant.
6. What could be the criterion to judge integrity, impartiality and independence
 - a. Nearness of relationship
 - b. Fees charged
 - c. Prior Experience
 - d. All of the Above

Mr. D was appointed as IRP/RP of SVLL IRP found that 300 trucks of the corporate debtor SVLL were being used by SPPL, a sister concern and the entire revenue was credited to SPPL's bank A/c. The promoters of the CD i.e. SVLL had a stake in SPPL and had transferred the staff of the CD to SPPL. The directors of SPPL were former employees of the CD and SPPL appeared to be under the direct control of the erstwhile promoters of CD.

However despite knowing this fact, application u/s 66(1) was filed after a delay of more than a year. RP also failed to deploy a security agency to protect illegal use of assets of CD by another company which was sister concern of CD. RP knew this fact at the time of 1st meeting of COC held a 12.10.2017. Approval to deploy security was accorded in 3rd COC meeting held a 16.11.2017. Despite approval, RP failed to appoint security agency due to lack of funds and due to the fact that security was already provided by the yard owners where trucks owned by the CD were parked.

In the 2nd COC meeting, COC resolved to liquidate the CD based on interim valuation report. Although RP advised against liquidation, COC informed RP that they had conducted a Joint Lenders meeting where they decided to go in for liquidation.

The Board issued a SCN based on findings of an inspection report. Main Accusations against the RP were as under:

1. Delay in filing of application under Section 66. There was a delay of 115 days from receiving the forensic report and 412 days from the date of commencement of CIRP. However the Board found that one of the items of the agenda of one of the meetings of COC provided as under:
“To take approval of the COC for appointment of forensic auditor and fixing the fees for the assignment. Hence RP abdicated his responsibility to the COC.
2. Failure to take control of the assets of the CD and failure to deploy the security where CD's trucks were parked.
3. COC authorised the appointment of an external agency for preparation of Information Memorandum.
4. RP used process email only for communication and not the mail ID informed to IBBI.
5. Discrepancy in the amounts due to Valuers. At the end of the form there was a column for remarks where RP could have mentioned this fact. However, RP failed to do so.
6. One of the items in the agenda for meetings and summary report of e-voting contained a proposal for sale of encumbered or unencumbered assets of the CD not exceeding 10% of the total value.

Mr. D the RP submitted the following reply:

1. SPPL failed to provide statement / details of revenues earned by SPPL out of use of CD's assets. This resulted in delay in filing application u/s 66. Regarding delay in appointment of forensic auditor, RP submitted that he came to know that one of the FCs had got conducted the forensic audit and requested the Bank to share the forensic audit report which was denied by the bank. The RP also submitted that appointment of forensic auditor without approval of fee has little meaning.
2. Movable assets of CD consisted of thousands of trucks which were passed in yards belonging to third parties who had their own security. Since funds available with CD were limited, control of keys and locks were taken to protect the assets of the CD instead of deploying new security agency to replace the old one. Besides this, COC did not approve for interim finance.
3. RP submitted that it was not the information Memorandum which was outsourced but investor memorandum which was a pitch document outsourced to a professional investment banking firm to effectively showcase the investment opportunity in the CD. Besides this the name of the RP was appearing at the bottom of every page of the Investor Memorandum and thus he owed responsibility for the same.

4. RP created a separate email address to run CIR process so that there is efficiency in collection, storage, assimilation and distribution of the data. Notice of the meetings of COC do not contain the email registered with the Board. It contained only the process email address. However in the emails sent along with the copy of notice and agenda email address registered with IBBI was mentioned.
5. RP proposed for valuers fee of Rs. 1.20cr which was approved by the COC. Actual fee was Rs. 27.48 lakh. As per Form III (Cost Disclosure) submitted by RP to IPA the amount ratified by the COC is mentioned as Rs. 1.20 separately for each valuer.

RP's Submission: Approval for Valuers fee was taken on the basis of highest quotations received.

Number of trucks in ERP was 6170 whereas the Valuers could find only 2500 trucks. Hence actual costs were lower.

Format error in the prescribed form of IPA.

6. One of the items in the agenda for meetings and summary report of e-voting contained a proposal for sale of encumbered or unencumbered assets of the CD not exceeding 10% of the total value. However no encumbered assets were actually sold.

Based on the above, please answers the following questions:

1. Timelines prescribed in the code are only directory in nature and it is the discretion of the IP to file an application under Section 66 of the code when he deems fit.

True or False

2. Section 66 relates to
 - i. fraudulent transactions
 - ii. is a contributory provision
 - iii. Is directory in nature
 - iv. None of the above
3. Whether RP can be held liable for filing an application for liquidation of the CD without inviting resolution plans.
4. In view of the above, what is your recommendation as a Board Member of the Disciplinary Committee:
 - A. IP not to take up any new assignment .
 - B. Registration to be suspended for three months.
 - C. Monetary Penalty to be levied
 - D. None of the above since it is a new Law and RP should be issued a strict warning to be more vigilant in future.
5. (a)Whether an RP can appoint a forensic auditor who was forensic auditor of one of the FCs? (b)Whether RP can file application under section 66 based on the report of such forensic auditor?

Mr. Kan IP formed an LLP in the name “IBBI Insolvency Practitioners LLP” and created a website www.ibbi-ip.com

On receiving an anonymous complaint, IBBI issued a SCN. The Board checked the facts from the website of MCA and found the allegation to be correct.

When a clarification was sought from Mr. K that use of the abbreviated name of the Board in the LLP was misleading, Mr. K contended that it was without any intention and motive to gain any material benefits.

He further submitted that after receipt of letter from the Board, he had made an application to the MCA to change the name of the said LLP to Expert Insolvency Practitioners LLP.

After about a month, the Board found that the expression IBBI had still not been dropped. Mr. K replied that MCA had objected and he had filed a fresh form.

The Board found it too naive to believe that Mr. K did not have intent and notice to gain material benefit while using the name of the IBBI.

Mr. K seemed in no hurry to make rectification of the illegal act even after being advised by the Board. Even on the date of the passing of the order, the company master data on the website of MCA carried the name IBBI Insolvency Practitioners LLP.

In view of the above, what is your recommendation as a Board Member of the Disciplinary Committee?

- a. IP not to take up any new assignment till the name is removed.
- b. Registration to be suspended for three months.
- c. Both a and B above
- d. None of the above since it is a new Law and the IP can be let off after issuing a stern warning.

Mrs. K was issued a SCN by the Board for her role in CIRP of VSPL. The main accusations in the SCN were as under:

1. RP got the valuation done for properties of the guarantor as well besides the corporate debtor on the suggestion of the FC who was the sole member of COC. Besides this, this cost was also included in the IRPC. The cost of the Valuation was borne by the FC. FC issued cheques in the name of RP and RP issued cheques to the valuers from his personal account.
2. Appointment of Valuers is the exclusive domain of the RP. However, RP compromised her independence in favour of COC by routing payments through her personal account.
3. COC also acted beyond the provisions of the code by directing the RP to get valuation done of properties of the personal guarantors which were not in the custody and control of the RP.
4. Ideally such expenditure should be recovered and deposited in the account of the CD. However in this case, entire expenditure was borne by the bank, who was the sole FC and sole COC member
5. RP appointed a CA to conduct the audit. However RP failed to get their fee approved by the COC.

In view of the above, what is your recommendation as a Board Member of the Disciplinary Committee?

- a. IP not to take up any new assignment till the name is removed.
- b. Registration to be suspended for three months.
- c. Both a and B above
- d. None of the above since it is a new Law and the IP can be let off after issuing a stern warning.

Mr. M who was appointed as an RP of BPL was issued a SCN based on findings of an inspection accusing him of the following infractions:

1. Failure to report transactions covered u/s 45 and abdicating his authority in favour of COC, thereby allowing COC to usurp his authority.

Application for avoidance of transactions was filed after 236 days from the date of commencement of CIRP. Application for CIRP admitted on 26th July 2017. Application for avoidance of transactions filed on 19th March, 2018

RP submission: The transaction review report had to be discussed with legal professionals/CD to determine the contraventions. Although transactions were clearly disclosed as related party transaction in the financial statements of the FY 2016-17, despite this, valuers were not expeditiously appointed. And even after their submission of report in Jan 2018, application was filed after two months i.e. 19th March 2018 Further he took the matter before COC for review which was not required.

2. Non-Disclosure to IPA regarding on-going CIRPs within stipulated time.

Hon'ble High court insisted upon the IP and other professionals to enter into consent terms for sharing fees in case of dispute between the IP and IPE. The appointment of every other professional has to be made at an arm's length and appropriate disclosure to this effect has to be made to the IPA. However in this case, disclosure was made only after receipt of draft inspection report.

3. RP included the fees payable to lender's legal counsel in the IRPC since there was no clarity on this issue at that time. COC decided to route the payment to legal counsel through RP and it was further decided that if Board does not allow this, it shall be recovered on pro-rata basis from upfront cash recovery amount to be paid to lenders.

RP in spite of circular dated 12.03.2018 clearly prohibiting inclusion of any expense incurred by a member of COC or a professional engaged by COC, agreed with the COC members though conditionally for payment of lender's legal counsel which shows his disregard to the circular issued by the Board. This amounts to a understanding between COC and RP to contravene a law and willingness to remedy the situation only if they are caught.

4. Only individual person can render services as IP. However the IP shared his fees with an IPE during the period 26th July to upto Dec. 2017. Thereafter sharing was in pursuance of a court order.
5. EOI of some companies were accepted without officially extending the date of submission of EOI. This amounts to arbitrary exercise of power in a non-transparent manner with a malafied intention to prefer some resolution applicants. However since acceptance of EOI was done in accordance with the directions issued in the COC, DC did not hold the RP liable on this account.

In view of the above, as a member of DC of the Board, what shall be your recommendation?

- - Imposition of monetary penalty
 - Ensuing recovery of legal counsel's fee to the account of the CD

Mr. M was appointed as an IRP/RP of CIRP of four corporate Debtors Viz. A, B, C and D. The

Board issued a SCN to him alleging contraventions outlined as under:

In the matter of A Ltd.

Failure to comply with the directions of NCLAT to take into consideration the claim of a FC and pursuing the matter before NCLT suppressing the order passed by NCLAT as to inclusion of an FC. However the contempt proceedings were dropped by NCLAT on tendering an unconditional and unqualified apology and keeping in view fact that he already submitted his resignation in all the four CIRPs Viz. A, B, C and D.

In the matter of B Ltd.

COC had two FCS. The RP issued an EOI based on vetting by one of the FCs disregarding the draft EOI approved by COC. The EOI issued had a condition as to certificate from a CA regarding eligibility to be a resolution applicant besides some other errors like registration number, email id, address, and last date of submission of EOI etc.

The Board on coming to know this erroneous issue of EOI vide a letter date 26th Dec, 2017 and 3rd Jan 2018 required the RP to issue a fresh EOI after removing deficiencies.

RP instead placed a legal opinion before the COC confirming that the EOI was in accordance with the code. COC authorised the RP to secure directions from AA whether to issue a corrigendum or a fresh EOI. In the meantime RP resigned and the AA authorised the replaced RP to publish a corrigendum.

On being countered by the Board, RP submitted that the matter was sub-judice.

However it

was not sub-judice on the date of issue of SCN or on the date of hearing before the DC.

Regarding RP's submission that COC rejected the proposal to issue fresh EOI, Board was of the view that the code never contemplates that the directions of the Board are subject to approval by COC. Moreover COC had not rejected the proposal to issue fresh EOI. COC had rather expressed infeasibility to issue fresh EOI due to fund constraints and therefore decided to seek directions from AA. RP however added certain prayers before AA which were not authorised by COC like whether the Board can initiate any action against the RP/COC for non-compliance with the directions of the Board.

Regarding inclusion of a condition as to a certificate from a CA regarding eligibility of the RA, the same was included and approved by only one Financial creditor and not the COC. RP contended that EOI was in accordance with the best market practice and had the approval of a FC having 83% voting power RP also contended that COC had accorded post facto approval to the EOI. However no such record was found in the minutes of meeting of COC.

RP also enclosed EOI issued by some other companies while submitting reply to the Board. However none of these invitations carried a requirement as to certification of eligibility requirement of RA by a CA. Some of the enclosed EOI required a CA certificate in respect of net worth.

However eligibility certificate and net worth certificate are different and not the same thing.

RP thus outsourced the responsibility of ascertaining eligibility of RA to a CA.

He introduced the requirement of a CA certificate which is not envisaged in the law, adding to cost in terms of time and money. Even assuming that outsourcing this responsibility of eligibility verification was permissible, the task of identification of a professional was the responsibility of the RP. He asked the interested party Viz. the RA to obtain a certificate from a CA thus compromising the integrity of the process.

RP outsourced claim verification to India Juris, a related party.

RP used the services of a forensic auditor who was earlier appointed by one of the FCs in the same account. COC directed the RP to file an application before the AA in respect of irregular transactions pointed out in the forensic report. However, the RP failed to do so. Although the views of the CD and COC are considered before filing the application for irregular transactions, COC is not expected to sit and deliberate upon the same for months.

In the matter of C Ltd.

RP did not appoint a forensic auditor and used the services of a forensic auditor, who was earlier appointed by one of the FCs in the same account. COC asked the RP to engage an advocate for filing an application before AA. However the RP failed to do so. RP submitted that the forensic auditor did not give attachments of the report to RP. It can happen only when the forensic auditor has allegiance to somebody else, not IP.

RP failed to include liquidation value in the IM and failed to submit complete IM in time. RP submitted that since the Valuers appointed by him were not approved by the COC, liquidation value could not be arrived at. The Board was of the view that COC did not even exist at the time when the IRP was required to appoint valuers

In the matter of D Ltd.

RP handed over the custody of the assets of the CD to the members of suspended BOD ignoring his statutory duties. RP submitted that it was within the knowledge of COC. Board was of the view an act does not become legal or absolve the RP simply because it is within the knowledge of COC. RP did not hand over the assets with the knowledge of COC. He handed over the assets on his own and subsequently informed it in a meeting of the COC.

One of the Valuers engaged by the RP was providing consulting services to an FC. The Board was of the view that COC did not even exist at the time IRP was required to appoint valuers. How did he get the recommendation of a member of the COC, unless there is some private understanding between the RP and a person who is likely to become a member of the COC?

RP appointed the same valuers in all the four CIRPs. He failed to supply any record of due diligence in selection of the same valuers thereby raising concerns on his impartiality and objectivity. RP submitted that COC has ratified the appointment of valuers. COC has no role in the appointment of valuers. It is the exclusive domain of the RP.

- Health issues
- RP resigned from all the four companies Viz. A, B, C and D citing different reasons:
 - Bills of service providers not
 - paid Because of pre-occupation.

Board was of the view that RP ran away from all the four CIRPs jeopardising the life of four CDs and the interests of their stakeholders.

RP included the cost of public announcement as part of IRPC against explicit prohibition. RP submitted that the COC ratified the expenditure. Board was of the view that ratification of an expenditure and its inclusion in IRPC are two different matters. By including the expenses on public announcement in the IRPC, the RP disturbed the priority in payment.

In view of the above accusations and observations of the Board what will be your recommendations as a member of the DC

- Cancellation of registration
- Bar on seeking fresh registration for 10
- years Both a and b
- None of the above

Fact Sheet in TJ

Particulars	Case Study 9
Case Acronym	Mr.TJ
Appointment of Liquidator	In Two companies who filed application for Voluntary Liquidation.
Brief Summary	Failure reg Public Announcement in Newspaper and Appointing existing auditor after LCD
	Publication on IBBI website on 17/01/2018 and 09/05/2018
LCD	15/01/2018 and 08/05/2018
Shareholders meeting	15.01.2018 and 08/05/2018
Date of filing reg Irregular transactions	
Other Important dates	Public Announcement on 27.06.2019 (Delay 18 months) and 10.01.2019 (Delay 8 months)
Date of appointment of Valuers	
Date of Issue of SCN	27/11/2019

Particulars	Board Accusation	IRP/RP Reply	Board Stand
Genesis of SCN	Failure reg Public Announcement in Newspaper and Appointing existing auditor after LCD	Liquidator approached suo moto the Board regarding this inadvertent error No Creditors. Members decided to continue with existing auditors	Lenient View. Members can't decide this. Strictly prohibited. No such record found except proof of request by liquidator to Auditor. Board imposed penalty of Rs. 1 Lakh
Can you identify the case			
Whether RP acted within its powers	No		
Whether COC acted within its powers	No		
Whether there was a conflict of Interest	Yes		
Fees Issues	No		
Appointment of Professionals issue	Yes, Same auditors continued after LCD		
Resolution option explored?	No		

Fact Sheet in V

Particulars	Case Study 10
Case Acronym	Mr. V
Appointment of IRP	Mr.SK
CIRP Brief	Application u/s 9
Appointment of RP	Mr.V on recommendation of Board since IRP Mr.SK resigned
Ist COC date	
2 nd COC date	
3 rd COC date	12/02/2018.Notice for meeting sent on 31/01/2018
Date of filing reg Irregular transactions	
Other Important dates	<p>Mr. Arun Kr Jain the sole creditor consented to hold the meeting on 19/02/2018 wherein it was decided not to seek extension of time for CIRP beyond 27/02/2018 First Progress Report filed on 01/02/2018 /Second Progress Report filed on 22/02/2018 AA initiated liquidation vide order dated 01/03/2018 appointing Mr. V as liquidator. Mr. filed an application before AA on 05/03/2018 not to appoint him as liquidator for personal reasons. AA then appointed two other liquidators who also expressed difficulty due to workload. Mr. V was discharged by AA on 17/07/2018 after taking note of Progress Report dated 17/07/2018</p>
Date of appointment of Valuers	No valuers appointed. No IM,NO EOI, No Resolution plan

Particulars	Board Accusation	IRP/RP Reply	Board Stand
Genesis of SCN	3 rd meeting should have been conducted with seven days notice. If not convened, then next day	Sole Creditor was not available. Meeting would not have served any purpose since sole creditor was not available before 19 th February	Convening meeting before 19/02/2018 would have been an exercise in futility
Can you identify the case			
Whether RP acted within its powers	RP did not take over the management of CD. Did not seek help u/s 19 No valuers appointed. No IM, NO EOI, No Resolution plan. Recused himself for being appointed as Liquidator	RP in his second report dated 22/02/2018 informed AA about non –cooperation of the CD. Reg Non appointment f Valuers, EOI, IM etc. RP denied the allegations and stated his difficulty in conducting CIRP. Regarding his recusing himself, he stated that he continued to perform the duties of liquidator	Informing in Progress Report and seeking direction u/s 19 are not same. He was IRP for 140 days. Two meetings of COC held. One director was present who informed RP about change of address of the CD. Mr. V was appointed as IRP after 140 days of commencement of CIRP. There is a limit to which one can fast track within 40 days. Board took a lenient view. Directed him to

Whether COC acted within its powers	Sole Creditor		
Whether there was a conflict of Interest	No		
Fees Issues			
Appointment of Professionals issue	Yes, No professionals appointed		
Resolution option explored ?	No		
Inclusion in IRPC Issue			
Any other Issues			

THE INSOLVENCY
AND BANKRUPTCY
BOARD OF INDIA
(ANNUAL REPORT)
RULES, 2018

In exercise of the powers conferred by clause (zm) of sub-section (2) of section 239 read with subsection (1) of section 229 of the Insolvency and Bankruptcy Code, 2016 (No. 31 of 2016), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.-

- (1) These rules may be called the Insolvency and Bankruptcy Board of India (Annual Report) Rules, 2018.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions:

- (I) In these rules, unless the context otherwise requires, —
 - (a) "Code" means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
 - (b) words and expressions used in these rules but not defined, and defined in the Code shall have the meanings respectively assigned to them in the Code.

3. Form of Annual Report.- The Board shall prepare its annual report, giving a true and full accounts of its activities, policies and programmes, during the previous financial year in the Form annexed to these rules.

4. Time Schedule for submission of annual report.- The dates for submission of the annual report referred to in rule 3 of annual accounts for audit leading to the issue of Audit Certificate by the Comptroller and Auditor General of India and for submission to the Ministry of Corporate Affairs for timely submission to the Parliament are listed below:-

- (i) approved and authenticated annual accounts to be made available by the Insolvency and Bankruptcy Board of India to the concerned Audit Office and commencement of audit of annual accounts - 30th June;

(ii) issue of the final Separate Audit Report (SAR) in English with Audit Certificate to Insolvency and Bankruptcy Board of India - 31st October;

(iii) submission of the annual report and audited accounts to the Ministry of Corporate Affairs for it to be laid on the Table of the Parliament - 31st December.

Form of the Annual Report

[see rule 3]

(A) Chairperson's statement:

(B) The year in review:

(C) A true and full account of policies, programmes and activities of the Board in respect of-

(i) Service Providers, namely, Insolvency Professionals, Insolvency Professional Agencies, and Information Utilities:

(ii) Transactions, namely, Corporate Insolvency Resolution, Corporate Liquidation, Individual Insolvency Resolution and Individual Bankruptcy:

(iii) Advocacy and Awareness:

(iv) Research:

- (D) A review of the quasi-legislative, executive and quasi-judicial functions of the Board:
- (E) An analysis of outcomes in terms of transactions and transactional efficiencies:
- (F) Summary data - time series or cross section - as may be relevant and available, about the outcomes that may facilitate appreciation of the working of the Code and the Board and promote research:
- (G) Impact of the Code on credit market, resource recycling and the economy:
- (H) An assessment of the effectiveness and the efficiency of the Board in terms of its objectives and mandate keeping in view its resources, duties and powers:
- (I) An assessment of performance of the Governing Board and its vision, policies and programmes for the following year;
- (J) A summary of financial performance of the Board;
- (K) A statement of non-compliance, if any, with statutory obligations by the Board and the reason for the same;
- (L) Organisational Matters, including Human Resources, Finance and Accounts, Audit Committee, Right to Information and Transparency:
- (M) Such other details as would enable the stakeholders to review and appreciate the performance of the Board:

MINISTRY OF
CORPORATE AFFAIRS
NOTIFICATION

1. Short title and Commencement.-

- (1) These rules may be called the Insolvency and Bankruptcy Board of India (Salary, Allowances and other Terms and Conditions of Service of Chairperson and members) Rules, 2016.
- (2) They shall come into force on the date of publication of this notification in the Official Gazette.

2. Definitions.-

- (1) In these rules, unless the context otherwise requires-
 - (a) “Code” means the Insolvency and Bankruptcy Code, 2016;
 - (b) “Board” means the Insolvency and Bankruptcy Board of India established under sub-section (1) of section 3 of the Code;
 - (c) “Chairperson” means the Chairperson of the Board appointed under clause (a) of sub-section (1) of section 189 of the Code;
 - (d) “whole-time member” means the member of the Board appointed under clause (d) of sub-section (1) of section 189 of the Code;
- (2) Words and expressions used in these rules and not defined, but defined in the Code shall have the meanings respectively assigned to them in the Code.

3. Terms and conditions of service of Chairperson and members.-

- (1) The Chairperson and the whole-time member shall be a person who shall not have any financial or other interests as are likely to affect prejudicially his functions as such Chairperson or member.

(2) The Chairperson and whole-time member appointed to fill-up a causal vacancy shall hold office for the remainder period of the term of the Chairperson or, as the case may be, whole-time member in whose place he is appointed.

(3) The Chairperson and whole-time member shall not accept any employment before the expiry of a period of one year from the date of demitting the office in the Board, except with the previous sanction of the Central Government.

4. Pay. –

(1) The Chairperson shall have an option to receive pay as admissible to a Secretary to the Government of India or a consolidated salary of Rs 4,50,000 per month.

(2) Every whole-time member shall have an option to receive pay as admissible to an Additional Secretary to the Government of India or a consolidated salary of Rs 3,75,000 per month.

(3) In the case of an appointment of a person as the Chairperson or a whole-time member shall have an option to receive pay as admissible to a Secretary or Additional Secretary to the Government of India respectively, who has retired from service under the Central Government or the State Government and who is in receipt of, or has received, or has become entitled to receive any retirement benefits by way of pension, gratuity, employer's contribution to the Contributory Provident Fund or other Funds or retirement benefits, the pay and allowances of such Chairperson or member, as the case may be, shall be reduced by gross amount of pension and pension equivalent of gratuity or employer's contribution to the Contributory Provident Fund or any other form of retirement benefits, if any, drawn or to be drawn by him.

5. Dearness Allowance.– The Chairperson and a whole-time member who has opted pay as admissible to a Secretary or an Additional Secretary to the Government of India respectively shall receive dearness allowance at the rates admissible to a Group 'A' Officer of the Central Government of equivalent rank.

6. Entertainment Allowance.– The Chairperson and a whole-time member shall be entitled to entertainment allowance subject to a maximum of Rs. 6,000 per annum.

7. Leave.– The Chairperson and a whole-time member shall be entitled to a leave as follows:-

(1) Earned Leave at the rate of thirty days for every completed calendar year of service:

Provided that the leave account shall be credited with earned leave in advance in two installments of fifteen days each from the first day of January and first day of July of every calendar year:

Provided further that the earned leave at the credit at the close of previous half year shall be carried forward to the next half year, subject to the condition that the leave so carried forward plus credited for half year do not exceed three hundred days.

(2) Half Pay Leave on medical certificate or on private affairs at the rate of twenty days in respect of each completed year of service to be credited in advance in two installments of ten days each on first day of January and first day of July of every calendar year and leave salary for half pay leave shall be equivalent to half of the leave salary admissible during he earned leave;

(3) Leave on Half Pay may be commuted to full pay leave at the discretion of the Chairperson or a wholetime member, if it is taken on medical grounds and is supported by a Medical Certificate by a competent medical authority;

- (4) Casual Leave at the rate of eight days in a calendar year;
- (5) Restricted holidays at the rate of two days in a calendar year availing to their choice;
- (6) Extra-ordinary leave without pay and allowances up to a maximum period of one hundred and eighty days in one term of office ; and
- (7) Extra-ordinary leave without pay and allowances in a calendar year out of the holidays notified by the Central Government.

8. Leave Sanctioning Authority.- The Chairperson shall be the authority competent to sanction leave to a wholetime member and the President of India shall be the authority competent to sanction leave to the Chairperson.

9. Provident Fund.- The Chairperson and a whole-time member shall be entitled to subscribe to the Contributory Pension Fund.

10. Travelling Allowance.-

- (1) The Chairperson, while on tour or on transfer (including the journey undertaken to join the Board or on the expiry of his term with the Board proceeds to his home town) shall be entitled to the travelling allowances, daily allowances, transportation of personal effects and other similar matters at the same scale and at the same rate as are prescribed for a Secretary to the Government of India.
- (2) A whole-time member while on tour or on transfer (including the journey undertaken to join the Board or on the expiry of his term with the Board proceeds to his home town) shall be entitled to the travelling allowances, daily allowances, transportation of personal effects and other similar matters at the same scale and at the same rates as are prescribed for Group 'A' officer of equivalent rank of the

11. Leave Travel Concession.–

- (1) The Chairperson shall be entitled to Leave Travel Concession at the same rates and at the same scales as are applicable to a Secretary to the Government of India.
- (2) A whole-time member shall be entitled to Leave Travel Concession at the same rates and at the same scales as are applicable to a Group 'A' officer of the equivalent rank of the Central Government.
- (3) Other conditions relating to Leave Travel Concession shall be governed by the rules relating to Group 'A' officers of the same rank of the Central Government.

12. Accommodation.–

- (1) The Chairperson and a whole-time member shall be entitled to rent free unfurnished house and the Board shall approve the type of accommodation, purchase price or rent of the house to be used for residence by the Chairperson or a whole-time member.
- (2) Charges for water, electricity and fuel consumed in the house shall be borne by the occupant of the house.
- (3) Where the Chairperson or a whole-time member occupies his own accommodation or makes private arrangements, he shall be entitled to a compensation comprising of ten per cent of his Basic Pay and House Rent Allowance as admissible to a Group 'A' officer of the Government of India.
- (4) Nothing in this rule shall apply to the Chairperson and a whole-time member who has opted a consolidated salary of Rs. 4,50,000/- per month or 3,75,000/- respectively.

13. Conveyance.–

- (1) The Chairperson and a whole-time member shall be entitled to a staff car of the Board for official purpose.
- (2) No passenger vehicle shall be purchased by the Board and requirement of vehicles shall be met by

(3) Nothing in this rule shall apply to the Chairperson and a whole-time member who has opted a consolidated salary of Rs. 4,50,000/-per month or 3,75,000/-respectively.

14. Bonus.– The Chairperson and a whole-time member shall not be entitled to any bonus.

15. Sitting Fees and Board's Meetings.– The Chairperson and a whole time member shall not be entitled to any sitting fees for attending meetings of the Board.

16. Encashment of Leave.– The Chairperson or a whole time member shall be entitled to the encashment of leave in accordance with the rules applicable to Group 'A' officers of the Central Government, subject to a maximum encashment of three hundred days, including the leave encashed before superannuation.

17. Facilities for medical treatment.– The Chairperson and a whole-time member shall be covered under the Health Scheme as may be prescribed by the Central Government.

18. Residuary Provisions.– Matters relating to the conditions of service of the Chairperson and a whole-time member with respect to which no express provision has been made in these rules shall be referred in each case, to the Central Government for its decision and the decision of the Central Government thereon shall be final.

19. Terms and Conditions of Services of Part-time Members.–

(1) A part-time member shall be a person who shall not have any such financial or other interest as is likely to affect prejudicially his functions as a part-time member.

(2) Every part-time member shall hold office for such period, not exceeding three years, as may be specified in the order of his appointment, but shall be eligible for reappointment.

(3) A part-time member appointed to fill up a casual vacancy, shall hold office for the remainder period of the term of whole-time or part-time member in whose place he is appointed.

20. Fee and Allowances of Part-time Members.-

(1) A part-time member shall be entitled to receive remuneration by way of a fee of rupees one thousand only for each meeting of the Board attended by him.

(2) A part-time member while on tour (including the journey undertaken to attend a meeting of the Board) shall also be entitled to travelling allowance and daily allowances at the same rates and scale as are applicable to an Additional Secretary to the Government of India.

21. Power to Relax.- The Central Government shall have power to relax the provisions of any of these rules with respect to any class or category of person.

THE GAZETTE OF INDIA : EXTRAORDINARY
[PART II—SEC. 3 (I)]
NOTIFICATION

G.S.R. 423(E).—In exercise of the powers conferred by clause (zh) of sub-section (2) of section 239 read with sub-section (1) of section 223 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.-

- (1) These rules may be called the Insolvency and Bankruptcy Board of India (Form of Annual Statement of Accounts) Rules, 2018.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions:-

- (1) In these rules, unless the context otherwise requires;-
 - (a) 'Code' means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
 - (b) 'Fund' means the Fund of the Board constituted under sub-section (1) of section 222 of the Code;
 - (c) 'Form' means form annexed to these rules;
 - (d) 'Schedule' means the Schedule annexed to these rules;
 - (e) 'year' means a financial year beginning on 1st April and ending on 31st March of the immediately following year.
- (2) Words and expressions used and not defined in these rules, but defined in the Code shall have the meanings respectively assigned to them in the Code.

3. Maintenance of accounts and records:-

- (1) The Board shall maintain its accounts and records in the Form of financial statements annexed to these rules.
- (2) The Board Shall follow the general directions of the Central Government given in consultation with the Comptroller and Auditor General of India in maintaining the financial statements.

4. Preparation and submission of annual statement of accounts of the Board:-

- (1) The Board shall prepare its annual statement of accounts and balance sheet showing the financial results and significant accounting policies in Form `A`, Form `B` and Form `C` and the Schedules.
- (2) The annual statement of accounts and balance sheet of the Board, duly authenticated by the whole-time members in-charge of Finance Accounts Department of the Board, Chairperson of the Audit Committee of the Board and Chairperson and approved by the Board shall be forwarded to the Comptroller and Auditor General of India, for the purposes of audit, within three months of the end of the financial year.
- (3) The duly audited annual statement of accounts and balance sheet of the Board as certified by the Comptroller and Auditor General of India together with the audit report thereon shall be forwarded by the Chairperson for every financial year to the Central Government of laying before each House of Parliament.

FORM OF FINANCIAL STATEMENTS

[see sub rule (1) of rule 3]

Form –‘A’(see sub-rule (1) of rule 4

Insolvency and Bankruptcy Board of India

Balance Sheet as at _____

(Amount in Rs.)

FUND AND LIABILITIES	Schedule	Current Year	Previous Year
Fund	I		
Reserves and Surplus	II		
Earmarked/Endowment Funds	III		
Secured Loans and Borrowings	IV		
Unsecured Loans and Borrowings	V		
Deferred Credit Liabilities	VI		
Current Liabilities and Provisions	VII		
TOTAL			
ASSETS			
Fixed Assets	VIII		
Investments - From Earmarked/Endowment Funds	IX		
Investments - Others	X		

FUND AND LIABILITIES	Schedule	Current Year	Previous Year
Current Assets, Loans and Advances	XI		
Miscellaneous Expenditure (to the extent not written of or adjusted)			
TOTAL			
Significant Accounting Policies	XXII		
Contingent Liabilities and Notes on Accounts	XXIII		

**INSOLVENCY AND BANKRUPTCY BOARD OF
INDIA**

**Whole Time
Member
(In charge of
Finance
And Accounts) IBBI
Place: Delhi
Date:**

**Chairperson
Audit Committee,
IBBI**

**Chairperson
IBBI**

Form 'C'
RECEIPT AND PAYMENT ACCOUNTS FOR THE PERIOD/YEAR ENDED
[see sub rule (1) of rule 4]

Amount in Rs.

RECEIPTS	Current Year	Previous Year	PAYMENTS	Current Year	Previous Year
I. Opening Balances			I. Expenses		
(a) Cash in Hand			a) Establishment expenses (corresponding to Sch. 18)		
(b) Bank Balance			b) Administrative Expenses (Corresponding to Schedule 19)		
(i) In current Accounts					
(ii) In Deposit Accounts					
(iii) Saving Accounts					
II. Grants Received			II. Payment made against funds for various projects (Name of the fund or project should be shown along with the particulars of payment made for each project)		
(a) From Government of India					

Amount in Rs.

RECEIPTS	Current Year	Previous Year	PAYMENTS	Current Year	Previous Year
b)From Other Sources (Details) (Grants for Capital and Revenue Expenditure to be shown separately)					
III. Income on Investment from			III. Investments and Deposits Made		
(a) Earmarked/Endowment funds			a) Out of Earmarked/Endowment funds		
(b) Own funds (Investment - others)			b) Out of own funds (Investment - others)		
IV. Interest Received			IV. Expenditure on Fixed Assets & Capital Work-in-Progress		
(i) On Bank Deposit			a) Purchase of fixed Assets		
(ii) Loans, advances etc.			b) Expenditure on Capital Work-in-progress		

Amount in Rs.

RECEIPTS	Current Year	Previous Year	PAYMENTS	Current Year	Previous Year
V. Other Income (Specify)			V. Refund of surplus money/loans		
			a) To the Government of India		
			b) To other providers of funds		
VI. Amount Borrowed			Vi. Finance Charges (Interest)		
VII. Any other receipts (give details)			VII. Other Payments (Specify)		
			VIII. Closing Balances		
			a) Cash in Hand		
			b) Bank Balances		
			(i) In current Accounts		
			(ii) In Deposit Accounts		
			(iii) Savings Accounts		

**INSOLVENCY AND BANKRUPTCY BOARD OF
INDIA**

**Whole Time
Member
(In charge of
Finance
And Accounts) IBBI
Place: Delhi
Date:**

**Chairperson
Audit Committee,
IBBI**

**Chairperson
IBBI**

Form 'B'

INCOME AND EXPENDITURE ACCOUNT FOR THE PERIOD/YEAR ENDED __

[see sub rule (1) of rule 4]

INCOME	Schedule	Current Year	Previous Year
Grants/Subsidies	XII		
Fees/Subscriptions	XIII		
Income from Investments (Income on investment, from earmarked/endowment funds transferred to funds)	XIV		
Income from Royalty, Publications etc.	XV		
Interest Earned	XVI		
Other Income	XVII		
Total (A)			
EXPENDITURE	Schedule	Current Year	Previous Year
Establishment Expenses	XVIII		
Other Administrative Expenses etc.	XIX		
Expenditure on Grants, subsidies etc.	XX		
Interest	XXI		

Depreciation (Net Total at the year end corresponding to Schedule VIII)	XXII		
Total (B)			
Balance being excess of Income over Expenditure (A-B) Transfer to Special Reserve (Specify each) Transfer to/from General Reserve			
Balance Being Surplus (Deficit) Carried to Corpus/Capital Fund			
Significant Accounting Policies	XXII		
Contingent Liabilities and Notes on Accounts	XXIII		

**INSOLVENCY AND BANKRUPTCY BOARD OF
INDIA**

**Whole Time
Member
(In charge of
Finance
And Accounts) IBBI
Place: Delhi
Date:**

**Chairperson
Audit Committee,
IBBI**

**Chairperson
IBBI**

SCHEDULE – I
[See sub-rule (1) of rule 4]
FUND

	Current Year		Previous Year	
Balance as at the beginning of the year				
Add: Contributions towards fund				
Add/(Deduct): Balance of net income/ (expenditure) transferred from the Income and Expenditure Account				
BALANCE AS AT THE YEAR –END				

SCHEDULE – II
[See sub-rule (1) of rule 4]
RESERVES AND SURPLUS

	Current Year		Previous Year	
1.Capital Reserve (As per last Account)				
Addition during the year				
Less: Deductions during the year				
2.Revaluation Reserve (As per last Account)				
Addition during the year				
Less: Deductions during the year				

	Current Year		Previous Year	
3.Special Reserves (As per last Account)				
Addition during the year				
Less: Deductions during the year				
4.General Reserve (As per last Account)				
Addition during the year				
Less: Deductions during the year				
TOTAL				

SCHEDULE – III
[See sub-rule (1) of rule 4]
EARMARKED/ENDOWMENT FUNDS

	Fund Wise Break up				Totals	
	Fund WW	Fund XX	Fund YY	Fund ZZ	Current Year	Previous Year
(a) Opening balance of the funds						
(b) Additions to the Funds:						
(i) Donations/grants						
(ii) Income from investments made on account of funds						

	Fund Wise Break up				Totals	
	Fund WW	Fund XX	Fund YY	Fund ZZ	Current Year	Previous Year
(iii) Other additions (specify nature)						
Total (a + b)						
(c) Utilisation/Expenditure towards objectives of funds						
(i) Capital Expenditure						
- Fixed Assets						
- Others						
Total						
(ii) Revenue Expenditure						
- Salaries, Wages and allowances etc.						
- Rent						
- Other Administrative Expenses						
Total						
Total (c)						
NET BALANCE AS AT THE YEAR END (a + b - c)						

1. Disclosures shall be made under relevant heads based on conditions attaching to the grants.
2. Plan Funds received from the Central Government are to be shown as separate Funds and not to be mixed up with any other funds.

SCHEDULE – IV
[See sub-rule (1) of rule 4]
SECURED LOANS AND BORROWINGS

(Amount in Rs.)

	Current Year		Previous Year	
1. Central Government				
2. Financial Institutions				
(a) Terms Loans				
(b) Interest accrued and due				
3. Banks				
(a) Term Loans - Interest accrued and due				
(b) Other Loans (specify) - Interest accrued and due				
4. Other Institutions and Agencies				
5. Debentures and bonds				
6. Others (Specify)				
TOTAL				
Note: Amounts due within one year				

SCHEDULE – V
[See sub-rule (1) of rule 4]
UNSECURED LOANS AND BORROWINGS

(Amount in Rs.)

	Current Year		Previous Year	
1. Central Government				
2. Financial Institutions				
3. Banks				
(a) Term Loans				
(b) Other Loans (specify)				
4. Other Institutions and Agencies				
5. Debentures and bonds				
6. Fixed Deposits				
7. Others (Specify)				
TOTAL				
Note: Amounts due within one year				

SCHEDULE – VI
[See sub-rule (1) of rule 4]
DEFERRED CREDIT LIABILITIES

(Amount in Rs.)

	Current Year	Previous Year
1. Acceptances secured by hypothecation of capital equipment and other assets		
2. Others		
TOTAL		
Note: Amounts due within one year		

SCHEDULE – VII
[See sub-rule (1) of rule 4]
CURRENT LIABILITIES AND PROVISIONS

(Amount in Rs.)

	Current Year		Previous Year	
A. CURRENT LIABILITIES				
1. Acceptances				
2. Sundry creditors:-				
(a). For Goods				
(b). Others				
3. Advances Received				
4. Interest accrued but not due on:				
(a) Secured Loans/borrowings				
(b) Unsecured Loans/borrowings				
5. Statutory Liabilities:				
(a) Overdue				
(b) Others				
6. Other Current Liabilities				
TOTAL (A)				

	Current Year		Previous Year	
B. PROVISIONS				
1. For Taxation				
2. Gratuity				
3. Superannuation/Pension				
4. Accumulated Leave Encashment				
5. Trade Warranties/Claims				
6. Others (Specify)				
TOTAL (B)				
TOTAL (A +B)				

Cost of assets on hire purchase basis included above

MINISTRY OF CORPORATE AFFAIRS
PART II—SECTION 3—
SUB-SECTION (1)
NOTIFICATION

G.S.R. 553(E).— In exercise of the powers conferred by clause (zd) of sub-section (2) of section 239 read with sub-section (5) of section 189 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) and in supersession of the Insolvency and Bankruptcy Board of India (Medical Facility to Chairperson and Whole - time Members) Scheme, 2019, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely: —

1. Short title and commencement.-

- (1) These rules may be called the Insolvency and Bankruptcy Board of India (Medical Facility to Chairperson and Whole -time Members) Scheme Rules, 2019.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.- In these rules, unless the context otherwise requires,-

- (a) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016) ;
- (b) family mean,-
 - (i) self;
 - (ii) spouse;
 - (iii) parents(female employee can have either her parents or her parents- in-law as dependents);
 - (iv) sisters, widowed sisters, widowed daughters, minor brothers and minor sisters;
 - (v) children and step-children normally residing with the employee (son up to the age of twenty-five years or till his marriage, whichever is earlier, and daughter till she gets married);
 - (vi) divorced or separated daughters (including their minor children) and step-mother;

Explanation.- For the purposes of this clause, it is hereby clarified that, except for spouse, the family members must be dependent on the employee;

(c) “Group Mediclaim Policy” means health insurance policy as being purchased by the Insolvency and Bankruptcy Board of India for their employees.

(d) words and expressions used in these rules but not defined, and defined in the Code shall have the meanings respectively assigned to them in the Code.

3. Outdoor treatment.- The Chairperson and the whole-time members shall be entitled to reimbursement of expenses incurred on outdoor medical treatment, including medicines, tests, procedures, dentures and spectacles, for self and family members, as per actuals subject to maximum expenditure upto sixty-five thousand rupees annually if claim is supported by prescription of a registered medical practitioner or Government hospital or private hospital registered under the law.

4. Indoor treatment.-

(1) The Chairperson and the whole-time members shall be covered under a Group Mediclaim Policy with an annual cover up to fifteen lakh rupees for self and family subject to the condition that treatment has been taken as per the terms and conditions of the Group Mediclaim Policy.

(2) The Insolvency and Bankruptcy Board of India will bear the expenditure towards premium for coverage under a family floater Group Mediclaim Policy.

5. Monthly subscriptions.-

- (1) The monthly subscription payable by the Chairperson and the whole-time members shall be at the rate of one thousand rupees per month.
- (2) The subscription once paid shall not be refundable.
- (3) The monthly subscription so received shall be utilised for payment towards purchase of Group Mediclaim Policy, referred to in rule 4, for the Chairperson and the whole-time members and other related expenses on treatment.

6. Exercise of option by beneficiary.- In case the beneficiary of the scheme under these rules is also the beneficiary of the Central Government Health Scheme or other health scheme, the beneficiary shall have to exercise option for availing of any one Scheme.

MINISTRY OF CORPORATE AFFAIRS
PART II—SECTION 3—
SUB-SECTION (I)
NOTIFICATION

G.S.R. 854(E).—In exercise of the powers conferred by sub-section (1), clauses (g), (h), (i), (m), (n) and (o) of sub-section (2) of section 239 read with clause (e) of section 2 and sub-section (2), clauses (c) and (e) of sub-section (14) and clause (e) of sub-section (15) of section 79 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.-

- (1) These rules may be called the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019.
- (2) They shall come into force from the 1st day of December, 2019.

2. Application.— These rules shall apply to insolvency resolution process for personal guarantors to corporate debtors.

3. Definitions. —

- (1) In these rules, unless the context otherwise requires, -
 - (a) “Adjudicating Authority” means-
 - (i) for the purpose of section 60, the National Company Law Tribunal constituted under section 408 of the Companies Act, 2013 (18 of 2013); or
 - (ii) in cases other than sub-clause (i), the Debt Recovery Tribunal established under sub-section (1A) of section 3 of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993);
 - (b) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

- c) “electronic form” shall have the meaning assigned to it in clause (r) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- d) “form” means a form appended to these rules;
- e) “guarantor” means a debtor who is a personal guarantor to a corporate debtor and in respect of whom guarantee has been invoked by the creditor and remains unpaid in full or part;
- f) “section” means section of the Code;
- g) “serve” means sending any communication by any means, including registered post, speed post, courier or electronic form, which is capable of producing or generating an acknowledgement of receipt of such communication:

Provided that where a document cannot be served in any of the modes, it shall be affixed at the outer door or some other conspicuous part of the house or building in which the addressee ordinarily resides or carries on business or personally works for gain;

(2) Words and expressions used and not defined in these rules but defined in the Code shall have the meanings respectively assigned to them in the Code.

4. Relatives.— For the purposes of clause (ii) of Explanation to sub-section (2) of section 79, the manner of relationship shall mean the manner as provided in the Explanation to clause (24A) of section 5.

5. Excluded assets.— For the purposes of sub-section (14) of section 79,—

(a) the value of unencumbered personal ornaments under clause (c) of the said sub-section shall not exceed one lakh rupees;

(b) the value of unencumbered single dwelling unit owned by the debtor under clause (e) of the said sub-section shall not exceed,-

- (i) in the case of dwelling unit in an urban area, twenty lakh rupees;
- (ii) in the case of dwelling unit in rural area, ten lakh rupees.

Explanation.— For the purposes of this rule,-

- (a) “rural area” shall have the same meaning as assigned to it in clause (o) of section 2 of the National Rural Employment Guarantee Act, 2005 (42 of 2005);
- (b) “urban area” means any area other than rural area.

6. Application by guarantor.—

- (1) The application under sub-section (1) of section 94 shall be submitted in Form A, along with an application fee of two thousand rupees.
- (2) The guarantor shall serve forthwith a copy of the application referred to in sub-rule (1) to every financial creditor and the corporate debtor for whom the guarantor is a personal guarantor.

7. Application by creditor.—

- (1) A demand notice under clause (b) of sub-section (4) of section 95 shall be served on the guarantor demanding payment of the amount of default, in Form B.
- (2) The application under sub-section (1) of section 95 shall be submitted in Form C, along with a fee of two thousand rupees.

(3) The creditor shall serve forthwith a copy of the application referred to in sub-rule (2) to the guarantor and the corporate debtor for whom the guarantor is a personal guarantor.

(4) In case of a joint application, the creditors may nominate one amongst themselves to act on behalf of all the creditors.

8. Confirmation or nomination of insolvency professional.—

(1) For the purposes of sub-section (2) of section 97 and sub-section (5) of section 98, the Board may share the database of the insolvency professionals, including information about disciplinary proceedings against them, with the Adjudicating Authority from time to time.

(2) For the purposes of sub-section (4) of section 97 and sub-section (3) of section 98, the Board may share a panel of insolvency professionals, who may be appointed as resolution professionals, with the Adjudicating Authority.

9. Copy of application.— The applicant shall provide a copy of the application filed under subsection (1) of section 94 or sub-section (1) of section 95, as the case may be, if not provided earlier, to the resolution professional within three days of his appointment under sub-section (5) of section 97, and to the Board for its record.

10. Filing of application and documents.—

(1) Till such time, rules of procedure for conduct of proceedings under the Code are notified, the applications under rules 6 and 7 shall be filed and dealt with by the Adjudicating Authority in accordance with —

(a) rules 20, 21, 22, 23, 24 and 26 of Part III of the National Company Law Tribunal Rules, 2016 made under section 469 of the Companies Act, 2013 (18 of 2013); or

(b) rule 3 of the Debt Recovery Tribunal (Procedure) Rules, 1993 made under section 36 of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993) and regulations 3, 4, 5 and 11 of the Debt Recovery Tribunal Regulations, 2015 made under section 22 of the Recovery of Debts and Bankruptcy Act, 1993, as the case may be.

(2) The application and accompanying documents shall be filed in electronic form, as and when such facility is made available and as directed by the Adjudicating Authority:

Provided that till such facility is made available, the applicant may submit accompanying documents, and wherever they are bulky, in electronic form, in scanned, legible portable document format in a data storage device such as compact disc or a USB flash drive acceptable to the Adjudicating Authority.

11. Withdrawal of application. —

(1) The Adjudicating Authority may permit withdrawal of the application submitted under rule 6 or rule 7, as the case may be,-

(a) before its admission, on a request made by the applicant;

(b) after its admission, on the request made by the applicant, if ninety per cent. of the creditors agree to such withdrawal.

(2) An application for withdrawal under clause (b) of sub-rule (1) shall be in Form D.

FORM A

[See rule 6(1)]

APPLICATION BY GUARANTOR TO INITIATE INSOLVENCY RESOLUTION PROCESS

[Under rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

[Date]

To

The Adjudicating Authority

[Address]

From

[Name and address of the guarantor]

In the matter of [name of the guarantor]

Subject: Application to initiate insolvency resolution process in respect of [name of the guarantor].

Madam/Sir,

I/We hereby submit this application to initiate an insolvency resolution process in respect of [name of guarantor]. The details for the purpose of this application are set out below

Part-I**PARTICULARS OF THE GUARANTOR**

1.	Title and full name				
2.	Date of birth and e-mail address				
3.	Any other name, if any, by which the guarantor is or has been known				
4.	Address: (i) Present (ii) Permanent (iii) Business				
5.	Occupation/ Business/ Profession				
6.	Annual income in the preceding financial year (in Rs.)				
7.	List of associates of the guarantor, including relatives, who are its creditors	Name	Age	Address	
8.	Bank account details (Joint and Several)	Account number	IFSC code	Name of Bank and Branch address	
9.	Identification number	Aadhaar number	Passport number	PAN	GSTIN
10.	Contact No.(s)	Home	Mobile	Business	

11.	List of assets of guarantor and immediate family as on the application date. Note: This will include all assets of guarantor, irrespective of them being excluded assets. Please mention which assets may be excluded assets.	Immovable	Description	Estimated value	Excluded asset or not
		Movable	Description	Estimated value	Excluded asset or not
		Vehicles			
		Shares in listed companies			
		Shares in other companies			
		Life insurance policy			
		Jewellery			
		Pension policy			
		Investment in mutual funds			
		Investment in other funds			
		Investment in partnerships and other business concerns			
		Any other movable property			

12.	Number of directorships held in the last three preceding years (along with name of company in which directorship is held) and CIN of such companies	
13.	Marital status (single, married, divorced, widowed, co-habiting, separated, or specify if any other)	
14.	Details regarding guarantee(s) given by guarantor (in addition to information in serial numbers 1-13 of this part)-	
	Name of corporate debtor for which guarantee is given	
	Any current or past position held in the corporate debtor	
	Identification number of corporate debtor	
	Whether corporate debtor is an associate	
	Any securities held in corporate debtor for whom guarantee is given	
	Whether the guarantee has been invoked and proof thereof.	
15.	Where the guarantor is not a resident in India, the name and address of the person authorised to accept the service of process on guarantor's behalf, along with the authority letter.	

Part – II

[Please complete this part if you have been self-employed, or a partner in a firm. If not, go to part III]

BUSINESS PARTICULARS OF GUARANTOR

1.	Name of business and form of business	
2.	Details of registration, if any	
3.	Description of business	
4.	Business address	
5.	Annual income of guarantor	
6.	If business organisation is a firm, mention the details below.	
(i)	Date of joining firm	
(ii)	Capital subscription as per latest balance sheet	
(iii)	Profit sharing as per latest balance sheet	
(iv)	Name, address and authority of person submitting application on behalf of the firm	

Part – III

PARTICULARS OF DEBT [CREDITOR WISE, AS APPLICABLE]			
1.	Name(s) of creditor(s)		
2.	Address	Present	Permanent Business
3.	Total debt (including any interest or penalties)		
4.	Amount of debt in default		
5.	Interest or penalties, if any		
6.	Date when the debt was due		
7.	Date when the default occurred		
8.	Nature of the debt		
9.	Name, address and other particulars of corporate debtor		
10.	Secured debt including particulars of security held, the date of its creation, estimated value of security as per the creditor and details of security		
11.	Unsecured debt		
12.	Details of retention of title arrangements (if any) in respect of goods to which the debt refers		
13.	Record of default with the information utility, if any		
14.	List of documents attached to this application in order to prove the existence of debt and the amount in default		

15. Statement by guarantor in respect of excluded debts

I [*guarantor*] hereby state that the debt(s) for which the insolvency resolution process application is filed does not include any-

(i) liability to pay fine imposed by a court or tribunal;

(ii) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation;

(iii) liability to pay maintenance to any person under any law for the time being in force;

(iv) liability in relation to a student loan;

(v) any other debt prescribed under section 79(15)(e) of the Code.

Part – IV

PARTICULARS OF & DECLARATION BY RESOLUTION PROFESSIONAL (IF APPLICATION FILED THROUGH RESOLUTION PROFESSIONAL)				
1.	Title and full name			
2.	Address	Present	Permanent	Business
3.	E-mail address(es)			
4.	Contact number	Home	Mobile	Business
5.	Declaration by resolution professional	<p>I, [<i>name of insolvency professional</i>], an insolvency professional enrolled with [<i>name of insolvency professional agency</i>] having registration number [<i>registration number</i>] have been proposed as the resolution professional by [<i>name of applicant guarantor</i>] in connection with the proposed insolvency resolution process of [<i>name of the guarantor</i>].</p> <p>I hereby:</p> <p>(i) agree to accept appointment as the resolution professional if an order of appointment is passed by the Adjudicating Authority;</p>		

(ii) state that the registration number allotted to me by the Board is [*insert registration number*] and that I am currently qualified to practice as an insolvency professional;

(iii) disclose that I am currently serving as an insolvency professional / resolution professional / liquidator/ bankruptcy trustee in [*insert number and details of the proceedings*];

(iv) certify that there are no disciplinary proceedings pending against me with the Board or [*name of the insolvency professional agency he is a member of*];

(v) affirm that I am eligible to be appointed as a resolution professional in respect of the guarantor in accordance with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019;

(vi) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 [*insert disclosures, if any*].

(Signature of the insolvency professional)

(Name in block letters)

[Name of the guarantor] has paid the requisite fee for this application through [state means of payment] on [date].

Yours sincerely,

DECLARATION

Signature of guarantor / person authorised to act on behalf of the guarantor [*Please enclose the authorisation document if this application is being submitted on behalf of the guarantor*]

Name in block letters

Address of person signing

I, [Name of applicant], currently residing at [insert address], hereby declare and state as follows:--

1. In respect of this application for insolvency resolution process, I have relied on the documents specified below: [Please list the documents relied on].
2. The contents of the said application along with the said documents are true, valid and genuine to the best of my knowledge, information and belief and nothing material facts have been concealed therefrom.

Date:

Place:

(Signature of the applicant)

VERIFICATION

I, [name of applicant], do hereby verify that the contents of this application are true and correct to my knowledge and belief. Nothing is false and no material has been concealed therefrom.

Verified at _____ on this _____ day of _____ 201__

(Signature of the Applicant)

ATTACHMENTS: List of documents to be appended to the application:

1. All documents mentioned in serial number 14 of Part III of this form.
2. Copy of the income tax returns with detailed computation of the income of the guarantor, or the firm, as the case may be, for the previous three years.
3. Copy of the personal guarantee contract.
4. Copies of entries in a bankers' book in accordance with the Bankers Books Evidence Act, 1891 (18 of 1891)
5. The latest and complete copy of the financial contract reflecting all amendments and waivers to date.
6. Copies of relevant ownership and title documents for all assets
7. Copy of the authorisation, wherever required under this form.
8. Proof that the application fee has been paid.
9. Documentary evidence of all information sought in each entry for each Part of the form.
10. A statement of affairs of the guarantor made up to a date not earlier than seven days from the date of the application including the following information and supporting documents, namely:-
 - (i) guarantor's assets (inclusive of assets which may be excluded assets) and liabilities for the previous three years;
 - (ii) secured and unsecured debts (inclusive of excluded debts mentioned in serial number 15 of Part III of the form) with names of the creditors, and all requisite details for the previous three years;
 - (iii) particulars of debt owed by guarantor to associates of the corporate debtor for the previous three years;
 - (iv) guarantees given in relation to any of the debts of the corporate debtor, and if any of the guarantors is an associate of the corporate debtor;
 - (v) financial statements with all annexures and schedules for the business owned by the guarantor,

- (vi) wealth tax statements, if any, filed by the guarantor, for the previous five years;
- (vii) income statement of the guarantor, for the previous three years;
- (viii) payment of indirect taxes including GST for the previous three years.

FORM B

[See rule 7(1)]

FORM OF DEMAND NOTICE

[Under rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019]

[Date]

To

[Name and address of the guarantor]

[Address]

From

[Name and address of the creditor]

Subject: Demand notice in respect of unpaid debt in default due from [corporate debtor] under the Code.

Madam/Sir,

1. This letter is a demand notice of unpaid debt in default due from [name of corporate debtor].
2. Please find particulars of the unpaid debt in default below:

PARTICULARS OF DEBT

1.	Total outstanding debt (including any interest or penalties)	
2.	Amount of debt in default	
3.	Date when the debt was due	
4.	Date when the default occurred	
5.	Nature of the debt	
6.	Secured debt including particulars of security held, the date of its creation, its estimated value as per the creditor (as applicable), and details of securities	
7.	Unsecured debt (as applicable)	
8.	Details of retention of title arrangements (if any) in respect of goods to which the debt refers (attach a copy)	
9.	Particulars of an order of a court, tribunal or arbitral panel adjudicating on the default, if any (attach a copy of the order)	
10.	Record of default with the information utility, if any (attach a copy)	
11.	Details of succession certificate, or probate of a WILL, or letter of administration, or court decree (as may be applicable), under the Indian Succession Act, 1925 (10 of 1925) (attach a copy)	
12.	Provision of law, contract or other document under which debt has become due (attach a copy)	

PARTICULARS OF DEBT

13.	A statement of bank account where deposits are made or credits received normally by the creditor in respect of the debt of the corporate debtor, from the date on which the debt was incurred	
14.	List of documents attached to this notice in order to prove the existence of debt and the amount in default	

3. If you believe that the debt has been repaid before the receipt of this notice, please demonstrate such repayment by sending to us, within fourteen days of receipt of this notice, the following:--

- (a) an attested copy of the record of electronic transfer of the unpaid amount from the bank account of the guarantor; or
- (b) evidence of encashment of cheque for the unpaid amount issued by the guarantor; or
- (c) an attested copy of any record that [name of the creditor] has received the payment.

4. The undersigned request you to unconditionally pay the unpaid debt in default in full within fourteen days from the receipt of this letter failing which insolvency resolution process, under the Code, shall be initiated against you

Signature of creditor/person authorised to act on behalf of the creditor [Please enclose the authorisation document if this notice is being issued on behalf of the creditor]	Yours sincerely,
Name in block letters	
Address of person signing	

Instructions

1. Please serve a copy of this notice on the guarantor, fourteen days in advance of filing an application under section 95 of the Code.
2. Please attach a copy of such served notice with the application made by the creditor to the Adjudicating Authority.

FORM C

[See rule 7(2)]

APPLICATION BY CREDITOR TO INITIATE INSOLVENCY RESOLUTION PROCESS

[Under rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

[Date]

To
The Adjudicating Authority
[Address]

From
[Name and address of the creditor]

Subject: Application to initiate insolvency resolution process in respect of [name of the guarantor] under the Code.

Madam/Sir,

[Name of the creditor], hereby submits this application to initiate an insolvency resolution process in the case of [name of guarantor].

The details for the purpose of this application are set out below:

Part - I

PARTICULARS OF APPLICANT					
1.	Title and full name				
2.	Date of birth and e-mail address				
3.	Contact number(s)	Home	Mobile	Business	
4.	Identification number	Aadhaar number	CIN	PAN	GSTIN
5.	Address	Present	Permanent	Business	
6.	Bank Account details (Joint and Several)	Account number	IFSC Code	Name of the Bank and Branch Address	

Part – II

PARTICULARS OF THE GUARANTOR				
1.	Title and full name			
2.	Date of birth and e-mail address (to the extent known)			
3.	Any other name by which the guarantor is or has been known (as applicable) (to the extent known)			
4.	Address	Present	Permanent	Business
5.	Occupation/ Business/ Profession			
6.	Annual income (to the extent known)			
7.	List of associates of the guarantor, including relatives, who may be creditors (to the extent known)	Name	Age	Address

8.	Bank account details (Joint and Several)	Account number	IFSC Code	Name of the bank and Branch address	
9.	Identification number	Aadhaar number	Passport number	PAN	GSTIN
10.	Contact number(s)	Home	Mobile	Business	
11.	List of assets of guarantor as on the application date (to the extent known) Note: this will include all assets of guarantor, irrespective of them being excluded assets.	Immovable	Description	Estimated value	Excluded asset or not
		Movable	Description	Estimated value	Excluded asset or not
		Vehicles			
		Shares in listed			

		companies			
		Shares in other companies			
		Life insurance policy			
		Jewellery			
		Pension policy			
		Investment in mutual funds			
		Investment in other funds			
		Investment in partnerships and other business concerns			
12.	Number of directorships held in the preceding three years (along with name of company in which directorship is held) and CIN of such companies				
13.	Marital status (single, married, divorced, widowed, co-habiting, separated, or specify any other) (to the extent known)				

14.	Details regarding personal guarantor (in addition to information in serial numbers 1-13 of this part) -	
Name of corporate debtor for which guarantee is given		
Any current or past position held in the corporate debtor (to the extent known)		
Identification number of the corporate debtor		
Whether corporate debtor is an associate (to the extent known)		
Any securities held in corporate debtor for whom guarantee is given		
15.	Where the guarantor is not resident in India, the name and address of person resident in India authorised to accept the service of process on guarantor's behalf	

Part-III

PARTICULARS OF DEBT

PARTICULARS OF DEBT		
1.	Total debt (including any interest or penalties)	
2.	Amount in default	
3.	Date on which debt was due	
4.	Date on which default occurred	
5.	Nature of the debt	
6.	Secured debt including particulars of security held, the date of its creation, its estimated value as per the creditor (as applicable)	
7.	Unsecured debt (as applicable)	
8.	Details of retention of title arrangements (if any) in respect of goods to which the debt refers (attach a copy)	
9.	Details of any mutual credit, mutual debts, or other mutual dealings between the guarantor and the creditor, which may be set-off against the claim (attach proof)	
10.	Particulars of an order of a court, tribunal or arbitral panel adjudicating on the default, if any (attach a copy of the order)	

11.	Record of default with the information utility, if any (attach a copy)	
12.	Details of succession certificate, or probate of a will, or letter of administration, or court decree (as may be applicable), under the Indian Succession Act, 1925 (10 of 1925) (attach a copy)	
13.	Provision of law, contract or other document under which debt has become due (attach a copy)	
14.	A statement of bank account where deposits are made or credits received normally by the creditor in respect of the debt of the corporate debtor, from the date on which the debt was incurred (attach a copy)	
15.	List of documents attached to this application in order to prove the existence of debt and the amount in default	

16.	Statement by creditor in respect of excluded debts	<p>I [<i>creditor</i>] hereby state that the debt(s) for which the insolvency resolution process application is filed does not include any-</p> <ul style="list-style-type: none"> (i) liability to pay fine imposed by a court or tribunal; (ii) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation; (iii) liability to pay maintenance to any person under any law for the time being in force; (iv) liability in relation to a student loan;
		<ul style="list-style-type: none"> (v) any other debt prescribed under section 79(15)(e) of the Code.
17.	If you are a secured creditor, tick the applicable box in the right column relating to forfeiture of right to enforce security during the period of the repayment plan, which will determine the voting share as per section 110 of the Code	<ul style="list-style-type: none"> <input type="checkbox"/> I agree to forfeit my right to enforce my security [<i>insert description</i>] during the period of the repayment plan. <input type="checkbox"/> I do not agree to forfeit my right to enforce my security [<i>insert description</i>] during the period of the repayment plan.

Part-IV

1.	Title and full name			
2.	Address	Present	Permanent	Business
3.	E-mail address(es)			
4.	Contact number	Home	Mobile	Business
5.	Declaration by insolvency professional	<p>I, [<i>name of insolvency professional</i>], an insolvency professional enrolled with [<i>name of insolvency professional agency</i>] having registration number [<i>registration number.</i>] have been proposed as the resolution professional by [<i>name of applicant guarantor</i>] in connection with the proposed insolvency resolution process of [<i>name of the guarantor</i>].</p> <p>I hereby:</p> <p>(i) agree to accept appointment as the resolution professional if an order of appointment is passed by the Adjudicating Authority;</p> <p>(ii) state that the registration number allotted to me by the Board is [<i>insert registration number</i>] and that I am currently qualified to practice as an insolvency professional;</p> <p>(iii) disclose that I am currently serving as an interim resolution professional / resolution professional / authorized representative / liquidator/ bankruptcy trustee in [<i>insert number and details of the proceedings</i>];</p>		

	<p>(iv) certify that there are no disciplinary proceedings pending against me with the Board or [<i>name of the insolvency professional agency he is a member of</i>];</p> <p>(v) affirm that I am eligible to be appointed as a resolution professional in respect of the guarantor in accordance with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019;</p> <p>(vi) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 [<i>insert disclosures, if any</i>].</p> <p>(Signature of the insolvency professional)</p>
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[*Name of the creditor*] has paid the requisite fee for this application through [*state means of payment*] on [*date*].

Yours sincerely,

Signature of creditor/ person authorised to act on behalf of the creditor [<i>Please enclose the authorisation document if this application is being submitted on behalf of the creditor</i>]

Name in block letters

Address of person signing

MINISTRY OF CORPORATE AFFAIRS

PART II—SEC. 3(1)

NOTIFICATION

NEW DELHI, THE 15TH NOVEMBER,

2019

1. Short title and commencement.—

- (1) These rules may be called the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019.
- (2) They shall come into force from the 1st day of December, 2019.

2. Application.— These rules shall apply to matters relating to bankruptcy of personal guarantors to corporate debtors.

3. Definitions.—

- (1) In these rules, unless the context otherwise requires, -
 - (a) “Adjudicating Authority” means-
 - (i) for the purpose of section 60, the National Company Law Tribunal constituted under section 408 of the Companies Act, 2013 (18 of 2013); or
 - (ii) in cases other than sub-clause (i), the Debt Recovery Tribunal established under subsection (1A) of section 3 of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993);
 - (b) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
 - (c) “electronic form” shall have the meaning assigned to it in clause (r) of section 2 of the Information Technology Act, 2000 (21 of 2000);
 - (d) “electronic means” means an authorized and secured computer programme which is capable of producing confirmation of sending communication to the participant entitled to receive such communication at the last electronic mail address provided by such participant and keeping record of such communication;
 - (e) “form” means a form appended to these rules;

(f) “guarantor” means a debtor who is a personal guarantor to a corporate debtor and in respect of whom guarantee has been invoked by the creditor and remains unpaid in full or part;

(g) “section” means section of the Code;

(h) “serve” means sending any communication by any means, including registered post, speed post, courier or electronic means, which is capable of producing or generating an acknowledgement of receipt of such communication:

Provided that where a document cannot be served in any of the modes, it shall be affixed at the outer door or some other conspicuous part of the house or building in which the addressee ordinarily resides or carries on business or personally works for gain.

(2) Words and expressions used and not defined in these rules, but defined under the Code, shall have the meanings respectively assigned to them in the Code.

4. Relatives.— For the purposes of clause (ii) of Explanation to sub-section (2) of section 79, the manner of relationship shall mean the manner as provided in the Explanation to clause (24A) of section 5.

5. Excluded assets.— For the purposes of sub-section (14) of section 79, —

(a) the value of unencumbered personal ornaments under clause (c) of the said sub-section shall not exceed one lakh rupees;

(b) the value of unencumbered single dwelling unit owned by the debtor under clause (e) of the said sub-section shall not exceed, —

- (i) in the case of dwelling unit in an urban area, twenty lakh rupees;
- (ii) in the case of dwelling unit in rural area, ten lakh rupees.

Explanation.- For the purposes of this rule,-

- (a) “rural area” shall have the same meaning as assigned to it in clause (o) of section 2 of the National Rural Employment Guarantee Act, 2005 (42 of 2005);
- (b) “urban area” means any area other than rural area.

6. Application by guarantor.—

- (1) The application under sub-section (1) of section 122 shall be submitted in Form A, along with an application fee of two thousand rupees.
- (2) The guarantor shall serve forthwith a copy of the application referred to in sub-rule (1) to every creditor and the corporate debtor for whom the guarantor is a personal guarantor.

7. Application by creditor.—

- (1) The application under sub-section (1) of section 123 shall be submitted in Form B, along with a fee of two thousand rupees.
- (2) The creditor shall serve forthwith a copy of the application referred to in sub-rule (1) to the guarantor and the corporate debtor for whom the guarantor is a personal guarantor.
- (3) In case of a joint application, the creditors may nominate one amongst themselves to act on behalf of all the creditors.

8. Confirmation or nomination of insolvency professional.—

- (1) For the purposes of sub-section (2) of section 125 and sub-section (5) of section 145, the Board may share the database of the insolvency professionals, including information about disciplinary proceedings against them, with the Adjudicating Authority from time to time.
- (2) For the purposes of sub-section (4) of section 125, sub-section (3) of section 146 and sub-section (3) of section 147, the Board may share a panel of insolvency professionals, who may be appointed as bankruptcy trustee, with the Adjudicating Authority.

9. Public notice. —

- (1) The Adjudicating Authority shall issue a public notice inviting claims from all creditors of the bankrupt, under clause (b) of sub-section (1) of section 130, in Form C.
- (2) The Adjudicating Authority may direct the bankruptcy trustee to issue the public notice referred to in sub-rule (1), instead of issuing such notices itself.

10. Notice to creditors.—

- (1) The Adjudicating Authority shall send notices to the creditors as per clause (a) of sub-section (1) of section 130, in Form D.
- (2) The Adjudicating Authority may direct the bankruptcy trustee to issue the notices referred to in sub-rule (1), instead of issuing such notices itself.

11. Statement of financial position. — The statement of financial position referred to in sub-section (2) of section 129 shall be submitted by the bankrupt, in Form E.

12. Claim with proof.—

- (1) A creditor shall submit a claim with proof to the bankruptcy trustee on or before the last date mentioned in the public notice, in Form F.
- (2) Form F shall be submitted by the creditor through electronic means or by registered post or speed post or courier.
- (3) A creditor who fails to submit claim with proof as per sub-rule (1) within the time stipulated in the public notice, may submit such proof to the bankruptcy trustee till the final date referred to in subsection (2) of section 176.
- (4) The creditor shall bear the costs relating to the proof of claim.

13. Notice of dividend.—

- (1) The notice of dividend as per clause (a) of sub-section (1) of section 176 shall contain the following particulars:
 - (a) the date on which the dividend is proposed to be distributed;
 - (b) the list of creditors who shall be entitled to a dividend;
 - (c) the amount of dividend for each creditor under clause (b);
 - (d) request for any details required from the creditors for the distribution of dividend, and the last date for receipt of such information;
 - (e) the last date by which the creditors must establish their claim against the estate with the bankruptcy trustee; and
 - (f) a statement confirming that no further dividends shall be declared.
- (2) The notice under clause (b) of sub-section (1) of section 176 shall provide the reasons for not declaring dividend.
- (3) The notice of dividend under sub-section (1) section 176 shall be sent thirty days prior to the date

14. Copy of application.— On the appointment of the bankruptcy trustee, nominated by the Board, under sub-section (5) of section 125 by the Adjudicating Authority, a copy of the application as referred to in rule 6 and rule 7, if not provided earlier, shall be provided to such bankruptcy trustee by the Adjudicating Authority within three days of the appointment.

15. Restriction on bankrupt.—The restriction on the bankrupt under clause (d) of sub-section (1) of section 141 shall be applicable for any financial or commercial transaction of one lakh rupees and above.

16. Filing of application and documents.—

(1) Till such time, rules of procedure for conduct of proceedings under the Code are notified, the applications under rules 6 and 7 shall be filed and dealt with by the Adjudicating Authority in accordance with —

- (i) rules 20, 21, 22, 23, 24 and 26 of Part III of the National Company Law Tribunal Rules, 2016 made under section 469 of the Companies Act, 2013 (18 of 2013); or
- (ii) rule 3 of the Debt Recovery Tribunal (Procedure) Rules, 1993 made under section 36 of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993) and regulations 3, 4, 5 and 11 of the Debt Recovery Tribunal Regulations, 2015 made under section 22 of the Recovery of Debts and Bankruptcy Act, 1993, as the case may be.

(2) The application and accompanying documents shall be filed in electronic form, as and when such facility is made available and as directed by the Adjudicating Authority:

Provided that till such facility is made available, the applicant may submit accompanying documents, and wherever they are bulky, in electronic form, in scanned, legible portable document format in a data storage device such as compact disc or a USB flash drive acceptable to the Adjudicating Authority.

FORM A
[See rule 6(1)]

APPLICATION BY GUARANTOR TO INITIATE BANKRUPTCY PROCESS.

[Under rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

[Date]

To,
The Adjudicating Authority
[Address]

From,
[Name and address of the guarantor]
In the matter of [name of the guarantor]

Subject: Application to initiate bankruptcy process in respect of [name of the guarantor].

Madam/Sir,

I/ We hereby submit this application to initiate a bankruptcy process in respect of [name of guarantor]. The details for the purpose of this application are set out below-

Part I

PARTICULARS OF THE GUARANTOR					
1.	Title and full name				
2.	Date of birth and e-mail address				
3.	Any other name by which the debtor is or has been known (as applicable)				
4.	Address (i) Present (ii) Permanent (iii) Business				
5.	Occupation/ Business/ Profession				
6.	Annual income in the preceding year (in Rupees)				
7.	List of associates of the <i>guarantor</i> , including relatives, who may be creditors	Name	Age	Address	
8.	Bank account details (Joint and Several)	Account number	IFSC code	Name of Branch and Branch address	
9.	Identification numbers	Aadhaar number	Passport number	PAN	GSTIN

10.	Contact number(s)	Home	Mobile	Business	
11.	List of assets of guarantor and immediate family as on the application date. Note: this will include all assets, irrespective of them being excluded assets. Please mention which assets are the excluded assets.	Immovable	Description	Estimated value	Excluded asset or not
		Movable	Description	Estimated value	Excluded asset or not

	Vehicles			
	Shares in listed companies			
	Shares in other companies			
	Life insurance policy			
	Jewellery			
	Pension policy			
	Investment in mutual funds			
	Investment in other funds			
	Investment in partnerships and other business concerns			

12.	Number of directorships held in the last three years (along with name of company in which directorship is held and Directors Identification Number) and CIN of such companies	
13.	Marital status (single, married, divorced, widowed, co-habiting, separated, or specify any other)	
14.	Details regarding guarantee given by guarantor (in addition to information in serial number 1-13 of this part)	
	Name of corporate debtor for which guarantee is given	
	Any current or past position held in the corporate debtor	
	Identification number of the corporate debtor	
	Whether corporate debtor is an associate as per section 79(2) of the Code (state how)	

12.	Number of directorships held in the last three years (along with name of company in which directorship is held and Directors Identification Number) and CIN of such companies	
13.	Marital status (single, married, divorced, widowed, co-habiting, separated, or specify any other)	
14.	Details regarding guarantee given by guarantor (in addition to information in serial number 1-13 of this part)	
	Name of corporate debtor for which guarantee is given	
	Any current or past position held in the corporate debtor	
	Identification number of the corporate debtor	
	Whether corporate debtor is an associate as per section 79(2) of the Code (state how)	
	Any securities held in corporate debtor for whom guarantee is given	
15.	Where the guarantor is not a resident in India, the name and address of the person authorized to accept the service of process on guarantor's behalf, along with the authority	

Part – II

[Please complete this Part if you have been self-employed, or a partner in a firm. If not, go to Part III.]

BUSINESS PARTICULARS OF GUARANTOR		
1.	Name of business and form of business	
2.	Details of registration, if any	
3.	Description of business	
4.	Business address	
5.	Annual income of guarantor	
6.	If business organization is a firm, details mentioned below:	
(i)	Date of joining firm	
(ii)	Capital subscription as per latest balance sheet	
(iii)	Profit sharing as per latest balance sheet	
(iv)	Name, address and authority of person submitting application on behalf of the firm	
7.	Commencement date of business and date of close of operations (if applicable)	
8.	Address where books of accounts / accounting records are kept (including soft copy records)	
9.	Whether employees to whom debt owed (state yes or no, and if yes, details to be mentioned in Part III)	

Part – III

PARTICULARS OF DEBT [CREDITOR WISE, AS APPLICABLE]				
1.	Name(s) of creditor(s)			
2.	Address	Present	Permanen t	Business
3.	Total debt (including any interest or penalties)			
4.	Amount of debt in default			
5.	Interest or penalties, if any			
6.	Date when the debt was due			
7.	Date when the default occurred			
8.	Nature of the debt			
9.	Secured debt including particulars of security held, the date of its creation, estimated value of security as per the creditor			
10.	Unsecured debt			
11.	Details of retention of title arrangements (if any) in respect of goods to which the debt refers			
12.	Record of default with the information utility, if any			

13.	List of documents attached to this application in order to prove the existence of debt and the amount in default	
14.	Statement by guarantor in respect of excluded debts	<p>I [guarantor] hereby state that the debt(s) for which the bankruptcy process application is filed does not include any-</p> <ul style="list-style-type: none">(i) liability to pay fine imposed by a court or tribunal;(ii) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation;(iii) liability to pay maintenance to any person under any law for the time being in force;(iv) liability in relation to a student loan;(v) any other debt prescribed under section 79(15)(e) of the Code.

Part – IV

PARTICULARS OF & DECLARATION BY INSOLVENCY PROFESSIONAL (IF PROPOSED TO ACT AS BANKRUPTCY TRUSTEE)				
1.	Title and full name			
2.	Address	Present	Permanen t	Business
3.	E-mail address(es)			
4.	Contact number	Home	Mobile	Business
5.	Declaration by insolvency professional	<p>I, [name of insolvency professional], an insolvency professional registered with [name of insolvency professional agency] having registration number [registration number] have been proposed as the insolvency professional by [name of applicant guarantor] in connection with the proposed bankruptcy process of [name of the guarantor].</p>		

I hereby:

- (i) agree to accept appointment as the insolvency professional if an order of appointment is passed by the Adjudicating Authority;
- (ii) state that the registration number allotted to me by the Board is [insert registration number] and that I am currently qualified to practice as an insolvency professional;
- (iii) disclose that I am currently serving as an insolvency professional / resolution professional / liquidator/ bankruptcy trustee in [insert number and details of the proceedings];
- (iv) certify that there are no disciplinary proceedings pending against me with the Board or [name of the insolvency professional agency he is a member of];
- (v) affirm that I am eligible to be appointed as an insolvency professional in respect of the debtor in accordance with Regulation 3 of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019;
- (vi) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 [insert disclosures, if any].

(Signature of the insolvency professional)

Yours sincerely,

Signature of guarantor / person authorized to act on behalf of the guarantor [Please enclose the authorisation document if this application is being submitted on behalf of the guarantor]

Name in block letters

Address of person signing

DECLARATION

I, [Name of applicant], currently residing at [insert address], hereby declare and state as follows:

1. In respect of my application for bankruptcy, I have relied on the documents specified below: [Please list the documents relied on].
2. The contents of the said application along with the said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.

Date:

Place:

(Signature of the applicant)

VERIFICATION

I, [name of applicant], do hereby verify that the contents of this application are true and correct to my knowledge and belief. Nothing is false and nothing material has been concealed therefrom.

Verified at _____ on this _____ day of _____ 20__

Applicant's signature.

ATTACHMENTS: List of documents to be appended to the application:

1. All records of the insolvency resolution process in respect of the guarantor, including the following-
 - (i) Application for the insolvency resolution process;
 - (ii) Order(s) of the Adjudicating Authority-
 - (a) accepting / rejecting the application under serial number (i) above under section 100 of the Code, as the case may be;
 - (b) approving / rejecting the repayment plan under section 114 of the Code, as the case may be;
 - (c) declaring that the repayment plan has not been fully implemented under section 118 and entitling the debtor to apply for bankruptcy, as the case may be;
 - (d) any other order that may have been passed by the Adjudicating Authority in relation to the insolvency resolution process.
2. All documents mentioned in serial number 13 of Part III of this form.
3. Copy of the income tax returns with detailed computation of the income of the guarantor, or the firm, as the case may be, for the previous three years.
4. Copy of the personal guarantee contract.
5. Copies of entries in a bankers book in accordance with the Bankers Books Evidence Act, 1891 (18 of 1891)
6. The latest and complete copy of the financial contract reflecting all amendments and waivers to date.
7. Copies of relevant ownership and title documents for all assets.
8. Copy of the authorisation, wherever required under this form.
9. Proof that the application fee has been paid.
10. Documentary evidence of all information sought in each entry for each part of the form.

11. A statement of affairs of the guarantor made up to a date not earlier than two days from the date of the application including the following information and supporting documents, namely-

- (i) debtor's assets (inclusive of excluded assets) and liabilities for the previous three years;
- (ii) secured and unsecured debts (inclusive of excluded debts mentioned in serial number 14 of Part III of the form) with names of the creditors, and all requisite details for the previous three years;
- (iii) particulars of debt owed by guarantor to associates of the guarantor for the previous three years;
- (iv) guarantees given in relation to any of the debts of the guarantor, and if any of the guarantors is an associate of the guarantor;
- (v) financial statements with all annexures and schedules for the business owned by the guarantor, or of the firm in which the guarantor is a partner, as the case may be, for the previous three years, if applicable;
- (vi) wealth tax statements filed by the guarantor, if any, for the previous five years.
- (vii) Income statement of the guarantor, for the previous three years.
- (viii) Payment of indirect taxes including GST for the previous three years.

FORM B

[See rule 7(1)]

APPLICATION BY CREDITOR TO INITIATE BANKRUPTCY PROCESS

[Under rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

[Date].....

To,

The Adjudicating Authority

[Address]

From,

[Name and address of the creditor]

In the matter of *[name of the guarantor]*

Subject: Application to initiate bankruptcy process in respect of *[name of the guarantor]* under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

[Name of the creditor], hereby submits this application to initiate a bankruptcy process in the case of *[name of guarantor]*. The details for the purpose of this application are set out below:

Part - I

PARTICULARS OF APPLICANT

PARTICULARS OF APPLICANT					
1.	Title and full name				
2.	Date of birth and e-mail address				
3.	Contact number(s)	Home	Mobile	Business	
4.	Identification number of creditor	Aadhaar number	CIN	PAN	GSTIN
5.	Address	Present	Permanent	Business	

Part – II

PARTICULARS OF THE GUARANTOR

1.	Title and full name			
2.	Date of birth and e-mail address (to the extent known)			
3.	Any other name by which the guarantor is or has been known (as applicable) (to the extent known)			
4.	Address	Present	Permanent	Business
5.	Occupation/ Business/ Profession			
6.	Annual income (to the extent known)			
7.	List of associates of the guarantor, including relatives, who may be creditors (to the extent known)	Name	Age	Address

8.	Bank account details (Joint and Several)	Account number	IFSC code		Name of the Bank and Branch address
9.	Identification numbers	Aadhaar number	Passport number	PAN	GSTIN
10.	Contact number(s)	Home	Mobile	Business	
11.	List of assets of guarantor as on the application date (to the extent known) Note: this will include all assets of debtor, irrespective of them being excluded assets.	Immovable	Description	Estimated value	Excluded asset or not
		Movable	Description	Estimated value	Excluded asset or not
		Vehicles			
		Shares in listed companies			

	Shares in listed companies			
	Shares in other companies			
	Life insurance policy			
	Jewelry			
	Pension policy			
	Investment in mutual funds			
	Investment in other funds			
	Investment in partnerships and other business concerns,			
	Any other movable property			

12.	Number of directorships held in the last three years (along with name of company in which directorship is held and Director Identification Number) and CIN of such companies (to the extent known)	
13.	Marital status (single, married, divorced, widowed, co-habiting, separated, or specify any other) (to the extent known)	
14.	Details regarding guarantee given by guarantor (in addition to information in serial numbers 1-13 of this part)-	
	Name of corporate debtor for which guarantee is given	
	Any current or past position held in the corporate debtor (to the extent known)	
	Identification number of the corporate debtor	

	Whether corporate debtor is an associate (to the extent known)	
	Any securities held in corporate debtor for whom guarantee is given	
15.	Where the guarantor is not a resident in India, the name and address of the person authorised to accept the service of process on guarantor's behalf, along with the authority	

Part-III

PARTICULARS OF DEBT

1.	Total debt (including any interest or penalties)	
2.	Amount in default	
3.	Date on which debt was due	
4.	Date on which default occurred	
5.	Nature of the debt	

6.	Secured debt including particulars of security held, the date of its creation, its estimated value as per the creditor (as applicable)	
7.	Unsecured debt (as applicable)	
8.	Details of retention of title arrangements (if any) in respect of goods to which the debt refers (attach a copy)	
9.	Details of any mutual credit, mutual debts, or other mutual dealings between the guarantor and the creditor, which may be set-off against the claim (attach proof)	
10.	Particulars of an order of a court, tribunal or arbitral panel adjudicating on the default, if any (attach a copy of the order)	
11.	Record of default with the information utility, if any (attach a copy)	

12.	Details of succession certificate, or probate of a will, or letter of administration, or court decree (as may be applicable), under the Indian Succession Act, 1925 (10 of 1925) (attach a copy)	
13.	Provision of law, contract or other document under which debt has become due (attach a copy)	
14.	A statement of bank account where deposits are made or credits received normally by the creditor in respect of the debt of the debtor (attach a copy)	
15.	List of documents attached to this notice in order to prove the existence of debt and the amount in default	

16.	Statement by the secured creditor under section 123(2) of the Code	Tick whichever is applicable- <input type="checkbox"/> In the event a bankruptcy order accepting the application is passed by the Adjudicating Authority, I shall relinquish my security mentioned in serial number 6 for the benefit of all the creditors of the debtor. <input type="checkbox"/> The application is only in respect of unsecured debt as per the details mentioned in serial number 7.
17.	Statement by creditor in respect of excluded debts	I [<i>creditor</i>] hereby state that the debt(s) for which the bankruptcy process application is filed does not include any- (i) liability to pay fine imposed by a court or tribunal; (ii) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation; (iii) liability to pay maintenance to any person under any law for the time being in force; (iv) liability in relation to a student loan; (v) any other debt prescribed under section 79(15)(e) of the code.

Part – IV

PARTICULARS OF & DECLARATION BY INSOLVENCY PROFESSIONAL (IF PROPOSED TO ACT AS BANKRUPTCY TRUSTEE)			
1.	Title and full name		
2.	Address	Present	Permanent
			Business
3.	E-mail address(es)		
4.	Contact number	Home	Mobile
			Business
5.	Declaration by insolvency professional	<p>I, [<i>name of insolvency professional</i>], an insolvency professional registered with [<i>name of insolvency professional agency</i>] having registration number [<i>registration number</i>] have been proposed as the insolvency professional by [<i>name of applicant guarantor</i>] in connection with the proposed bankruptcy process of [<i>name of the guarantor</i>].</p> <p>I hereby:</p> <p>(i) agree to accept appointment as the insolvency professional if an order of appointment is passed by the Adjudicating Authority;</p> <p>(ii) state that the registration number allotted to me by the Board is [<i>insert registration number</i>] and that I am currently qualified to practice as an insolvency professional;</p>	

- (iii) disclose that I am currently serving as an insolvency professional / resolution professional / liquidator/ bankruptcy trustee in [*insert number and details of the proceedings*];
- (iv) certify that there are no disciplinary proceedings pending against me with the Board or [*name of the insolvency professional agency he is a member of*];
- (v) affirm that I am eligible to be appointed as an insolvency professional in respect of the debtor in accordance with regulation 3 of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019;
- (vi) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 [*insert disclosures, if any*].

(Signature of the insolvency professional)

Yours sincerely,

Signature of guarantor / person authorized to act on behalf of the guarantor [Please enclose the authorisation document if this application is being submitted on behalf of the guarantor]

Name in block letters

Address of person signing

List of documents to be attached to the application:

1. All records of the insolvency resolution process in respect of the guarantor, including the following-
 - (i) Application for the insolvency resolution process;
 - (ii) Order(s) of the Adjudicating Authority-
 - (a) accepting / rejecting the application under serial number (i) above, as the case may be;
 - (b) approving / rejecting the repayment plan, as the case may be;
 - (c) entitling the creditor to apply for bankruptcy;
 - (iii) any other order that may have been passed by the Adjudicating Authority in relation to the insolvency resolution process.
2. All documents mentioned in serial number 15 of Part III of this form.
3. Copy of the income tax returns with detailed computation of the income of the guarantor, or the firm, as the case may be, for the previous three years, if available.
4. Copy of the personal guarantee contract.
5. Copy of the authorisation, wherever required under this form.
6. Proof that the application fee has been paid.

7. Documents evidencing the debt and the default in relation to the debt, as may have been provided by the guarantor at any point in time, if available.
8. Documents evidencing the assets, liabilities, income and any other relevant information as may have been provided by the guarantor at any point in time, if available.
9. Documentary evidence of all information sought in each entry for each part of the form.

Form C

[See rule 9 (1)]

Public Notice

[Under rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

FOR THE ATTENTION OF THE CREDITORS OF [Full Name and title of Bankrupt (personal guarantor of (name of corporate debtor))]

Notice is hereby given that the [Debt Recovery Tribunal/National Company Law Tribunal in case of bankrupt under section 60 of the Code] has ordered the commencement of a bankruptcy process against the [name of bankrupt] residing at [last known address of the bankrupt] on [bankruptcy commencement date].

The creditors of [name of the bankrupt], are hereby called upon to submit their claims with proof on or before [insert the date falling seven days from date of issue of public notice] to the bankruptcy trustee at [address].

The last date for submission of claims of creditors shall be [date]. The creditors may submit their claims through electronic means, or by hand or registered post or speed post or courier.

Additional details of the bankruptcy trustee: [Name, last known address, e-mail address, phone number and the registration number of the bankruptcy trustee]

Note: Submission of false or misleading claims with proof shall attract penalties or imprisonment in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 and any other applicable laws.

Date and Place:

Form D

[See rule 10 (1)]

NOTICE TO CREDITOR

[Under rule 10 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

To

[Name and address of creditor]

From

[Adjudicating Authority]

Notice is hereby given that the [Debt Recovery Tribunal/National Company Law Tribunal in case of bankrupt under section 60 of the Code] has ordered the commencement of a bankruptcy process against the [title and full name of bankrupt] residing at [last known address of the bankrupt] on [bankruptcy commencement date]. You have been mentioned as a creditor of the bankrupt as per the documents submitted in the application for the bankruptcy process. You are hereby called upon to submit a claim with proof of the debt due to you on or before [insert the date falling seven days from date of issue of public announcement] to the bankruptcy trustee at [address].

The last date for submission of claims shall be [date]. You may submit your claim through electronic means, or by hand or registered post or speed post or courier.

Additional details of the bankruptcy trustee: [Name, last known address, e-mail address, phone number and the registration number of the bankruptcy trustee]

Note: Submission of false or misleading claims with proof shall attract penalties or imprisonment in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 and any other applicable laws.

Date and Place:

Form E

[See rule 11]

STATEMENT OF FINANCIAL POSITION OF BANKRUPT

[Under rule 11 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

Part I

RELEVANT PARTICULARS

1.	Full name of bankrupt			
2.	Address	Present	Permanent	Business
3.	Bank account details (Joint and Several)	Account Number	IFSC Code	Name of Bank and Bank Branch

4.	List of assets of bankrupt and immediate family as on the application date for the previous three years. Note: this will include all assets of bankrupt, irrespective of them being excluded assets. Please mention the assets which may be excluded assets.	Immovable property	Description	Estimated value	Excluded asset or not
		Movable property	Description	Estimated value	Excluded asset or not
		Vehicles			
		Shares in listed companies			
		Shares in other companies			
		Life insurance policy			
		Jewellery			
		Pension policy			
		Investment in mutual funds			
		Investment in other funds			
		Investment in partnerships and other business concerns			
		Any other property not covered above			

5.	The following information is required in relation to the guarantee given by the guarantor:	
i.	Name of corporate debtor for which guarantee is given	
ii.	Any current or past position held in the corporate debtor	
iii.	Whether corporate debtor is an associate	
iv.	Any securities held in corporate debtor for whom guarantee is given	
6.	Name and address of person resident in India authorised to accept the service of process on bankrupt's behalf (if applicable)	

Part II

FINANCIAL INFORMATION

1.	Statement of assets and liabilities for the previous three years	
2.	Secured and unsecured debts, with complete details of the creditors including name and postal address, the total amount due, amount in default and details of the security, for the previous three years	
3.	Details of the debts owed to associates of the bankrupt, for the previous three years	
4.	Details of guarantees given in relation to any of the debts of the guarantor, and if any of the guarantors is an associate of the guarantor	
5.	Details of the business owned by the bankrupt, or of the firm in which the bankrupt is a partner, as the case may be, for the previous three years, if applicable	
6.	Details of the wealth tax statements filed by the bankrupt, if any, for the previous five years.	
7.	Details of trusts held by bankrupt and/or immediate family of bankrupt	
8.	Any other relevant information	

Form F

[See rule 12(1)]

CLAIM WITH PROOF BY A CREDITOR

[Under rule 12 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

[Date]

To

The Bankruptcy Trustee

[Name of the Bankruptcy Trustee]

[Address as set out in public notice]

From

[Name and address of the creditor]

Subject: Submission of claims with proof.

Madam/Sir,

[Name of the creditor], hereby submits this proof of claim in respect of the bankruptcy process in the case of [name of bankrupt]. The details for the same are set out below:

S. No.	Particulars				
1.	Title and full name of creditor				
2.	Identification number of creditor	Aadhar	PAN	CIN	GSTIN
3.	Address	Present	Permanent	Business	
4.	Total amount of claim (Including any interest as at the bankruptcy commencement date)				
5.	Details of documents by reference to which the debt can be substantiated.				
6.	Details of any dispute as well as the record of such dispute Note: 'Dispute' will include suits, arbitration proceedings, and other judicial proceedings contesting the existence or validity of the debt.				
7.	Details of how debt was incurred and the date when debt incurred				

8.	Details of any mutual credit, mutual debts, or other mutual dealings between the bankrupt and the creditor which may be set-off against the claim	
9.	Details of any retention of title arrangements in respect of goods or properties to which the claim refers	
10.	Details of the bank account to which the amount of the claim or any part thereof can be transferred pursuant to a repayment plan	
11.	Details of any security held (including value and date when it was given)	
12.	For secured creditors only	
	Tick whichever is applicable – <input type="checkbox"/> security interest is being enforced <input type="checkbox"/> Security interest is being relinquished.	
	If security is being relinquished, please complete the statement of relinquishment of security interest in the column on the right.	I, [name of secured creditor], hereby release and relinquish my security interest and any claim, right, lien or interest in any property based on such security interest, other than the right to receive dividends as per the Code, in [insert description of the subject and nature of security interest], which was created by [name of bankrupt], on [insert date of creation of security interest] on account of [insert description of circumstances leading to creation of security interest].

	If security is being realised, provide details of any action that has been taken to enforce / realise the security.	
	If security is being realised, specify balance amount of debt which is being claimed.	
13.	List of documents attached to this proof of claim in order to prove the existence and non-payment of claim due to the creditor	
14.	Details of bank account to which the share of creditor's proceeds from bankruptcy can be deposited.	
Signature of creditor or person authorised to act on his behalf [Please enclose the authority if this is being submitted on behalf of a creditor]		
Name in block letters		
Address of person signing		

DECLARATION

I, [name of claimant], currently residing at [insert address], declare and state as follows:

1. [Name of bankrupt], the debtor was, at the bankruptcy commencement date, being the _____ day of _____ 20__, justly and truly indebted to me to the sum of INR [insert amount of claim].
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below:
[Please list the documents relied on as evidence of claim]
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief.
4. In respect of the said sum or any part thereof, I have not, nor has any person by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:
[Please state details of any mutual credit, mutual debts, or other mutual dealings between the bankrupt and the creditor which may be set-off against the claim.]

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, [Name], the claimant hereinabove, do hereby verify that the contents of this claim with proof are true and correct to my knowledge and belief and no material facts have been concealed therefrom.

Verified at _____ on this _____ day of ____ 201__

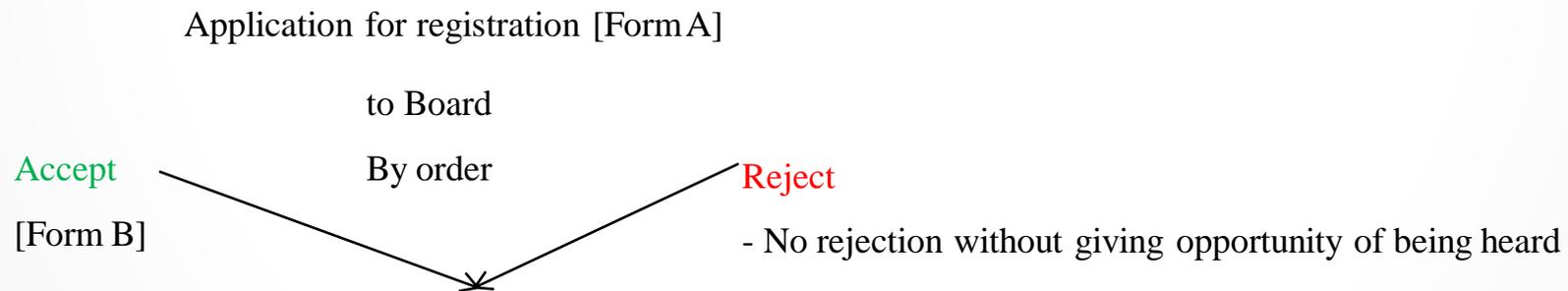
(Claimant's signature)

[F. No. 30/21/2018-Insolvency Section]
GYANESHWAR KUMAR SINGH, Jt. Secy.

Insolvency Professional Agencies (IPA)

Insolvency Professional Agencies (IPA)

* No person to function as Insolvency agency without valid certificate of registration issued by Board



Order should be Communicated to applicant within 15 days

Registration can be renewed

IPA

Shall Submit its bye-laws

Along with application for registration as IPA

] to IBBI

Governing Board (Board of Directors) of IPA



Can amend its Bye- laws (By 75% of Votes in Favour)

Amendment come into effect on the 7th day of receipt of approval, unless specified otherwise

IPA shall file a printed Copy of amended Bye-laws with Board within 15 days from the date, when such amendment is made effective.

Resolution shall be filed within 7 days of its passing to Board for its approval

Governing Board

Minimum 7 directors



- More than 1/2th shall be person resident in India
- Not more than 1/4th shall be Insolvency professional
- More than 1/2th shall be Independent director
- * More than half rounded off to next higher level
- * Not more than 1/2 rounded off to next lower number

No meeting of Governing Board without presence of at least one Independent director

- No pecuniary relationship with IPA
- Not a stakeholder of IPA
- Not a relative of director of the Governing Body

Director shall elect **an Independent** director as the chairperson of the Governing Board..

* IPA shall not carry other function other than prescribed under CODE

Committees of the IPA

- Advisory committee development of Ethics, best practices
- Membership committee
 - Grievance Redressal Committee (Not less than 3 members & at least one of whom is professional member of agency (IP)
- Disciplinary Committee at least one member nominated by Board

*The Chairperson of above committees shall be an Independent Director of agency (IPA)

Eligibility for Enrolment

only person eligible to be registered with IBBI, can be enrolled



Rejection of Application



Communicated to Applicant, within 30 days of receipt of application



Aggrieved applicant

Appeal to membership committee → within 30 days of receipt of such decision



committee pass order within 30 days of receipt of appeal

IPA

* Shall maintain a register of its professional member

Records relating to Professional member shall be available for Inspection to

(1) The Board (2) AA (3) COC, where IP is appointed as IRP (4) Any other person, who has obtained the consent of the member for such inspection.

* A professional member submit information (ATLEAST TWICE A YEAR) included on going & concluded Engagement as insolvency professional

Disciplinary Proceeding IPA

shall convene disciplinary proceeding against member

Suo moto, court of law, Board reference given by grievance redressal committee

May passed order for

- Expulsion
- Suspension for certain period
- Admonishment of the professional member
- Imposition of monetary penalty

Expulsion order can be passed

(a) On offence under any law, punishable with imprisonment for a term exceeding Six month or an offence involving moral turpitude

(b) A gross violation of code, rules, regulations

DC order shall be placed on IPA website within 7 days of passing order & copy provided to the parties

Aggrieved person Can appeal to Appellate Board within 30 days of receipt of order

Consist of one Independent Director + One technical member + One member appointed by Board

(c) Upon non-payment of membership fee despite at least two notices served in writing.

Temporary Suspension

(a) Becomes a person not resident in India

(b) Takes up employment

(c) Starts any business, Except permitted under code of Conduct

Surrender of Professional membership

- Name Struck from register after 30 days of its acceptance of surrender application

Form A Certificate of Professional membership [Issued under Bye-law 10 of IPA bye- laws]

IPA should be a Company U/S 8 of Co's Act, 2013

- (a) Sole objective carry function of IPA
- (b) By laws as per regulations
- (c) Minimum Net-worth of the applicant Rs.10 Crore
- (d) Paid- up Share Capital of IPA Rs.5 Crore
- (e) Not under the Control of Person resident outside India
- (f) Not more than 49 % of its share held by person resident O/S India
- (g) Not a subsidiary of a body corporate through more than one layer
- (h) are fit & proper
 - Integrity
 - absence of Conviction
 - Financial Solvency

(2)itself, its promoters, directors & person holding 5%(15%)(100%) of the paid up capital

Board Grant registration in [Form B] within 60 days of receipt of application

Certificate of registration is valid for 5 years from the date of issue

For renewal Apply in form A with fees of Rs. 5.00 lakh before the

expiry of Six month of registration

IPA shall

Pay a fee of Rs. 5.00 lakhs every year after the year in which certificate is granted /renewed

Seek approval of Board, when a person, other than statutory body, seeks to hold more them 10% of share capital, directly or indirectly

Board

within 45 days of receipt of application

Accept

IPA
not rejected

reject

Give 15 days of notice to provide Opportunity to explain, why

Can Surrender/ Registration

Board within 7 days invite objection to be submitted within 14 days of publication of notice

Satisfy publish a notice of its website

In Principle Approval

Board may grant, if applicant submit the application with a non refundable fee of Rs. 10.00 lakh

such approval is valid for one year

if within one year Form A for registration is submitted no need to pay fees

Form A Application for Certificate of registration

Form B Certificate of registration issued

-Board by order suspend or cancel the certificate/ grounds are

(a) obtained registration by false statement / mis-representation

(b) failed to comply with regulations / Bye – laws

(c) Contravened provisions of Act/ rules

(d) any other ground, as specified by regulations

- No order shall be passed by any member except whole time members of the Board



IPA Can appeal to NCLAT

**INSOLVENCY AND BANKRUPTCY
BOARD OF INDIA (INSOLVENCY
PROFESSIONAL AGENCIES)
REGULATIONS, 2016**

[AMENDED UPTO 23-07-2019]

IBBI/2016-17/GN/REG002.- In exercise of the powers conferred by sections 196, 201, 202, 219, and 220 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Board hereby makes the following Regulations to provide a framework for regulation of insolvency professional agencies in terms hereof, namely

CHAPTER I PRELIMINARY

1. Short title and commencement.

- (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016.
- (2) These Regulations shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

- (1) In these Regulations, unless the context otherwise requires –
 - (a) “Code” means the Insolvency and Bankruptcy Code, 2016;
 - (b) “control” shall have the same meaning as assigned to it in section 2(27) of the Companies Act, 2013;
 - (c) “certificate of registration” means a certificate of registration granted or renewed by the Board under these Regulations;
 - (d) “net worth” shall have the same meaning as assigned to it under section 2(57) of the Companies Act, 2013.
- (2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations, shall have the meanings assigned to them in the Code.

“control” shall have the same meaning as assigned to it in section 2(27) of the Companies Act, 2013

"control" shall include
the right to appoint majority of the directors or
to control the management or
policy decisions exercisable by
a person or persons acting individually or in concert, directly or indirectly, including by virtue of their
shareholding or management rights or shareholders agreements or voting agreements or in any other
manner;

“net worth” shall have the same meaning as assigned to it under section 2(57) of the Companies Act, 2013.
"net worth" means the aggregate value of the paid-up share capital and all reserves created out of the
profits and [securities premium account and debit or credit balance of profit and loss account,] after
deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous
expenditure not written off, as per the audited balance sheet, but does not include reserves created out of
revaluation of assets, write-back of depreciation and amalgamation;

CHAPTER II REGISTRATION

3. Eligibility for registration. –

- (1) No person shall be eligible for registration as an insolvency professional agency unless it is a company registered under section 8 of the Companies Act, 2013, and –
- (a) its sole object is to carry on the functions of an insolvency professional agency under the Code;
 - (b) it has bye-laws and governance structure in accordance with the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016;
 - (c) it has a minimum net worth of ten crore rupees;
 - (d) it has a paid-up share capital of five crore rupees;
 - (e) it is not under the control of any person resident outside India;
 - (f) not more than forty-nine per cent. of its share capital is held, directly or indirectly, by persons resident outside India;
 - (g) it is not a subsidiary of a body corporate through more than one layer; and
 - (h) the applicant, its promoters, its directors and its shareholders are fit and proper persons.

Explanation 1.- For the purposes of clause (g), “layer” in relation to a body corporate means its subsidiary.

Explanation 2.- For determining whether a person is fit and proper under clause (h), the Board may take into account any consideration as it deems fit, including but not limited to the following criteria, namely: -

- (i) integrity, reputation and character,
- (ii) absence of conviction and restraint orders,
- (iii) competence including financial solvency and net worth.

(2) No person shall at any time, directly or indirectly, either individually or together with persons acting in concert, acquire or hold more than five per cent. of the paid-up equity share capital in an insolvency professional agency:

Provided that-

- (i) a stock exchange;
- (ii) a depository;
- (iii) a banking company;
- (iv) an insurance company;
- (v) a public financial institution; and
- (vi) a multilateral financial institution,

may, acquire or hold, directly or indirectly, either individually or together with persons acting in concert, up to fifteen per cent. of the paid-up equity share capital of an insolvency professional agency:

Provided further that-

- (i) the Central Government;
- (ii) a State Government; and
- (iii) a statutory regulator,

may, acquire or hold, directly or indirectly, up to hundred per cent. of the paid-up equity share capital of an insolvency professional agency.

4. Application for registration or renewal thereof.

- (1) A company eligible for registration as an insolvency professional agency, may make an application to the Board in Form A of the Schedule to these Regulations, along with a non-refundable application fee of ten lakh rupees.
- (2) An insolvency professional agency who has been granted registration under Regulation 5, may six months before the expiry of such registration, make an application for renewal in Form A of the Schedule to these Regulations, along with a non-refundable application fee of five lakh rupees.
- (3) The Board shall acknowledge an application made under this Regulation within seven days of its receipt.
- (4) The Board shall examine the application, and give an opportunity to the applicant to remove the deficiencies, if any, in the application.
- (5) The Board may require the applicant to submit, within reasonable time, additional documents, information or clarification that it deems fit.
- (6) The Board may require the applicant to appear, within reasonable time, before the Board in person, or through its authorised representative for clarifications required for processing the application.

5. Grant of certificate of registration.

- (1) If the Board is satisfied, after such inspection or inquiry as it deems necessary and having regard to the principles specified in section 200 of the Code, that the applicant-
 - (a) is eligible under Regulation 3;
 - (b) has adequate infrastructure to perform its functions under the Code;
 - (c) has in its employment, persons having adequate professional and other relevant experience, to enable it to perform its functions under the Code; and
 - (d) has complied with the conditions of the certificate of registration, if he has submitted an application for renewal under Regulation 4(2)

it may grant or renew a certificate of registration to the applicant carry on the activities of an insolvency professional agency in Form B of the Schedule to these Regulations, within sixty days of receipt of the application, excluding the time given by the Board for removing the deficiencies, or presenting additional documents, information or clarification, or appearing in person, as the case may be.

- (2) The registration shall be subject to the conditions that the insolvency professional agency shall –
- (a) abide by the Code, rules, regulations, and guidelines thereunder and its bye-laws;
 - (b) at all times after the grant of the certificate continue to satisfy the requirements under sub-regulation (1);
 - (c) pay an annual fee of five lakh rupees to the Board, within fifteen days from the date of commencement of the financial year:

Provided that no annual fee shall be payable in the financial year in which an insolvency professional agency is granted registration or renewal, as the case may be:

Provided further that without prejudice to any other action which the Board may take as permissible under the Code, any delay in payment of fee by an insolvency professional agency shall attract simple interest at the rate of twelve percent per annum until paid.

Illustration (a) Where an insolvency professional agency is registered on 1st December, 2016 upon receipt of an application fee of ten lakh rupees along with the application for registration, no further fee is required to be paid for the financial year 2016- 17. The annual fee of five lakh rupees becomes due on 1st April, 2017 and shall be paid by 15th April, 2017 for the financial year 2017-18. It becomes similarly due on 1st April, 2018 to be paid by 15th April, 2018, on 1st April, 2019 to be paid by 15th April, 2019, on 1st April, 2020 to be paid by 15th April, 2020 and on 1st April, 2021 to be paid by 15th April, 2021. Thereafter, the insolvency professional agency may apply for renewal of registration along with an application fee of five lakh rupees. If renewal is granted, there will be no annual fee for 2021-22.

Illustration (b) Where the annual fee is paid on 20th April, 2017, interest at the rate of twelve percent per annum shall be paid for the delay of five days.

- (d) seek approval of the Board when a person, other than a statutory body, seeks to hold more than ten per cent, directly or indirectly, of the share capital of the insolvency professional agency;
 - (e) take adequate steps for redressal of grievances; and
 - (f) abide by such other conditions as may be specified.
- (3) The certificate of registration shall be valid for a period of five years from the date of issue.

6. Procedure for rejecting application.

- (1) If, after considering an application made under Regulation 4, the Board is of the prima facie opinion the registration ought not be granted or renewed, or be granted or renewed with additional conditions, it shall communicate the reasons for forming such an opinion and give the applicant an opportunity to explain why its application should be accepted, within fifteen days of the receipt of the communication from the Board, to enable it to form a final opinion.
- (2) The communication under sub-regulation (1) shall be made to the applicant within forty five days of receipt of the application, excluding the time given by the Board for removing the deficiencies, presenting additional documents, information or clarifications, or appearing in person, as the case may be.
- (3) After considering the explanation, if any, given by the applicant under sub-regulation (1), the Board shall communicate its decision to-
 - (a) accept the application, along with the certificate of registration, or
 - (b) reject the application by an order, giving reasons thereof within thirty days of receipt of explanation

(4) The order rejecting an application for renewal of registration shall require the insolvency professional agency to-

- (a) discharge pending obligations;
- (b) continue its functions till such time as may be specified, to enable the enrolment of its members with another insolvency professional agency; and
- (c) comply with any other directions as considered appropriate.

CHAPTER III
SURRENDER OR CANCELLATION OF
REGISTRATION

7. Surrender of registration.

- (1) An insolvency professional agency may submit an application for surrender of a certificate of registration to the Board, providing –
 - (a) the reasons for such surrender;
 - (b) the details of all the pending or on-going engagements under the Code of the insolvency professionals enrolled with it;
 - (c) details of its pending or on-going activities; and
 - (d) the manner in which it seeks to wind-up its affairs as an insolvency professional agency.
- (2) The Board shall within seven days of receipt of the application, publish a notice of receipt of such application on its website and invite objections to the surrender of registration, to be submitted within fourteen days of the publication of the notice.
- (3) After considering the application and the objections submitted under sub-regulation (2), if any, the Board may within thirty days from the last date of submission of objections, approve the application for surrender of registration subject to such conditions as it deems fit.

- (4) The approval under sub-regulation (3) may require the insolvency professional agency to-
- (a) discharge any pending obligations; or
 - (b) continue its functions till such time as may be specified, to enable the enrolment of its members with another insolvency professional agency.
- (5) The Board, after being satisfied that the requirements of sub-regulation (4) have been complied with, shall publish a notice on its website stating that the surrender of registration by the insolvency professional agency has taken effect.

8. Disciplinary proceedings.

- (1) Based on the findings of an inspection or investigation, or on material otherwise available on record, if the Board is of the prima facie opinion that sufficient cause exists to take actions permissible under section 220, it shall issue a show-cause notice to the insolvency professional agency.
- (2) The show-cause notice shall be in writing, and shall state-
- (a) the provisions of the Code under which it has been issued;
 - (b) the details of the alleged facts;
 - (c) the details of the evidence in support of the alleged facts;
 - (d) the provisions of the Code, rules, regulations or guidelines thereunder allegedly violated, or the manner in which the public interest is allegedly affected;
 - (e) the actions or directions that the Board proposes to take or issue if the allegations are established;
 - (f) the manner in which the insolvency professional agency is required to respond to the show-cause notice;
 - (g) consequences of failure to respond to the show-cause notice; and
 - (h) procedure to be followed for disposal of the show-cause notice.

- (3) The show- cause notice shall enclose copies of relevant documents and extracts of relevant portions from the report of investigation or inspection, or other records.
- (4) A show-cause notice issued shall be served on the insolvency professional agency in the following manner-
 - (a) by sending it to the insolvency professional agency at its the registered office, by registered post with acknowledgement due; or
 - (b) by an appropriate electronic means to the email address provided by the insolvency professional agency to the Board.
- (5) The Board shall constitute a Disciplinary Committee for disposal of the show- cause notice.
- (6) The Disciplinary Committee shall dispose of the show-cause notice assigned under (5) by a reasoned order in adherence to principles of natural justice.
- (7) The Disciplinary Committee shall endeavour to dispose of the show-cause notice within a period of six months of the assignment.
- (8) The Disciplinary Committee shall consider the submissions, if any, made by the insolvency professional agency.
- (9) After considering the relevant material facts and circumstances and material on record, the Disciplinary Committee shall dispose of the show-cause notice by a reasoned order.
- (10) The order in disposal of as show-cause notice may provide for-
 - (a) no action;
 - (b) warning;
 - (c) any of the actions under section 220(2) to (4); or
 - (d) a reference to the Board to take any action under section 220(5).
- (11) The order passed under sub-regulation (10) shall not become effective until thirty days have elapsed from the date of issue of the order unless the Disciplinary Committee states otherwise in the order along with the reason for the same

(12) The order passed under sub-regulation (10) shall be issued to the insolvency professional agency immediately, and published on the website of the Board.

(13) If the order passed under sub-regulation (10) suspends or cancels the registration of the insolvency professional agency, the Disciplinary Committee shall require the insolvency professional agency to-

(a) discharge pending obligations;

(b) continue its functions till such time as may be specified, to enable the enrolment of its members with another insolvency professional agency; and

(c) comply with any other directions as considered appropriate.

9. Appeal.

An appeal may be preferred under section 202 of the Code, within a period of thirty days of receipt the impugned order in the manner prescribed in Part III of the National Company Law Tribunal Rules, 2016.

CHAPTER IV
IN-PRINCIPLE APPROVAL

10. Grant of in-principle approval.

- (1) Any person who seeks to establish an insolvency professional agency may make an application for an in-principle approval, demonstrating that the conditions in sub-regulation (2) are satisfied, along with a non-refundable application fee of ten lakh rupees.

- (2) If the Board is satisfied, after such inspection or inquiry as it deems necessary, that –
 - (a) the applicant is a fit and proper person; and
 - (b) the proposed or existing company which may receive registration would be able to meet the requirements for grant of registration under Regulation 5(1),it may grant in-principle approval which shall be valid for a period not exceeding one year and be subject to such conditions as it deems fit.

- (3) During the validity of in-principle approval, the company referred to sub-regulation 2(b) may make an application for a certificate of registration as an insolvency professional agency to the Board in accordance with Regulation 4(1), but shall not be required to pay the application fees for registration.

SCHEDULE

FORM A

APPLICATION FOR CERTIFICATE OF REGISTRATION

(Under Regulation 4 of the Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016)

To

The Chairperson

The Insolvency and Bankruptcy Board of India

From

[Name and address]

Subject: Application for grant or renewal of certificate of registration as insolvency professional agency

Madam/Sir,

1. I, being duly authorized for the purpose, hereby apply on behalf of [name and address of the applicant] for
 - (a) grant of certificate of registration as insolvency professional agency, or
 - (b) renewal of certificate of registration as insolvency professional agency,and enclose a copy of the board resolution authorizing me to make this application and correspond with the Board in this respect.
2. Copies of the memorandum of association, articles of association and the bye-laws, as applicable, of the applicant are enclosed.
3. I, on behalf of [insert name], affirm that the applicant is eligible to be registered as an insolvency professional

4. I, on behalf of [insert name], hereby affirm that –
 - (a) all information contained in this application is true and correct in all material respects,
 - (b) no material information relevant for the purpose of this application has been suppressed, and
 - (c) registration granted or renewed in pursuance of this application may be cancelled summarily if any information submitted is found to be false or misleading in material respects at any stage.
5. If granted registration, I, on behalf of [insert name], undertake to comply with the requirements of the Code, the rules, regulations or guidelines issued thereunder, and such other conditions and terms as may be contained in the certificate of registration or be specified or imposed by the Board subsequently.

Yours faithfully,

Sd/-

Authorized Signatory

(Name)

(Designation)

Date :

Place :

ANNEXURE TO FORM A
PART I GENERAL

1. Name of the applicant.
2. Address of registered office and principal place of business of the applicant.
3. Corporate Identification Number (CIN).
4. PAN.
5. Name, designation and contact details of the person authorized to make this application and correspond with the Board in this respect.

PART II

MEMORANDUM OF ASSOCIATION, ARTICLES OF ASSOCIATION AND BYE LAWS

6. Please state if the memorandum of association, articles of association and bye-laws provide for all matters as required in, and are consistent with the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016, and the Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016.
(Yes/ No)
7. Please specify the clause number of the provisions of the bye-laws which are in addition to the provisions of the model bye-laws specified in the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 (if any).

PART III

SHAREHOLDING AND FINANCIAL STRENGTH

8. Please provide details of the persons holding more than 4 [5%], directly or indirectly, of the share capital of the applicant

Sl. No.	Name and address of the shareholder	PAN / Passport No and country of issue/ company registration number	Percentage of shareholding in the applicant company and/ or holding company

9. Do persons resident outside India in aggregate hold more than 49% of the share capital of the applicant?
Please provide details.
10. Who exercises control over the applicant? Please provide details.
11. Do persons resident outside India exercise control over the management or policy decisions of the applicant? If so, please provide details.
12. Please provide audited financial statements of:
 - (a) a company holding more than 10% of the share capital of the applicant (if any),
 - (b) a company who is in control of the applicant (if any),
 - (c) promoter company (if any),
 - (d) the applicant,
 of the last three years or from the date of incorporation of the company, whichever is less.
13. Please provide any other information to demonstrate that the persons holding more than 5% of the share capital of the company, and the promoters of the company are fit and proper persons.

PART IV
DIRECTORS AND EMPLOYEES

14. Please state the details of the applicant's Board of Directors:

Sl. No.	Name and address of the director	DIN and PAN	Details of any pending or concluded criminal proceedings against the directors

15. Please provide any other information to demonstrate that the directors are fit and proper persons.
16. Please provide number of employees, category-wise.

PART V INFRASTRUCTURE

17. Please state the infrastructure the applicant currently has and proposes to have to enable it to discharge its functions as an insolvency professional agency, including:
 - (a) the number and locations of offices,
 - (b) infrastructure in respect of enrolment, monitoring, grievance redressal and disciplinary proceedings,
 - (c) IT and other computer facilities, and
 - (d) library and training facilities.

**PART VI
COMPLIANCE**

[For applications for renewal of registration]

18. Please provide details of the insolvency professional agency's compliance with the conditions of its certificate of registration.
19. Please provide details of the insolvency professional agency's compliance with the Board's requirements in respect of reporting.
20. Please provide details of any grievance redressal proceedings instituted against the insolvency professional agency or by it under its bye-laws, any regulations of the Board or the Code.

Please provide any other details you consider relevant in support of the application.

**Sd/-
Authorized Signatory
(Name)
(Designation)**

Date :

Place :

**SCHEDULE
FORM B
THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**

CERTIFICATE OF REGISTRATION NO. _

The Insolvency and Bankruptcy Board of India hereby grants/ renews this certificate of registration to/of____[insert name and address] to act as an insolvency professional agency in accordance with the Insolvency and Bankruptcy Code, 2016.

The certificate of registration shall be valid from [insert start date]to [insert end date]and may be renewed.

Sd/-

(Name and Designation)

(For and on behalf of Insolvency and Bankruptcy Board of India)

Date :

Place :

**Dr. M. S. Sahoo
Chairperson**

Insolvency and Bankruptcy Board of India

**INSOLVENCY AND BANKRUPTCY BOARD
OF INDIA (MODEL BYE-LAWS AND
GOVERNING BOARD OF INSOLVENCY
PROFESSIONAL AGENCIES)
REGULATIONS, 2016**

[AMENDED UPTO 14-01-2021]

IBBI/2016-17/GN/REG001.- In exercise of the powers conferred by sections 196, 203 and 205 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following Regulations, namely -

CHAPTER I PRELIMINARY

Short title and commencement.

1. (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016. **In Short IPA Regulations.**
- (2) These Regulations shall come into force on the date of their publication in the Official Gazette.

Definitions.

2. (1) In these Regulations, unless the context otherwise requires
 - (a) “Board” means the Insolvency and Bankruptcy Board of India established under section 188 of the Code;
 - (aa) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
 - (b) “Governing Board” means the Board of Directors, as defined under section 2(10) of Companies Act, 2013 (18 of 2013), of the company registered as an insolvency professional agency; **So Board and Governing Board are different.**
 - (c) **“model bye-laws” means the model bye-laws as contained in the Schedule to these Regulations. Given on Slide 9.**
- (2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations

CHAPTER II BYE LAWS

3. Insolvency professional agencies to have Bye-Laws.

- (1) A company shall submit to the Board its bye-laws along with the application for its registration as an insolvency professional agency.
- (2) The bye-laws shall provide for all matters specified in the model bye-laws.
- (3) The bye-laws shall at all times be consistent with the model bye-laws.
- (4) The insolvency professional agency shall publish its **bye-laws, the composition of all committees formed, and all policies created under the bye-laws on its website.**

4. Amendment of Bye-Laws.

- (1) The Governing Board may amend the bye-laws by a resolution passed by votes in favour being not less than three times the number of the votes, if any, cast against the resolution, by the directors.
- (2) A resolution passed in accordance with sub-regulation (1) shall be filed with the Board **within seven days** from the date of its passing, for its approval.
- (3) The amendments to the bye-laws shall come into effect on the **seventh day of the receipt of the approval**, unless otherwise specified by the Board.
- (4) The insolvency professional agency shall file a printed copy of the amended bye-laws with the Board **within fifteen days** from the date when such amendment is made effective.

CHAPTER III GOVERNING BOARD

Composition of the Governing Board.

5. Composition of the Governing Board.-

- 1) The Governing Board shall consist of
 - (a) managing director;
 - (b) independent directors; and
 - (c) shareholder directors:

Provided that the Governing Board shall have **minimum seven directors**

- 2) **The managing director shall not be considered either an independent director or a shareholder director.**
- 3) **Any employee** of an insolvency professional agency may be appointed as a director on its Governing Board in addition to the managing director, but such director **shall be deemed to be a shareholder director.**
- 4) More than half of the directors shall be persons resident in India at the time of their appointment, and at all times during their tenure as directors.
 - (4A) **A shareholder director shall be an individual**, who satisfies the eligibility norms, including experience and qualification, as decided by the Governing Board.
- 5) **The number of independent directors shall not be less than the number of shareholder directors:**
Provided that no meeting of the Governing Board shall be held without the presence of at least one independent director.

- 6) An independent director shall be an individual-
 - (a) who is a person of ability and integrity;
 - (b) who has expertise in the field of finance, law, economics, accountancy, valuation, management or insolvency;
 - (c) who is not an insolvency professional;**
 - (d) who is not a relative of the directors of the Governing Board;
 - (e) who had or has no pecuniary relationship with the insolvency professional agency, or any of its directors, or any of its shareholders holding more than ten per cent. of its share capital, during the immediately preceding two financial years or during the current financial year;
 - (f) who is not a shareholder of the insolvency professional agency;
 - (g) who is not a member of the Board of Directors of any of the shareholders holding more than ten percent. of the share capital of the insolvency professional agency. When shareholder director has to be individual only, how anyone can be a member of the BOD of any shareholder...??**
- 7) An independent director shall be nominated by the Board from amongst the list of names proposed by the insolvency professional agency.
- 8) An individual may serve as an independent director for a maximum of two terms of three years each or part thereof, or up to the age of **[seventy-five years]**, whichever is earlier.
- 9) The second term referred to in sub-regulation (8) may be subject to a satisfactory performance review of the first term by the Governing Board.
- 10) A cooling off period of three years shall be applicable for an independent director to become a shareholder director in the same or another insolvency professional agency.
- 11) Not more than one fourth of the directors shall be insolvency professionals.
- 12) The directors shall elect an independent director as the Chairperson of the Governing Board.

- 13) A director, who has, **any interest, direct or indirect, pecuniary or otherwise, in any matter** coming up for consideration at a meeting of the Governing Board or any of its Committees, shall as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Governing Board or the Committee, as the case may be, and the director shall not take part in any deliberation or decision of the Governing Board or the Committee with respect to that matter.
- 14) A director shall **disclose any order of any authority that affects his character or reputation**, to the insolvency professional agency, within one week of issue of such order: Provided that a copy of the order shall be placed forthwith on the website of the insolvency professional agency;
Provided further that such director shall forthwith cease to be a director of the insolvency professional agency where the order disqualifies him to be a director of a company.

5A. Managing director.-

- (1) An insolvency professional agency shall, subject to the guidelines issued by the Board from time to time, determine the qualification and experience, manner of appointment, terms and conditions of appointment and other procedural formalities associated with the selection and appointment of the managing director, subject to the condition that-
- (a) an individual shall be selected as managing director through an **open advertisement in all editions of at least one national daily newspaper;**
 - (b) an individual at the time joining as managing director **shall not be above the age of fifty-five years**, which **may be relaxed** by the Governing Board **up to sixty years**, after recording reasons therefor; and
 - (c) an individual **shall not serve** as managing director **after** he attains the age of **sixty-five years**.
- (2) The appointment of an individual as the managing director shall be for a **tenure of not less than three years but not exceeding five years**

- (3) An individual may serve as managing director for a **maximum of two terms.**
- (4) The **process of appointment for the second term of an individual as managing director shall be conducted afresh.**
- (5) **The appointment and remuneration payable to the managing director shall be approved by a compensation committee constituted by the Governing Board.**
- (6) The appointment, renewal of appointment and termination of service of the managing director shall be **subject to prior approval of the Board.**
- (7) The managing director shall be liable for removal or termination of services by the Governing Board, with the prior approval of the Board, for failure to give effect to the directions, guidelines and other orders issued by the Governing Board or the Board, or the rules, the articles of association or bye-laws of the insolvency professional agency or on the ground of misconduct or incapacity to continue in office.
- (8) **The Board may suo motu remove or terminate the services of the managing director, if it deems fit, in the interest of stakeholders of the insolvency resolution process or in the public interest, after giving a reasonable opportunity of being heard.**
- (9) The managing director shall be an **ex-officio member of Membership Committee, Monitoring Committee, Grievance Redressal Committee and Disciplinary Committee.**

5B. Compliance.- Every insolvency professional agency registered as on the date of commencement of the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2018, shall **comply with regulations 5 and 5A within one year from the date of such commencement.**

6. Self-evaluation.

- (1) The Governing Board shall evaluate its performance in a financial year within three months of the closure of the year, in the manner decided by it.**
- (2) The insolvency professional agency shall publish a report on self-evaluation referred to in sub-regulation (1) on its website. **Please visit the website of www.iiipicai.in and find out the copy of the Self Evaluation Report.**

7. Compliance Officer.

- (1) An insolvency professional agency shall designate or appoint a **compliance officer** who shall be responsible for ensuring compliance with the provisions of the Code and regulations, circulars, guidelines, and directions issued thereunder.
- (2) The compliance officer shall, immediately and independently, report to the Board any noncompliance of the provisions referred to in sub-regulation (1).
- (3) The compliance officer shall submit a **compliance certificate to the Board annually**, verifying that the insolvency professional agency has complied with the provisions referred to in sub-regulation (1):

Provided that the **annual compliance certificate shall also be signed by the managing director** of the insolvency professional agency.

- (4) **The Governing Board shall appoint or remove the compliance officer only by means of a resolution passed in its meeting**

SCHEDULE
MODEL BYE-LAWS OF AN INSOLVENCY PROFESSIONAL
AGENCY

[Under Regulation 3 read with Regulation 2(1)(c)]

I. GENERAL

1. The name of the Insolvency Professional Agency is “_____” (hereinafter referred to as the ‘Agency’).
2. The Agency is registered as a company under section 8 of the Companies Act, 2013 with its registered office situated at _____ [provide full address].
3. These bye-laws may not be amended, except in accordance with the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016.

II. DEFINITIONS

4. (1) In these bye-laws, unless the context otherwise requires –
 - (a) “assignment” means any assignment of an insolvency professional as interim resolution professional, resolution professional, liquidator, bankruptcy trustee, authorised representative or in any other role under the Code;
 - (aa) “authorisation for assignment” **AFA** means an authorisation to undertake an assignment, issued by an insolvency professional agency to an insolvency professional, who is its professional member, in accordance with its bye-laws;
 - (ab) “certificate of membership” means the certificate of membership of the Agency granted under bye-law 10;
 - (b) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

- (c) “Governing Board” means the Board of Directors of the Agency as defined under section 2(10) of Companies Act, 2013 (18 of 2013);
- (d) “professional member” means an insolvency professional who has been enrolled as such, in accordance with Part VI of these bye-laws;
- (e) “relative” shall have the same meaning as assigned to it in section 2(77) of the Companies Act, 2013.

(2) Unless the context otherwise requires, words and expressions used and not defined in these bye-laws shall have the meanings assigned to them in the Code.

III. OBJECTIVES

- 5. (1) The Agency shall carry on the functions of the insolvency professional agency under the Code, and functions incidental thereto.
- (2) The Agency shall not carry on any function other than those specified in sub-clause (1), or which is inconsistent with the discharge of its functions as an insolvency professional agency.

IV. DUTIES OF THE AGENCY

- 6. (1) The Agency shall maintain high ethical and professional standards in the regulation of its professional members.
- (2) The Agency shall –
 - (a) ensure compliance with the Code and rules, regulations and guidelines issued thereunder governing the conduct of insolvency professional agencies and insolvency professionals;
 - (b) employ fair, reasonable, just, and non-discriminatory practices for the enrolment and regulation of its professional members;
 - (c) be accountable to the Board in relation to all bye-laws and directions issued to its professional members;

- (d) develop the profession of insolvency professionals;
- (e) promote continuous professional development of its professional members;
- (f) continuously improve upon its internal regulations and guidelines to ensure that high standards of professional and ethical conduct are maintained by its professional members; and
- (g) provide information about its activities to the Board.

V. COMMITTEES OF THE AGENCY: Advisory Committee of Professional Members

7. (1) The Governing Board may form an Advisory Committee of professional members of the Agency to advise it on any matters pertaining to-
- (h) the development of the profession;
 - (i) standards of professional and ethical conduct; and
 - (j) best practices in respect of insolvency resolution, liquidation and bankruptcy.
- (2) The Advisory Committee may meet at such places and times as the Governing Board may provide.

Other Committees of the Agency.

8. (1) The Governing Board shall constitute-
- (a) one or more Membership Committee(s) consisting of such members as it deems fit;
 - (b) a Monitoring Committee consisting of such members as it deems fit;
 - (c) one or more Grievance Redressal Committee(s), with not less than three members, at least one of whom shall be a professional member of the Agency;
 - (d) one or more Disciplinary Committee(s) consisting of at least one member nominated by the Board.
- (2) The Chairperson of each of these Committees shall be an independent director of the Agency.

VI. PROFESSIONAL MEMBERSHIP: Eligibility for Enrolment.

9. No individual shall be enrolled as a professional member if he is not eligible to be registered as an insolvency professional with the Board:

Provided that the Governing Board may provide additional eligibility requirements for enrolment:

Provided further that such additional requirements shall not discriminate on the grounds of religion, race, caste, gender, place of birth or professional affiliation.

Process of Enrolment as Professional Member.

10. (1) An individual may apply for enrolment as a professional member by submitting an application in such form, in such manner and with such fees as may be specified by the Agency.

(2) The Agency shall examine the application in accordance with the applicable provisions of the Code, and rules, regulations and guidelines thereunder.

(3) On examination of the application, the Agency shall give an opportunity to the applicant to remove the deficiencies, if any, in the application.

(4) The Agency may require an applicant to submit additional documents, information or clarification that it deems fit, within reasonable time.

(5) The Agency may reject an application if the applicant does not satisfy the criteria for enrolment or does not remove the deficiencies or submit additional documents or information to its satisfaction, for reasons recorded in writing.

(6) The **rejection of the application shall be communicated to the applicant stating the reasons for such rejection, within thirty days of the receipt of the application**, excluding the time given for removing the deficiencies or presenting additional documents or clarification by the Agency, as the case may be.

(7) The acceptance of the application shall be communicated to the applicant, along with a certificate of membership in Form A of the Annexure to these bye-laws.

(8) **An applicant aggrieved of a decision rejecting his application may appeal to the Membership Committee of the Agency within thirty days from the receipt of such decision.**

(9) **The Membership Committee shall pass an order disposing of the appeal in the manner it deems expedient, within thirty days of the receipt of the appeal.**

Professional Membership Fee.

11. The Agency may require the professional members to pay a fixed sum of money as its annual membership fee.

Register of Professional Members.

12. (1) The Agency shall maintain a register of its professional members, containing their-

- (a) name;
- (b) proof of identity;
- (c) contact details;
- (d) address;
- (e) date of enrolment and professional membership number;

- (f) date of registration with the Board and registration number;
 - (fa) date of issue, renewal, suspension, revocation of suspension, cancellation and acceptance of surrender of authorisation for assignment and authorisation number;**
- (g) details of grievances pending against him with the Agency;
- (h) details of disciplinary proceedings pending against him with the Agency; and
- (i) details of orders passed against him by the Board or Disciplinary Committee of the Agency.

(2) The records relating to a professional member shall be made available for inspection to-

- (a) the Board,
- (b) the Adjudicating Authority,
- (c) the committee of creditors in a corporate insolvency resolution process where the professional member has been appointed as an interim resolution professional, or
- (d) any other person who has obtained the consent of the member for such inspection.

12A. Authorisation for Assignment.

- (1) The Agency, on an application by its professional member, may issue or renew an authorisation for assignment.
- (2) A professional member shall be eligible to obtain an authorisation for assignment, if he-
 - (a) is registered with the Board as an insolvency professional;
 - (b) is a fit and proper person in terms of the Explanation to clause (g) of regulation 4 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
 - (c) is not in employment;
 - (d) is not debarred by any direction or order of the Agency or the Board;

- (e) **has not attained the age of seventy years;**
- (f) has no disciplinary proceeding pending against him before the Agency or the Board;
- (g) complies with requirements, as on the date of application, with respect to-
 - (i) payment of fee to the Agency and the Board;
 - (ii) filings and disclosures to the Agency and the Board;
 - (iii) continuous professional education; and
 - (iv) other requirements, as stipulated under the Code, regulations, circulars, directions or guidelines issued by the Agency and the Board, from time to time.

(3) An application for issue or renewal of an authorisation for assignment, shall be in such form, manner and with such fee, as may be provided by the Agency:

Provided that an application for renewal of an authorisation for assignment shall be made any time before the date of expiry of the authorisation, but not earlier than forty-five days before the date of expiry of the authorisation.

(4) The Agency shall consider the application in accordance with the bye-laws and either issue or renew, as the case may be, an authorisation for assignment to the professional member in Form B or reject the application with a reasoned order.

(5) If the authorisation for assignment is not issued, renewed or rejected by the Agency within fifteen days of the date of receipt of application, the authorisation shall be **deemed to have been issued or renewed**, as the case may be, by the Agency.

Provided that, for an application received on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Model Bye- Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2020 and **ending on the 30th September 2020**, if the authorisation for assignment is not issued, renewed or rejected by the Agency **within thirty days of the date of receipt of application**, the authorisation shall be deemed to have been issued or renewed, as the case may be, by the Agency.

(6) An authorisation for assignment issued or renewed by the Agency shall be valid for a period of one year from the date of its issuance or renewal, as the case may be, or till the date on which the professional member attains the age of seventy years, whichever is earlier.

(7) An applicant aggrieved of an order of rejection of his application by the Agency may appeal to the Membership Committee **within seven days** from the date of receipt of the order . **Related to AFA**

Provided that, where an application for issue of authorisation for assignment has been rejected by an insolvency professional agency, on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Model Bye- Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2020 and ending on the 30th September, 2020, the applicant aggrieved of an order of rejection may appeal to the Membership Committee within thirty days from the date of receipt of order.

(8) The Membership Committee shall pass an order disposing of the appeal by a reasoned order, **within fifteen days of the date of receipt of the appeal;**

VII. DUTIES OF MEMBERS

13. (1) In the performance of his functions, a professional member shall-
- (a) act in good faith in discharge of his duties as an insolvency professional;
 - (b) endeavour to maximize the value of assets of the debtor;
 - (c) discharge his functions with utmost integrity and objectivity;
 - (d) be independent and impartial;
 - (e) discharge his functions with the highest standards of professional competence and professional ethics;
 - (f) continuously upgrade his professional expertise;
 - (g) perform duties as quickly and efficiently as reasonable, subject to the timelines under the Code;
 - (h) comply with applicable laws in the performance of his functions; and
 - (i) maintain confidentiality of information obtained in the course of his professional activities unless required to disclose such information by law.

14. The Agency shall have a Code of Conduct that shall be consistent with, and that shall provide for all matters in the Code of Conduct as specified in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

VIII. MONITORING OF MEMBERS

15. The Agency shall have a Monitoring Policy to monitor the professional activities and conduct of professional members for their adherence to the provisions of the Code, rules, regulations and guidelines issued thereunder, these bye-laws, the Code of Conduct and directions given by the Governing Board.

16. A professional member shall submit information, including records of ongoing and concluded engagements as an insolvency professional, in the manner and format specified by the Agency, at least twice a year.

17. The Monitoring Committee shall review the information and records submitted by the professional members in accordance with the Monitoring Policy.

18. The Monitoring Policy shall provide for the following –

- (a) the frequency of monitoring;
- (b) the manner and format of submission or collection of information and records of the professional members, including by way of inspection;
- (c) the obligations of professional members to comply with the Monitoring Policy;
- (d) the use, analysis and storage of information and records;
- (e) evaluation of performance of members; and
- (f) any other matters that may be specified by the Governing Board.

19. The Monitoring Policy shall –

- (a) have due regard for the privacy of members,
- (b) provide for confidentiality of information received, except when disclosure of information is required by the Board or by law, and
- (c) be non-discriminatory.

20. The Agency shall submit a report to the Board in the manner specified by the Board with information collected during monitoring, including information pertaining to –

- (a) the details of the appointments made under the Code,
- (b) the transactions conducted with stakeholders during the period of his appointment;
- (c) the transactions conducted with third parties during the period of his appointment; and
- (d) the outcome of each appointment.

IX. GRIEVANCE REDRESSAL MECHANISM

21. (1) The Agency shall have a Grievance Redressal Policy providing the procedure for receiving, processing, redressing and disclosing grievances against the Agency or any professional member of the Agency by-

- (a) any professional member of the Agency;
- (b) any person who has engaged the services of the concerned professional members of the Agency; or
- (c) any other person or class of persons as may be provided by the Governing Board.

(2) The Grievance Redressal Committee, after examining the grievance, may-

- (a) dismiss the grievance if it is devoid of merit; or
- (b) initiate a mediation between parties for redressal of grievance.

(3) The Grievance Redressal Committee shall refer the matter to the Disciplinary Committee, wherever the grievance warrants disciplinary action.

22. The Grievance Redressal Policy shall provide for-

- (a) the format and manner for filing grievances;
- (b) maximum time and format for acknowledging receipt of a grievance;
- (c) maximum time for the disposal of the grievance by way of dismissal, reference to the Disciplinary Committee or the initiation of mediation;
- (d) details of the mediation mechanism
- (e) provision of a report of the grievance and mediation proceedings to the parties to the grievance upon dismissal or resolution of the grievance;
- (f) action to be taken in case of malicious or false complaints;
- (g) maintenance of a register of grievances made and resolutions arrived at; and
- (h) periodic review of the Grievance Redressal Mechanism.

X. DISCIPLINARY PROCEEDINGS

23. The Agency may initiate disciplinary proceedings by issuing a show-cause notice against professional members-

- (a) based on a reference made by the Grievances Redressal Committee;
- (b) based on monitoring of professional members;
- (c) following the directions given by the Board or any court of law; or
- (d) suo moto, based on any information received by it.

23A. The authorisation for assignment shall stand suspended upon initiation of disciplinary proceedings by the Agency or by the Board, as the case may be.

24. (1) The Agency shall have a Disciplinary Policy, which shall provide for the following-

- (a) the manner in which the Disciplinary Committee may ascertain facts;
- (b) the issue of show-cause notice based on the facts;
- (c) disposal of show-cause notice by a reasoned order, following principles of natural justice;
- (d) timelines for different stages of disposal of show cause notice; and
- (e) rights and obligations of the parties to the proceedings.

(2) The orders that may be passed by the Disciplinary Committee shall include-

- (a) expulsion of the professional member;
- (b) suspension of the professional member for a certain period of time;
 - (ba) cancellation of authorisation for assignment;
- (c) admonishment of the professional member;
- (d) imposition of monetary penalty;

- (e) reference of the matter to the Board, which may include, in appropriate cases, recommendation of the amount of restitution or compensation that may be enforced by the Board; and
- (f) directions relating to costs.

(3) The Disciplinary Committee may pass an order for expulsion of a professional member if it has found that the professional member has committed-

- (a) an offence under any law for the time being in force, punishable with imprisonment for a term exceeding six months, or an offence involving moral turpitude;
- (b) a gross violation of the Code, rules, regulations and guidelines issued thereunder, bye-laws or directions given by the Governing Board which renders him not a fit and proper person to continue acting as an insolvency professional.

Explanation: The violations referred to in sub-clause (b) include-

- (i) making a false representation or indulging in fraud for the purpose of obtaining creditors' approval under sections 28, 31, 111 or 153 of the Code;
- (ii) contravening provisions of the Code in a manner which is actionable in accordance with sections 70(2) or 185 of the Code;
- (iii) knowingly or wilfully committing or authorizing or permitting contravention of sections 14, 96, 101 or 124 of the Code;
- (iv) contravening provisions of the Code inviting action in accordance with sections 71 or 187 of the Code;
- (v) aiding or abetting any activity which is actionable in accordance with Chapter VII of Part II or Chapter VII of Part III of the Code,
- (vi) providing unequal or differential treatment to the disadvantage of a party which cannot be justified with reference to the interests of the insolvency resolution, liquidation or bankruptcy process; or
- (vii) in any other case it deems fit.

(4) Any order passed by the Disciplinary Committee shall be placed on the website of the Agency within seven days from passing of the said order, and a copy of the order shall be provided to each of the parties to the proceeding.

(5) Monetary penalty received by the Agency under the orders of the Disciplinary Committee shall be credited to the Insolvency and Bankruptcy Fund constituted under section 224 of the Code.

25. (1) The Governing Board shall constitute an Appellate Panel consisting of one independent director of the Agency, one member from amongst the persons of eminence having experience in the field of law, and one member nominated by the Board.

(2) Any person aggrieved of an order of the Disciplinary Committee may prefer an appeal before the Appellate Panel within thirty days from the receipt of a copy of the final order.

(3) The Appellate Panel shall dispose of the appeal in the manner it deems expedient, within thirty days of the receipt of the appeal.

XI. SURRENDER OF PROFESSIONAL MEMBERSHIP AND EXPULSION FROM PROFESSIONAL MEMBERSHIP

Surrender of Authorisation for Assignment.

26. (1) A professional member shall make an application to surrender his authorisation for assignment to the Agency at least thirty days before he-

(a) becomes a person resident outside India:

- (c) starts any business, except as specifically permitted under the Code of Conduct, and upon acceptance of such surrender, the same shall be intimated to the Board by the Agency within one working day of acceptance of surrender.
- (2) No application for surrender of authorisation for assignments shall be accepted by the Agency, if –
- (a) the authorisation for assignment has been suspended;
 - (b) an assignment is continuing; or
 - (c) name of the professional member is included in any panel prepared by the Board for undertaking assignment.

27. Surrender of Professional Membership

- (1) A professional member who wishes to surrender his membership of the Agency may do so by submitting an application for surrender of his membership.
 - (2) Upon acceptance of such surrender of his membership, and completion of thirty days from the date of such acceptance, the name of the professional member shall be struck from the registers of the Agency, and the same shall be intimated to the Board.
28. Any fee that is due to the Agency from a professional member surrendering his membership shall be cleared prior to his name being struck from the registers of the Agency.

29. The Agency may refuse to accept the surrender of membership by any professional member if-
- (a) there is any grievance or disciplinary proceeding pending against the professional member before the Agency or the Board; or
 - (b) the professional member has been appointed as a resolution professional, liquidator or bankruptcy trustee for a process under the Code, and the appointment of another insolvency professional may be

Expulsion from Professional Membership.

30. A professional member shall be expelled by the Agency –

- (a) if he becomes ineligible to be enrolled under bye-law9;
- (b) on expiry of thirty days from the order of the Disciplinary Committee, unless set aside or stayed by the Appellate Panel;
- (c) upon non-payment of professional membership fee despite at least two notices served in writing;
- (d) upon the cancellation of his certificate of registration by the Board;
- (e) upon the order of any court of law.

**ANNEXURE
FORM A
CERTIFICATE OF PROFESSIONAL MEMBERSHIP
(Under bye-law 10of the Agency's bye-laws)**

No.

1. This is to certify that [insert name] residing at [insert address] is enrolled as a professional member of [insert name of insolvency professional agency]with professional membership no. [insert number].
2. This certificate shall be valid from [insert date].

Sd/-

For and on behalf of [name of insolvency professional agency]

Place:

Date:

FORM B
AUTHORISATION FOR ASSIGNMENT
(Under bye-law 12A of the Agency's Bye-laws)

No.

Date

This authorisation for assignment is issued to [insert name], who is enrolled as a professional member of the [insert name of insolvency professional agency] with professional membership no. [insert number] and registered with the Insolvency and Bankruptcy Board of India as an insolvency professional with registration no. [insert number] under the Insolvency and Bankruptcy Code, 2016.

2. This authorisation is valid from [insert date] to [insert date]. / This authorisation is renewed on [insert date] and is valid till [insert date]. (Strike off if not applicable).

Sd/-
For and on behalf of [name of insolvency professional agency]

Place:.....

Date:.....]

Dr. M. S. Sahoo
Chairperson
Insolvency and Bankruptcy Board of India

INSOLVENCY PROFESSIONAL

INSOLVENCY PROFESSIONAL

- No individual shall be eligible to be registered as IP, if he

(a) is a minor

(b) is not a person resident in India

(c) Does not have Qualification & Experience as per regulation 5&9/

(d) Convicted for offence with imprisonment exceeding 6 months or involving moral turpitude and a period of 5 yrs not expired provided if Convicted for a period of 7 years or more he shall not be eligible to be registered

(e) Undischarged insolvent

(f) unsound mind or

(g) Not a fit & proper person - integrity - absence of conviction - financial insolvencies

- shall be eligible for registration

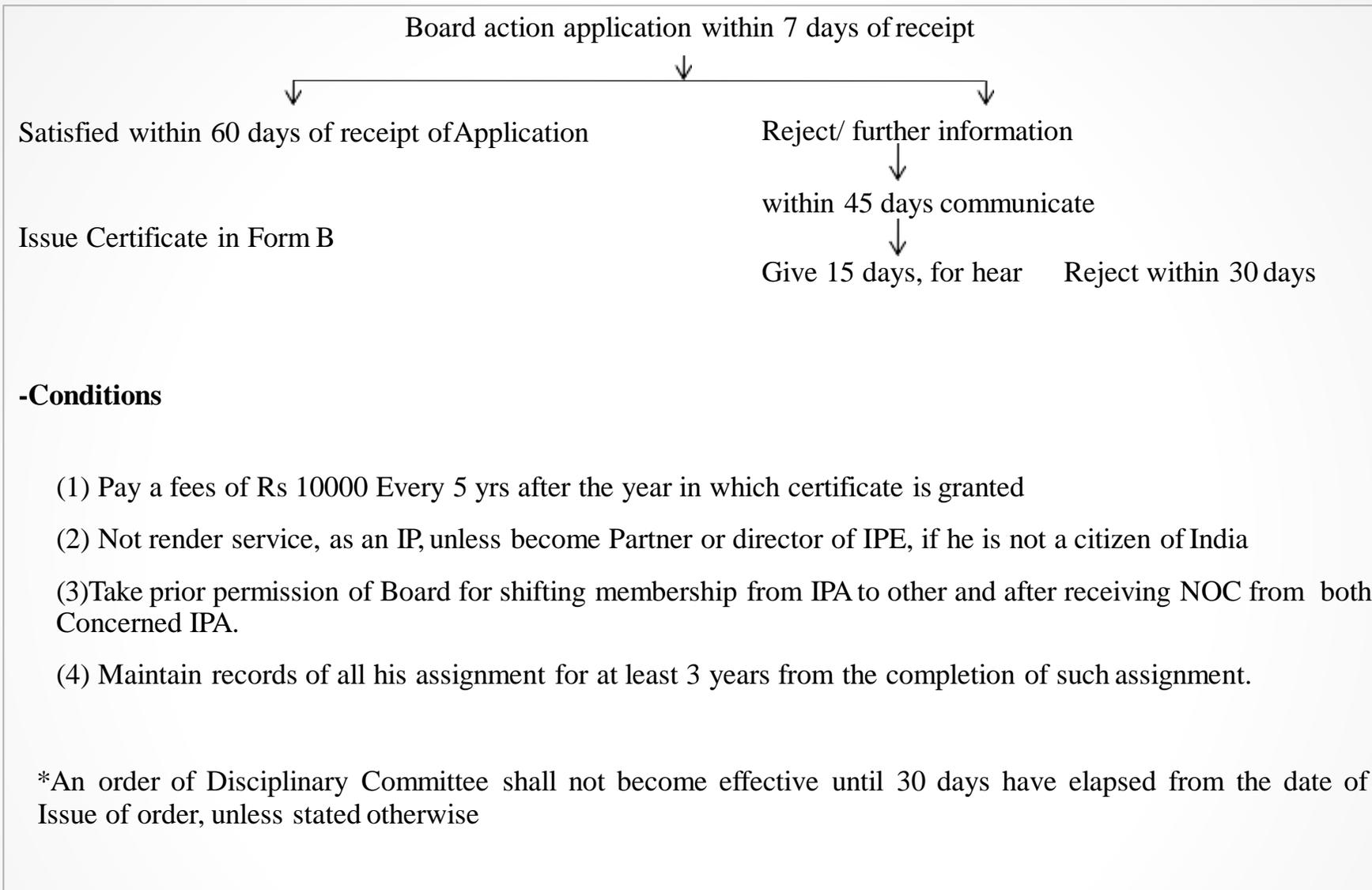
(a) Passed National Insolvency Exams

(b) Passed limited Insolvency + 15 years exp in management after received Bachelor degree from a recognised university

(c) Passed Limited Insolvency + 10 years exp as

- member of ICAI, ICSI, ICWAI, Bar Council

* A person who Passed Exam + Enrolled with IPA shall Make application to Board in Form A + Fees of Rs. 10,000



Insolvency Professional Entity

An LLP, Registered Partnership firm or a company may be recognised as IPE, If

- a. Sole objective –to provide support services to IPs
- b. Net worth not less than one crore
- c. Majority of shares held by IPs who are its directors in case it is a company
- d. Majority of capital contribution by IPs who are its partners in case of firm/LLP
- e. Majority of partners or directors are IPs
- f. Majority of its whole time directors are IPs
- g. None of its partners or directors is a partner or director in another IPE..

Make application in **form C of IInd** schedule Fee Rs.50000 Issue Certificate in Form – D

Condition

- (a) Inform Board, within 30 days when an IP Joins/ ceases to be its partner/Director
- (b) 0.25% of turnover in the preceding financial year on or before 30th April in Form G of the Second Schedule.
Interest @ 12% p.a thereafter

First Schedule

Code of Conduct for IPs

Second Schedule

Form A- Application for Registration of IP

Form B- Certificate of Registration for IP

Form C- Application for Recognition of IPE

Form D- Certificate of Recognition to IPE

Inspection & Investigation

any person aggrieved with the functioning of IPA, IU, or IP

Complaint to Board

may direct any person to investigate/ inspection

Investigating authority submit report to Board

Board issue show cause notice & Can Constitute a disciplinary Committee

Consists of whole-time members only

If satisfy, impose penalty, suspend a cancel registration

Penalty 3 times of amount of loss caused

or

3 times of amount of unlawful gain made



Whichever is higher

Where unlawful gain are not quantifiable, amount of penalty can not exceed Rs. 1.00 crore

**INSOLVENCY AND
BANKRUPTCY BOARD OF
INDIA (INSOLVENCY
PROFESSIONALS)
REGULATIONS, 2016**

[AMENDED UPTO 22-07-2021]

In exercise of the powers conferred by sections 196, 207 and 208 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Board hereby makes the following Regulations, namely-

CHAPTER I GENERAL

❑ **Short title and commencement.**

1. (a) These Regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.
- (b) These Regulations shall come into force on 29th November, 2016.

❑ **Definitions.**

2. (1) In these Regulations, unless the context otherwise requires –
 - (a) “assignment” means any assignment of an insolvency professional as interim resolution professional, resolution professional, liquidator, bankruptcy trustee, authorized representative or in any other role under the Code;
 - (aa) “authorization for assignment” means an authorization to undertake an assignment, issued by an insolvency professional agency to an insolvency professional, who is its professional member, in accordance with its bye-laws;
 - (ab) “Bar Council” means a Bar Council constituted under the Advocates Act, 1961 (25 of 1961);
 - (b) “certificate of registration” means a certificate of registration granted by the Board under section 207 of the Code read with these Regulations;

- (c) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
 - (d) “Institute of Chartered Accountants of India” means the Institute constituted under the Chartered Accountants Act, 1949 (38 of 1949);
 - (e) “Institute of Cost Accountants of India” means the Institute constituted under the Cost and Works Accountants Act, 1959 (23 of 1959);
 - (f) “Institute of Company Secretaries of India” means the Institute constituted under the Institute of the Company Secretaries Act, 1980 (56 of 1980); and
 - (g) “professional member” means an individual who has been enrolled as a member of an insolvency professional agency;
- (2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations, shall have the meanings assigned to them in the Code.

CHAPTER II

INSOLVENCY EXAMINATIONS

3. (1) The Board shall, either on its own or through a designated agency, conduct a ‘National Insolvency Examination’ in such a manner and at such frequency, as may be specified, to test the knowledge and practical skills of individuals in the areas of insolvency, bankruptcy and allied subjects.
- (2) The Board shall, either on its own or through a designated agency, conduct a ‘Limited Insolvency Examination’ to test the knowledge and application of knowledge of individuals in the areas of insolvency, bankruptcy and allied subjects.

(3)The syllabus, format, qualifying marks and frequency of the Limited Insolvency Examination[shall be published on the website of the Board at least three months before the examination.+

CHAPTER III

REGISTRATION OF INSOLVENCY PROFESSIONALS

Eligibility.

4. No individual shall be eligible to be registered as an insolvency professional if he-

- (a) is a minor;
- (b) is not a person resident in India;
- (c) does not have the qualification and experience specified in Regulation 5 or Regulation 9, as the case may be;
- (d) has been convicted by any competent court for an offence punishable with imprisonment for a term exceeding six months or for an offence involving moral turpitude, and a period of five years has not elapsed from the date of expiry of the sentence:

Provided that if a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be registered;

- (e) he is an undischarged insolvent, or has applied to be adjudicated as an insolvent;

(f) he has been declared to be of unsound mind; or

(g) he is not a fit and proper person;

Explanation: For determining whether an individual is fit and proper under these Regulations, the Board may take account of any consideration as it deems fit, including but not limited to the following criteria-

(i) integrity, reputation and character,

(ii) absence of convictions and restraint orders, and

(iii) competence, including financial solvency and net worth.

Qualifications and experience.

5. Subject to the other provisions of these regulations, an individual shall be eligible for registration, if he –

(a) has passed the Limited Insolvency Examination within twelve months before the date of his application for enrolment with the insolvency professional agency;

(b) has completed a pre-registration educational course, as may be required by the Board, from an insolvency professional agency after his enrolment as a professional member; and

- (c) has-
- (i) successfully completed the National Insolvency Programme, as may be approved by the Board;
 - (ii) successfully completed the Graduate Insolvency Programme, as may be approved by the Board;
 - (iii) experience of –
 - (a) ten years in the field of law, after receiving a Bachelor's degree in law;
 - (b) ten years in management, after receiving a Master's degree in Management or two-year full time Post Graduate Diploma in Management; or
 - (c) fifteen years in management, after receiving a Bachelor's degree, from a university established or recognised by law or an Institute approved by All India Council of Technical Education; or]
 - (iv) ten years' of experience as –
 - (a) chartered accountant registered as a member of the Institute of Chartered Accountants of India,
 - (b) company secretary registered as a member of the Institute of Company Secretaries of India,
 - (c) cost accountant registered as a member of the Institute of Cost Accountants of India, or
 - (d) advocate enrolled with the Bar Council.] 6

[Explanation 1.- For the purposes of this regulation, only professional and managerial experience shall be considered.

Explanation 2.- For the purpose of computing,-

- (a) the total experience of 10 or 15 years under sub-clause (iii), there shall be included experience of any period under sub-clause (iv);
- (b) the total experience of 10 years under sub-clause (iv), there shall be included experience of any period under any of the items of that sub-clause.

Illustration 1 Where an individual has experience of nine years under sub-clause (iii) and experience of six years under sub-clause (iv), he shall be considered having experience of fifteen years for the purposes of sub-clause (iii).

Illustration 2 Where an individual has experience of 6 years under item (a) of sub-clause (iv) and experience of four years under item (d) of sub-clause (iv), he shall be considered having total experience of ten years for the purposes of sub-clause (iv)

Application for certificate of registration.

6. (1) An individual enrolled with an insolvency professional agency as a professional member may make an application to the Board in Form A of the Second Schedule to these Regulations, along with a non-refundable application fee of ten thousand rupees to the Board.
- (2) The Board shall acknowledge an application made under this Regulation within seven days of its receipt.

- (3) The Board may require the applicant to submit, within reasonable time, additional documents, information or clarification that it deems fit.
- (4) The Board may require the applicant to appear, within reasonable time, before the Board in person, or through his authorized representative for clarifications required for processing the application.

Certificate of registration.

- 7. (1) If the Board is satisfied, after such inspection or inquiry as it deems necessary that the applicant is eligible under these Regulations, it may grant a certificate of registration to the applicant to carry on the activities of an insolvency professional in Form B of the Second Schedule to these Regulations, within sixty days of receipt of the application, excluding the time given by the Board for presenting additional documents, information or clarification, or appearing in person, as the case may be.
- (2) The registration shall be subject to the conditions that the insolvency professional shall –
 - (a) at all times abide by the Code, rules, regulations, and guidelines there under and the bye-laws of the insolvency professional agency with which he is enrolled;
 - (b) at all times continue to satisfy the requirements under Regulation 4;
 - (ba) undergo[continuing[professional education,[as may be required by the Board;**
 - (bb) not outsource any of his duties and responsibilities under the Code, except those specifically permitted by the Board.]

(c) pay to the Board, a fee of ten thousand rupees, every five years after the year in which the certificate is granted and such fee shall be paid on or before the 30th April of the year it falls due;

Illustration

- Where registration is granted on 2nd February, 2018 in the year 2017-18, the fee shall become due on 1st April, 2023, after five years (2018-19, 2019-20, 2020-21, 2021- 22 and 2022-23) and it shall be paid on or before the 30th April, 2023.

(ca) pay to the Board, a fee calculated at the rate of 0.25 percent of the professional fee earned for the services rendered by him as an insolvency professional in the preceding financial year, on or before the 30th of April every year, along with a statement in Form E of the Second Schedule;

Provided that for the financial year 2019-2020, an insolvency professional shall pay the fee under this clause on or before the 30th June, 2020.

Provided further that for the FY 2020-21, an insolvency professional shall pay the fee under this clause on or before the 30th June, 2021

(d) not render services as an insolvency professional unless he becomes a partner or director of an insolvency professional entity recognised by the Board under Regulation 13, if he is not a citizen of India;

(e) take prior permission of the Board for shifting his professional membership from one insolvency professional agency to another, after receiving no objection from both the concerned insolvency professional agencies;

(f) take adequate steps for redressal of grievances;

- (g) maintain records of all assignments undertaken by him under the Code for at least three years from the completion of such assignment;
- (h) abide by the Code of Conduct specified in the First Schedule to these Regulations; and
- (i) abide by such other conditions as may be imposed by the Board.

Authorization for assignment

7A. An insolvency professional shall not accept or undertake an assignment after 31st December, 2019 unless he holds a valid authorization for assignment on the date of such acceptance or commencement of such assignment, as the case may be:

Provided that provisions of this regulation shall not apply to an assignment which an insolvency professional is undertaking as on-

- (a) 31st December, 2019; or
- (b) the date of expiry of his authorisation for assignment.

Refusal to grant certificate.

8. (1) If, after considering an application made under Regulation 6, the Board is of the prima facie opinion that the registration ought not be granted, it shall communicate the reasons for forming such an opinion and give the applicant an opportunity to explain why his application should be accepted, within fifteen days of the receipt of the communication from the Board, to enable it to form a final opinion.

- (2) The communication under sub-regulation (1) shall be made to the applicant within forty five days of receipt of the application, excluding the time given by the Board for presenting additional documents, information or clarifications, or appearing in person, as the case may be.
- (3) After considering the explanation, if any, given by the applicant under sub-regulation (1), the Board shall communicate its decision to-
- (a) accept the application, along with the certificate of registration, or
 - (b) reject the application by an order, giving reasons thereof, within thirty days of receipt of the explanation.

Regulation 9 reg Temporary Registration has been omitted

CHAPTER IV
ISSUE AND SURRENDER OF AUTHORISATION FOR ASSIGNMENT AND
DISCIPLINARY PROCEEDINGS

10. Temporary surrender

(1) An insolvency professional agency shall inform the Board when it-

- (a) issues or renews an authorisation for assignment;
- (b) suspends or cancels an authorisation for assignment;
- (c) revokes the suspension of an authorisation for assignment; or
- (d) accepts the surrender of an authorisation for assignment, within one working day of taking such action.

(2) The Board shall take note of the information received under sub-regulation (1).

Disciplinary proceedings.

11. (1) Based on the findings of an inspection or investigation, or on material otherwise available on record, if the Board is of the *prima facie opinion that sufficient cause exists to* take actions permissible under section 220, it shall issue a show-cause notice to the insolvency professional.

(2) The show-cause notice shall be in writing, and shall state

- a. the provisions of the Code under which it has been issued;
- b. the details of the alleged facts;
- c. the details of the evidence in support of the alleged facts;
- d. the provisions of the Code, rules, regulations and guidelines there under allegedly
- e. violated, or the manner in which the public interest is allegedly affected;
- f. the actions or directions that the Board proposes to take or issue if the allegations are established;
- g. the manner in which the insolvency professional is required to respond to the show cause notice;
- h. procedure to be followed for disposal of the show-cause notice.

- (3) The show-cause notice shall enclose copies of documents relied upon and extracts of relevant portions from the report of investigation or inspection, or other records.
- (4) A show-cause notice issued shall be served on the insolvency professional in the following manner-
 - (a) by sending it to the insolvency professional, at the address provided by him or provided by the insolvency professional agency with which he is enrolled, by registered post with acknowledgement due; or
 - (b) by an appropriate electronic means to the email address of the insolvency professional, provided by him or provided by the insolvency professional agency with which he is enrolled.
- (5) The Board shall constitute a Disciplinary Committee for disposal of the show-cause notice.
- (6) The Disciplinary Committee shall Endeavour to dispose of the show-cause notice within a period of six months of the assignment.
- (7) The Disciplinary Committee shall dispose of the show-cause notice assigned under sub-regulation (5) by a reasoned order in adherence to principles of natural justice, and after considering the submissions, if any, made by the insolvency professional, the relevant material facts and circumstances, and the material on record.
- (8) The order disposing of a show-cause notice may provide for-
 - (a) no action;
 - (b) warning;

(ba) suspension or cancellation of authorisation for assignment;

(c) any of the actions under section 220(2) to (4); or

(d) a reference to the Board to take any action under section 220(5).

(9) The order passed under sub-regulation (7) shall not become effective until thirty days have elapsed from the date of issue of the order unless the Disciplinary Committee states otherwise in the order along with the reason for the same.

(10) The order passed under sub-regulation (7) shall be issued to the insolvency professional, with a copy issued to the insolvency professional agency with which he is enrolled immediately, and be published on the website of the Board.

CHAPTER V

RECOGNITION OF INSOLVENCY PROFESSIONAL ENTITIES

Recognition of Insolvency Professional Entities.

12. (1) A company, a registered partnership firm or a limited liability partnership may be recognised as an insolvency professional entity, if –

(a) its sole objective is to provide support services to insolvency professionals];

(b) it has a net worth of not less than one crore rupees;

- (c) majority of its equity shares is held by insolvency professionals, who are its directors, in case it is a company;
 - (d) majority of capital contribution is made by insolvency professionals, who are its partners, in case it is a limited liability partnership firm or a registered partnership firm;
 - (e) majority of its partners or directors, as the case may be, are insolvency professionals;
 - (f) majority of its whole time directors are insolvency professionals, in case it is a company; and
 - (g) none of its partners or directors is a partner or a director of another insolvency professional entity:
- Provided that the insolvency professional entities recognised before the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Second Amendment) Regulations, 2021 shall comply with the provisions of clauses (b) and [(c)] [on or before 31st December, 2021]
 - Explanation.- For the purposes of clause (b) of this sub-regulation, 'net worth' means
 - (i) the net worth as defined under section 2(57) of the Companies Act, 2013 in case of a company;
 - (ii) sum of partners' contribution in the capital account and their undistributed profits net of accumulated losses, if any, in case of a registered partnership firm or limited liability partnership.]
- (2) A person eligible under sub-regulation (1) may make an application for recognition as an insolvency professional entity to the Board in Form C of the Second Schedule along with an application fee of fifty thousand rupees.

- (3) The Board shall acknowledge an application made under this regulation within seven days of its receipt.
- (4) The Board may, after examination of the application,-
- (i) require the applicant to submit, within reasonable time, additional documents, information or clarification;
 - (ii) inspect or inquire the applicant;
 - (iii) require any of the directors or partners of the applicant to appear, within a reasonable time, before it in person for any clarifications, 13. as may be necessary for the purpose of considering the application

- 13 (1)(a) where the Board, after consideration of the application under sub-regulation (4) of regulation 12,-
- (i) is satisfied that the applicant is eligible under these Regulations, it may grant a certificate of recognition as an insolvency professional entity within sixty days of receipt of the application, excluding the time taken by the applicant for submitting additional documents, information or clarification, or appearing in person, as the case may be, under sub-regulation (4) of regulation 12;
- (ii) is of the prima facie opinion that the recognition ought not be granted, it shall communicate such opinion along with reasons thereof and provide the applicant an opportunity to submit its explanation within fifteen days of the receipt of the communication from the Board, to enable it to form a final opinion.
- (b)The Board shall, within thirty days of receipt of the explanation, if any, submitted by the applicant under clause (a), -
- (i) grant a certificate of recognition as an insolvency professional entity; or
- (ii) reject the application by an order, after recording reasons thereof.
- (c)The Board shall grant a certificate of recognition as an insolvency professional entity under clause (a) or (b) in Form D of the Second Schedule.

(2) The recognition shall be subject to the conditions that the insolvency professional entity shall-

(a) at all times continue to satisfy the requirements under Regulation 12;

(b) inform the Board, within thirty days, when an individual ceases to be its director or partner, as the case may be, in Form F of the Second Schedule along with a fee of two thousand rupees;

- Provided that when an individual ceases to be its director or partner, as the case may be, on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2020 and ending on the 31st December 2020, the insolvency professional entity shall inform the Board, within thirty days of such cessation;

- Provided further that when an individual ceases to be its director or partner, as the case may be, on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2021 and ending on the 31st December 2021, the insolvency professional entity shall inform the Board, within thirty days of such cessation.

(c) inform the Board, within thirty days, when an individual joins as its director or partner, as the case may be, in Form F of the Second Schedule along with a fee of two thousand rupees;

- Provided that when an individual joins as its director or partner, as the case may be, on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2020 and ending on the 31st December 2020, the insolvency professional entity shall inform the Board, within thirty days of such joining;

- Provided further that when an individual joins as its director or partner, as the case may be, on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2021 and ending on the 31st December 2021, the insolvency professional entity shall inform the Board, within thirty days of such joining.

(ca) pay to the Board, a fee calculated at the rate of 0.25 percent of the turnover from the services rendered by it in the preceding financial year, on or before the 30th of April every year, along with a statement in Form G of the 18[Second Schedule:

- Provided that for the financial year 2019-2020, an insolvency professional entity shall pay the fee under this clause on or before the 30th June, 2020; and]

- Provided further that for the financial year 2020-2021, an insolvency professional entity shall pay the fee under this clause on or before the 30th June, 2021;and

(cb) submit to the Board, by 15th day of October every year, a compliance certificate in Form H, for the preceding financial year:

Provided that an insolvency professional entity recognised as on 31st March, 2019 shall submit to the Board, by 31st December 2019, a compliance certificate in Form H for the financial year 2018-19.]

(d) abide by such other conditions as may be specified.

(3) An insolvency professional entity shall be jointly and severally liable for all acts or omissions of its partners or directors as insolvency professionals committed during such partnership or directorship.

14. Where the Board is of the opinion that sufficient cause exists for de-recognition of an insolvency professional entity, it may do so by passing a reasoned order.

15. Interest.- Without prejudice to any other action which the Board may take as deemed fit under the Code or any regulations made there under, any delay in payment of fee by an insolvency professional or an insolvency professional entity, a simple interest at the rate of 12% per annum on the amount of fee unpaid shall be paid to the Board after the last date of payment of fee under these regulations.

FIRST SCHEDULE
[Under Regulation 7(2)(h)]
CODE OF CONDUCT FOR INSOLVENCY PROFESSIONALS
Integrity and objectivity.

1. An insolvency professional must maintain integrity by being honest, straightforward, and forthright in all professional relationships.

2. An insolvency professional must not misrepresent any facts or situations and should refrain from being involved in any action that would bring disrepute to the profession.

3. An insolvency professional must act with objectivity in his professional dealings by ensuring that his decisions are made without the presence of any bias, conflict of interest, coercion, or undue influence of any party, whether directly connected to the insolvency proceedings or not.

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3A. An insolvency professional must disclose the details of any conflict of interests to the stakeholders, whenever he comes across such conflict of interest during an assignment.

4. An insolvency professional appointed as an interim resolution professional, resolution professional, liquidator, or bankruptcy trustee should not himself acquire, directly or indirectly, any of the assets of the debtor, nor knowingly permit any relative to do so.

3A.

4.

FIRST SCHEDULE
[Under Regulation 7(2)(h)]
CODE OF CONDUCT FOR INSOLVENCY PROFESSIONALS

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1. An insolvency professional must maintain integrity by being honest, straightforward, and forthright in all professional relationships.
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- 3A. An insolvency professional must disclose the details of any conflict of interests to the stakeholders, whenever he comes across such conflict of interest during an assignment.
4. An insolvency professional appointed as an interim resolution professional, resolution professional, liquidator, or bankruptcy trustee should not himself acquire, directly or indirectly, any of the assets of the debtor, nor knowingly permit any relative to do so.

Independence and impartiality.

5. An insolvency professional 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.

6. In cases where the insolvency professional is dealing with assets of a debtor during liquidation or bankruptcy process, he must ensure that he or his relatives do not knowingly acquire any such assets, whether directly or indirectly unless it is shown that there was no impairment of objectivity, independence or impartiality in the liquidation or bankruptcy process and the approval of the Board has been obtained in the matter.

5.

6.

7. An insolvency professional shall not take up an assignment under the Code if he, any of his relatives, any of the partners or directors of the insolvency professional entity of which he is a partner or director, or the insolvency professional entity of which he is a partner or director is not independent, in terms of the Regulations related to the processes under the Code, in relation to the corporate person/ debtor and its related parties.

8. An insolvency professional shall disclose the existence of any pecuniary or personal relationship with any of the stakeholders entitled to distribution under sections 53 or 178 of the Code, and the concerned corporate person/ debtor as soon as he becomes aware of it, by making a declaration of the same to the applicant, committee of creditors, and the person proposing appointment, as applicable.

7.

8.

8A. An insolvency professional shall disclose as to whether he was an employee of or has been in the panel of any financial creditor of the corporate debtor, to the committee of creditors and to the insolvency professional agency of which he is a professional member and the agency shall publish such disclosure on its website.

9. An insolvency professional shall not influence the decision or the work of the committee of creditors or debtor, or other stakeholders under the Code, so as to make any undue or unlawful gains for himself or his related parties, or cause any undue preference for any other persons for undue or unlawful gains and shall not adopt any illegal or improper means to achieve any mala fide objectives.

Professional competence.

10. An insolvency professional must maintain and upgrade his professional knowledge and skills to render competent professional service.

Representation of correct facts and correcting misapprehensions.

Representation of correct facts and correcting misapprehensions.

11. An insolvency professional must inform such persons under the Code as may be required, of a misapprehension or wrongful consideration of a fact of which he becomes aware, as soon as may be practicable.

12. An insolvency professional must not conceal any material information or knowingly make a misleading statement to the Board, the Adjudicating Authority or any stakeholder, as

10.

11.

12.

Independence and impartiality.

5. An insolvency professional 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.
6. In cases where the insolvency professional is dealing with assets of a debtor during liquidation or bankruptcy process, he must ensure that he or his relatives do not knowingly acquire any such assets, whether directly or indirectly unless it is shown that there was no impairment of objectivity, independence or impartiality in the liquidation or bankruptcy process and the approval of the Board has been obtained in the matter.
7. An insolvency professional shall not take up an assignment under the Code if he, any of his relatives, any of the partners or directors of the insolvency professional entity of which he is a partner or director, or the insolvency professional entity of which he is a partner or director is not independent, in terms of the Regulations related to the processes under the Code, in relation to the corporate person/ debtor and its related parties.
8. An insolvency professional shall disclose the existence of any pecuniary or personal relationship with any of the stakeholders entitled to distribution under sections 53 or 178 of the Code, and the concerned corporate person/ debtor as soon as he becomes aware of it, by making a declaration of the same to the applicant, committee of creditors, and the person proposing appointment, as applicable.

- 8A. An insolvency professional shall disclose as to whether he was an employee of or has been in the panel of any financial creditor of the corporate debtor, to the committee of creditors and to the insolvency professional agency of which he is a professional member and the agency shall publish such disclosure on its website.
9. An insolvency professional shall not influence the decision or the work of the committee of creditors or debtor, or other stakeholders under the Code, so as to make any undue or unlawful gains for himself or his related parties, or cause any undue preference for any other persons for undue or unlawful gains and shall not adopt any illegal or improper means to achieve any mala fide objectives.

Professional competence.

10. An insolvency professional must maintain and upgrade his professional knowledge and skills to render competent professional service.

Representation of correct facts and correcting misapprehensions.

11. An insolvency professional must inform such persons under the Code as may be required, of a misapprehension or wrongful consideration of a fact of which he becomes aware, as soon as may be practicable.
12. An insolvency professional must not conceal any material information or knowingly make a misleading statement to the Board, the Adjudicating Authority or any stakeholder, as applicable.

Timeliness.

13. An insolvency professional must adhere to the time limits prescribed in the Code and the rules, regulations and guidelines there under 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.

14. An insolvency professional must not act with *mala fide* or be negligent while performing his functions and duties under the Code.

13.

14.

Information management.

15. An insolvency professional 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.

16. An insolvency professional 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.

17. An insolvency professional must not make any private communication with any of the stakeholders unless required by the Code, rules, regulations and guidelines there under, or orders of the Adjudicating Authority.

15.

16.

17.

Timeliness.

13. An insolvency professional must adhere to the time limits prescribed in the Code and the rules, regulations and guidelines there under 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.
14. An insolvency professional must not act with *mala fide* or be negligent while performing his functions and duties under the Code.

Information management.

15. An insolvency professional 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.
16. An insolvency professional 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.
17. An insolvency professional must not make any private communication with any of the stakeholders unless required by the Code, rules, regulations and guidelines there under, or orders of the Adjudicating Authority.

18. An insolvency professional must appear, cooperate and be available for inspections and investigations carried out by the Board, any person authorized by the Board or the insolvency professional agency with which he is enrolled.

19. An insolvency professional must provide all information and records as may be required by the Board or the insolvency professional agency with which he is enrolled.

20. An insolvency professional must be available and provide information for any periodic study, research and audit conducted by the Board.

18.

19.

20.

Confidentiality.

21. An insolvency professional must ensure that confidentiality of the information relating to the insolvency resolution process, liquidation or bankruptcy process, as the case may be, is maintained at all times. However, this shall not prevent him from disclosing any information with the consent of the relevant parties or required by law.

Occupation, employability and restrictions.

22. An insolvency professional must refrain from accepting too many assignments, if he is unlikely to be able to devote adequate time to each of his assignments.

[Clarification: An insolvency professional may, at any point of time, not have more than ten assignments as resolution professional in corporate insolvency resolution process, of which not more than three shall have admitted claims exceeding one thousand crore

21.

22.

18. An insolvency professional must appear, co-operate and be available for inspections and investigations carried out by the Board, any person authorized by the Board or the insolvency professional agency with which he is enrolled.
19. An insolvency professional must provide all information and records as may be required by the Board or the insolvency professional agency with which he is enrolled.
20. An insolvency professional must be available and provide information for any periodic study, research and audit conducted by the Board.

Confidentiality.

21. An insolvency professional must ensure that confidentiality of the information relating to the insolvency resolution process, liquidation or bankruptcy process, as the case may be, is maintained at all times. However, this shall not prevent him from disclosing any information with the consent of the relevant parties or required by law.

Occupation, employability and restrictions.

22. An insolvency professional must refrain from accepting too many assignments, if he is unlikely to be able to devote adequate time to each of his assignments.
[Clarification: An insolvency professional may, at any point of time, not have more than ten assignments as resolution professional in corporate insolvency resolution process, of which not more than three shall have admitted claims exceeding one thousand crore rupees each]
23. An insolvency professional must not engage in any employment when he holds a valid authorisation for assignment or when he is undertaking an assignment.

23A. Where an insolvency professional has conducted a corporate insolvency resolution process, he and his relatives shall not accept any employment, other than an employment secured through open competitive recruitment, with, or render professional services, other than services under the Code, to a creditor having more than ten percent voting power, the successful resolution applicant, the corporate debtor or any of their related parties, until a period of one year has elapsed from the date of his cessation from such process.

23B. An insolvency professional shall not engage or appoint any of his relatives or related parties, for or in connection with any work relating to any of his assignment.

23A.

23B.

23C. An insolvency professional shall not provide any service for or in connection with the assignment which is being undertaken by any of his relatives or related parties.

Explanation.- For the purpose of clauses 23A to 23C, “related party” shall have the same meaning as assigned to it in clause (24A) of section 5, but does not include an insolvency professional entity of which the insolvency professional is a partner or director

24. An insolvency professional must not conduct business which in the opinion of the Board is inconsistent with the reputation of the profession.

23C.

24.

Remuneration and costs.

25. An insolvency professional must provide services for remuneration which is charged in a transparent manner, is a reasonable reflection of the work necessarily and properly undertaken, and is not inconsistent with the applicable regulations.

25.

23A. Where an insolvency professional has conducted a corporate insolvency resolution process, he and his relatives shall not accept any employment, other than an employment secured through open competitive recruitment, with, or render professional services, other than services under the Code, to a creditor having more than ten percent voting power, the successful resolution applicant, the corporate debtor or any of their related parties, until a period of one year has elapsed from the date of his cessation from such process.

23B. An insolvency professional shall not engage or appoint any of his relatives or related parties, for or in connection with any work relating to any of his assignment.

23C. An insolvency professional shall not provide any service for or in connection with the assignment which is being undertaken by any of his relatives or related parties.

- Explanation.- For the purpose of clauses 23A to 23C, “related party” shall have the same meaning as assigned to it in clause (24A) of section 5, but does not include an insolvency professional entity of which the insolvency professional is a partner or director

24. An insolvency professional must not conduct business which in the opinion of the Board is inconsistent with the reputation of the profession.

Remuneration and costs.

25. An insolvency professional must provide services for remuneration which is charged in a transparent manner, is a reasonable reflection of the work necessarily and properly undertaken, and is not inconsistent with the applicable regulations.

25A. An insolvency professional shall disclose the fee payable to him, the fee payable to the insolvency professional entity, and the fee payable to professionals engaged by him to the insolvency professional agency of which he is a professional member and the agency shall publish such disclosure on its website.

26. An insolvency professional shall not accept any fees or charges other than those which are disclosed to and approved by the persons fixing his remuneration.

27. An insolvency professional shall disclose all costs towards the insolvency resolution process costs, liquidation costs, or costs of the bankruptcy process, as applicable, to all relevant stakeholders, and must Endeavour to ensure that such costs are not unreasonable.

25A.

26.

27.

Gifts and hospitality.

28. An insolvency professional, or his relative must not accept gifts or hospitality which undermines or affects his independence as an insolvency professional.

28.

29. An insolvency professional shall not offer gifts or hospitality or a financial or any other advantage to a public servant or any other person, intending to obtain or retain work for himself, or to obtain or retain an advantage in the conduct of profession for himself.

29.

25A. An insolvency professional shall disclose the fee payable to him, the fee payable to the insolvency professional entity, and the fee payable to professionals engaged by him to the insolvency professional agency of which he is a professional member and the agency shall publish such disclosure on its website.

26. An insolvency professional shall not accept any fees or charges other than those which are disclosed to and approved by the persons fixing his remuneration.

27. An insolvency professional shall disclose all costs towards the insolvency resolution process costs, liquidation costs, or costs of the bankruptcy process, as applicable, to all relevant stakeholders, and must Endeavour to ensure that such costs are not unreasonable.

Gifts and hospitality.

28. An insolvency professional, or his relative must not accept gifts or hospitality which undermines or affects his independence as an insolvency professional.

29. An insolvency professional shall not offer gifts or hospitality or a financial or any other advantage to a public servant or any other person, intending to obtain or retain work for himself, or to obtain or retain an advantage in the conduct of profession for himself.

SECOND SCHEDULE

FORM A

[Under regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

To

The Executive Director (IP Division)

Insolvency and Bankruptcy Board of India

Subject: Application for registration as an insolvency professional.

Sir / Madam,

I, having been enrolled as a professional member with the [name of the insolvency professional agency] on

[date of enrolment] with [professional membership number], hereby apply for registration as an insolvency

professional under section 207 of the Insolvency and Bankruptcy Code, 2016 read with regulation 6 of the

Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 [IP Regulations]. My

details are as under:

A. PERSONAL DETAILS

1. Title (Mr. / Mrs. / Ms. / Other):
2. Name (as per PAN / Aadhaar):
3. Father's Name:
4. Mother's Name:
5. Date of Birth:
6. Place of Birth:
7. PAN:
8. AADHAAR No. (if available):
9. Passport No. (if available):
10. GSTIN (if available):
11. DIN / DPIN (if available):
12. Address for Correspondence (Note: This shall be recorded as the registered address):
13. Permanent Address:
14. E-mail Address (Note: This shall be recorded as the registered e-mail address):
15. Mobile No. (Note: This shall be recorded as the registered mobile number):
16. Residential Status: Person resident in India/ Person resident outside India (strike off whichever is not applicable) [in terms of section 3 (24) or 3 (25) of Insolvency and Bankruptcy Code, 2016]

B. QUALIFICATIONS: EDUCATIONAL, PROFESSIONAL, INSOLVENCY EXAMINATION AND PRE-REGISTRATION EDUCATIONAL COURSE

(i) Educational Qualifications

[Please provide educational qualifications from bachelor's degree onwards]

S.NO	EDUCATIONAL QUALIFICATION	UNIVERSITY/ COLLEGE	YEAR OF PASSING	MARKS SECURED (%)	GRADE/CLASS	REMARKS IF ANY
1	2	3	4	5	6	7

S.NO	PROFESSIONAL QUALIFICATION	INSTITUTE/ PROFESSIONAL BODY	MEMBERSHIP NO/ENROLLMENT NO	DATE OF REGISTRATION/ENROLLMENT	REMARKS IF ANY
1	2	3	4	5	6

(iii) Insolvency Examination

S.NO	Name of the examination /programme	Whether passed (Yes / No)	Name of the institute /organization	Marks (%) / Grade/ Class	Date of passing	REMARKS IF ANY
1	2	3	4	5	6	7
1)	Limited Insolvency Examination		IBBI			
2)	Graduate Insolvency Programme					
3)	National Insolvency Programme					

Have you completed the Pre-Registration Educational Course? (Yes/No)

If Yes, date of completion of Pre-Registration Educational Course: dd/mm/yyyy

(v) Are you a registered valuer? (Yes/No)

If yes,

(a) IBBI Registration No. _____,

(b) Name of Registered Valuer Organization (RVO) _____ and,

(c) RVO enrollment No. _____.

C. WORK EXPERIENCE

(i) Are you presently in practice / employment? (Practice / Employment)

(ii) Total period in practice (years and completed months): yy / mm

(iii) Total period in employment (years and completed months): yy / mm

(iv) Details of experience (from the date of enrolment as an Advocate / Chartered Accountant / Company Secretary / Cost Accountant /after Bachelors' Degree)

Sl. No.	From (dd-mm-yyyy)	To (ddmmyyyy)	Employment		Practice		AREA OF WORK
			NAME AND ADDRESS OF EMPLOYER	DESIGNATION	Advocate /CA /CS / CMA	Name of Firm and Firm Registration	

D. ADDITIONAL INFORMATION

1. Have you ever been convicted of an offence? (Yes / No)

If yes, please give complete details along with current status.

2. Is any criminal proceeding pending against you? (Yes / No)

If yes, please give complete details along with current status.

3. Have you ever been adjudged as a bankrupt? (Yes / No)

If yes, please give complete details along with current status.

4. Is there any disciplinary proceeding pending against you or has been taken against you at any time in the preceding three years by the ICAI, ICSI, ICAI (Cost), Bar Council or RVO?

(Yes / No) If yes, please give complete details along with current status.

5. Please provide any additional information that may be relevant for determining if you are fit and proper person.

AFFIRMATION

1. I affirm that I am eligible to be registered as an insolvency professional under the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 read with section 207 of the Insolvency and Bankruptcy Code, 2016.
2. I affirm that the information furnished by me in this application is correct and complete to the best of my knowledge and belief.
3. I undertake to comply with the requirements of the Insolvency and Bankruptcy Code, 2016, rules, regulations, guidelines and circulars issued there under, the bye-laws of the insolvency professional agency with which I am enrolled and directions given by the Board and the Governing Board of such insolvency professional agency and to furnish any additional information as and when called for by the Board or Insolvency Professional Agency.

Name and signature of applicant

Place:

Date:

ATTACHMENTS

1. Copy of proof of residence
2. Copy of PAN card, Aadhaar card and Passport
3. Copy of GST Registration Certificate
4. Copy of DIN/DPIN allotment letter

5. Copies of documents in support of educational qualification, professional qualification and insolvency examination and completion of Pre-Registration Education Course
6. Copies of documents demonstrating practice as -
 - (i) a chartered accountant registered with the Institute of Chartered Accountants of India;
 - (ii) a company secretary registered with the Institute of Company Secretaries of India;
 - (iii) a cost accountant registered with the Institute of Cost Accountants of India; or
 - (iv) an advocate enrolled with the Bar Council.
7. Copies of certificate of employment from the employer(s), specifying the period of such employment
8. Financial statements / Income-tax Returns for the last three years.
9. Copy of certificate of professional membership with an insolvency professional agency and /or Registered Valuer Organisation
10. Evidence of deposit / payment of fee, along with GST, as required under regulation 6(1) of IP Regulations
11. Details of information with respect to conviction, criminal proceedings, insolvency/bankruptcy order, disciplinary proceedings/actions and any other additional information relevant for the application, as may be applicable (including brief facts, copy of relevant orders and present status thereof) as separate enclosures.

VERIFICATION BY THE INSOLVENCY PROFESSIONAL AGENCY

We have verified as under:

S.N O	VERIFICATION	FINDING
1	Whether any disciplinary proceeding is pending, or any disciplinary action has been taken at any time in the preceding three years against the professional member by the ICAI, ICSI, ICAI(Cost), Bar Council or RVO of which he is a Member?	Yes / No If Yes, give details and supporting document
2	Whether any criminal proceeding has been initiated by ICAI, ICAI (Cost), ICSI, Bar Council, or RVO against the professional member and is pending for disposal?	Yes / No If Yes, give details and supporting document.
3	Whether any other criminal proceeding is pending against the professional member?	Yes/ No If Yes, give details and supporting document
4	Whether the professional member had an unblemished service records with the last employer if he was in employment?	Yes / No If Yes, give details and supporting document

S.N O	VERIFICATION	FINDING
5	Whether the name of the professional member appears in the database of Ministry of Corporate Affairs regarding: (i) Directors disqualified under section 164 of the Companies Act, 2013; or (ii) Proclaimed Offenders under section 82 of the Code of Criminal Procedure, 1973?	Yes / No If Yes, give details and attach additional papers
6	Whether the professional member has been penalized by SEBI or CCI in the last three years?	Yes / No If Yes, give details and supporting document
7	Whether the name of professional member appears in the list of defaulters of RBI / Credit Information Company?	Yes / No If Yes, give details and supporting document
8	Whether the professional member has been convicted of any offence?	Yes/No If Yes, give details and supporting document

We have verified the details submitted by (name of the applicant) who is our professional member with

(membership no.) and confirm that these are correct and complete to the best of our knowledge and belief.

We recommend registration of (name of the applicant) as an insolvency professional with IBBI.

(Name and Signature)

Authorized Officer of the Insolvency Professional Agency

(Seal of the Insolvency Professional Agency)

Place:

Date:

SECOND SCHEDULE
FORM B
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
CERTIFICATE OF REGISTRATION

IP REGISTRATION NO. __

[Under Regulation 7 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

1. In exercise of the powers conferred by Regulation 7 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 the Board hereby grants a certificate of registration to [insert name], to act as an insolvency professional in accordance with these Regulations.
2. This certificate shall be valid from [insert start date].

Sd/-

(Name and Designation)

For and on behalf of Insolvency and Bankruptcy Board of India

Place:

Date:

SECOND SCHEDULE

27[FORM C

[Under regulation 12 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

To

The Executive Director (IPE Division)

Insolvency and Bankruptcy Board of India (IBBI)

Subject: Application for recognition as an insolvency professional entity.

Sir/Madam,

I, having been duly authorized for the purpose, hereby apply, on behalf of [*name of the applicant entity*],

having registered address at [registered address of the applicant], for

recognition as an insolvency professional entity under sub-regulation (2) of regulation 12 of the Insolvency

and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016. The details of the applicant and

its directors / partners are as under:

A. DETAILS OF APPLICANT

1. Name:

2. Address:

i. registered office:

ii. principal place(s) of business, if any:

iii. Address for Correspondence with the Applicant

iv. E-mail address for correspondence with the Applicant:

v. Telephone number for correspondence with the Applicant:

3. Nature of constitution: Company /Limited Liability Partnership/ Registered Partnership
(strike off whichever is not applicable)

4. Corporate Identification Number (CIN)/ LLP Identification Number (LLPIN)/ Certificate of
Registration:

5. PAN:

6. GSTIN (if available):

7. Name, designation and contact details of the person authorized to make this application
and correspond with the Board on behalf of applicant:

C. ELIGIBILITY [in terms of Regulation 12 (1) of IP Regulations]

1. Sole objective of the applicant as per its constitutional document [Description of the sole objective]:
2. Net worth of the applicant as on (Date should not be earlier than more 90 days from the date of application):
 - (i) Amount:
 - (ii) Date of net worth:
 - (iii) Unique Document Identification Number of the net worth certificate issued by the Chartered Accountant, if any:
 - (iv) Date of the net worth certificate issued by the Chartered Accountant, if any:
3. Details of shareholding or partner's contribution in the applicant:
 - (i) In case of Partnership

S.NO	NAME OF PARTNER	AMOUNT OF CAPITAL CONTRIBUTION	% SHARE IN TOTAL CAPITAL CONTRIBUTION	WHETHER PARTNER IS AN INSOLVENCY PROFESSIONAL	REGISTRATION NO AS AN INSOLVENCY PROFESSIONAL, IF APPLICABLE

(ii) In case of Company

S.NO	NAME OF SHAREHOLDER	NUMBER OF SHARE HELD	% OF SHARE HELD	WHETHER SHAREHOLDER IS A DIRECTOR	WHETHER SHAREHOLDER IS AN INSOLVENCY PROFESSIONAL	REGISTRATION IS AN INSOLVENCY PROFESSIONAL IF APPLICABLE
1	2	3	4	5	6	7
5						

professional entity. (Yes/No)

If yes, please furnish the date of derecognition and ground for derecognition.

6. Whether any disciplinary proceeding has been initiated by the Board (IBBI) or the Insolvency Professional Agency against any director(s) / partner(s), who was/is/are insolvency professional(s). (Yes/No) If yes, please provide details.

AFFIRMATION

I, on behalf of [name of the applicant entity], affirm that –

(i) the applicant is eligible to be recognised as an insolvency professional entity;

- (ii) none of the directors or partners of the applicant, as the case may be, is a director or partner of another insolvency professional entity.
- 2. I affirm that the information furnished in this application is correct and complete to the best of my knowledge and belief.
- 3. I, on behalf of [name of the applicant entity], undertake to comply with the requirements of the Insolvency and Bankruptcy Code, 2016, rules, regulations, guidelines and circulars issued there under, and such other terms and conditions as may be imposed by the Board while granting the certificate of recognition.

Yours faithfully,
Authorized Signatory
(Name)
(Designation)

Place:

Date:

ATTACHMENTS

- 1. Copy of Board / Partners' Resolution authorizing the person to make this application and make correspondence with the Board

2. Copy of CIN/LLPIN/Certificate of Registration of the applicant
3. Copy of PAN of the applicant
4. Copy of GST Registration Certificate of the applicant
5. Copy of Memorandum of Association/LLP Agreement/Registered Partnership Deed of the applicant
6. Copy of certificate of net worth issued by the Chartered Accountant, if any
7. Copy of Financial Statements of the applicant (including Provisional Financial Statements, as on same date on which net worth of applicant has been submitted)
8. Copy of Certificate of Registration issued by the Board to IPs who are directors or partners, as the case may be, of applicant
9. Evidence of deposit / payment of fee, along with GST, as required under regulation 12(2) of IP Regulations.

SECOND SCHEDULE
FORM D
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
CERTIFICATE OF RECOGNITION

INSOLVENCY PROFESSIONAL ENTITY RECOGNITION NO. __

[Under Regulation 13 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

1. In exercise of the powers conferred by Regulation 13 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 the Board hereby grants a certificate recognizing [insert name], as an insolvency professional entity.
2. This certificate of recognition shall be valid from [insert start date].

Sd/-

(Name and Designation)

For and on behalf of Insolvency and Bankruptcy Board of India

Place:

Date:

FORM E

[Under Regulation 7(2)(ca) of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

To

The General Manager (IP Division)

Insolvency and Bankruptcy Board of India

Subject: Annual statement of professional fee of insolvency professional.

Sir / Madam,

1. I, [Insert name] hereby submit the annual statement of professional fee earned (whether received or not) by me from my services as an insolvency professional in the financial

S.NO	NAME OF DEBTOR	SERVICES RENDERED AS CIRP/RP/LIQUIDATOR /TRUSTEE OTHERS	PROFESSIONAL FEE AS AN INSOLVENCY PROFESSIONAL FOR THE YEAR

2. The following amounts are payable to the Board:

S.NO	UNDER REGULATION	AMOUNT PAYABLE
1	REGULATION 7(2)(CA)	
2	REGULATION 15 BEING INTEREST FROM	

3. A sum of Rs _____ account of the Board, viae..... ..

4. I, [insert name], hereby affirm that –

- i. all information contained in this statement is true and correct in all material respects and
- ii. no material information relevant for the purpose of this statement has been suppressed.

Yours faithfully,

Place:
(Name)

Date: -----
(Registration Number)]

FORM F

[Under regulation 13 (2) (b) and 13 (2) (c) of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

To

The Executive Director (IPE Division)

Insolvency and Bankruptcy Board of India

Subject: Information of cessation/joining of a Director / Partner in an insolvency professional entity.

Sir / Madam,

I, [Insert name], being duly authorised for the purpose, submit the following information in compliance with

sub-regulation (2)(b) and/or (2)(c) of regulation 13 of the Insolvency and Bankruptcy Board of India

(Insolvency Professionals) Regulations, 2016:-

A. Details of the IPE

(a) Name of the IPE:

(b) Date of Recognition by the Board:

(c) Recognition Number:

(c) E-mail address registered with the Board:

(d) Name and Designation of Authorised Signatory:

DESCRIPTION	PARTICULARS
Details of director/partner a. Name b. Registration No. as IP (if applicable) c. Date of registration (if applicable) d. E-mail address registered with the Board as IP (if applicable)	
Details of cessation a. Date of cessation as director/partner b. Whether ceased as Whole Time Director c. Reason of cessation (Resignation/Removal/any other) d. Date of filing of cessation with the concerned authority	

C. Details of director/partner who joined the IPE

DESCRIPTION	PARTICULARS
Details of director / partner a. Name b. Registration No. as IP (if applicable) c. Date of Registration (if applicable) d. E-mail address registered with the Board as IP (If applicable)	
Details of joining a. Date of Joining as director/partner b. Whether Joined as Whole Time Director c. Date of filing of joining with the concerned authority	

AFFIRMATION

I, on behalf of [name of the IPE], hereby affirm that-

- (i) I am submitting the above information within seven days of the cessation or joining of partner or director, as the case may be, in IPE;
- (ii) None of the directors or partners, as the case may be, of the IPE is a partner or director of another IPE; and

2. I, on behalf of [name of the insolvency professional entity], hereby declare that all information contained in this form are complete and correct to the best of my knowledge and belief.

Yours faithfully,
(Authorised Signatory)

(Name)

(Designation)

(Name of the IPE)

(Recognition Number of the IPE)

Place:

Date:

ATTACHMENTS

1. Affirmation of the director / partner (In Annexure I / II) ceasing or joining as director / partner of the IPE
2. Evidence of deposit / payment of fee, along with GST, as required under the regulation 13(2)(b), 13(2)(c) and 15, as the case may be. (Please note that a fee of rupees two thousand, plus GST as applicable, is payable in respect of cessation / joining of each director / partner).

Annexure 1 To Form F

[Under regulation 13 (2) (b) of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

To

The Executive Director (IPE Division)
Insolvency and Bankruptcy Board of India

Subject: Declaration on cessation of a Director / Partner of (Name of the IPE).

Sir / Madam,

I _____ (name), hereby affirm that I have ceased to be a director / partner of the _____ (name of IPE) bearing IPE recognition No. _____ with effect from _____ (dd-mm-yyyy). I shall, however, remain liable for every act of omission or commission by the IPE when I was its director / partner.

Yours faithfully,
(Name of ex-Director / ex-Partner)

Annexure 2 To Form F

[Under regulation 13 (2) (c) of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

To

The Executive Director (IPE Division)
Insolvency and Bankruptcy Board of India

Subject: Affidavit on joining as Director / Partner of (Name of IPE)

Sir / Madam,

I _____ (name) hereby affirm that I have joined as a director /
partner

_____ (name of an IPE) bearing IPE recognition no.

_____ with effect from _____ (dd- mm- yyyy). I am not a director /
partner in

any other IPE.

Sl. No.	Name of Debtor	Name of IP who rendered services as IRP / RP / Liquidator / Trustee / Other, if Any	Broad description of kind of service Rendered	Turnover from services rendered in the year (In Rs.)
1				
2				
3				
TOTAL				

2. The following amounts are payable to the Board:

S.NO	UNDER REGULATION	AMOUNT PAYABLE RS
1	Regulation 13 (2) (ca)	
2	Regulation 15, being interest from ... to	
TOTAL		

3. A sum of Rs. ..., as worked out in Para 2 above, has been deposited into the account of the Board, vide..... ..

4. I, on behalf of [insert name of entity], hereby affirm that –

- i. all information contained in this statement is true and correct in all material respects and
- ii. no material information relevant for the purpose of this statement has been suppressed.

Yours faithfully,
(Authorised Signatory)

Place:
(Name)

Date:
(Designation)

(IPE Name)
(IPE Recognition Number).

FORM H

[Under regulation 13(2) of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

To

The Executive Director (IPE Division)

Insolvency and Bankruptcy Board of India

Subject: Compliance Certificate under sub-regulation 2(cb) of regulation 13 of Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

Sir / Madam,

I, [name of the authorised signatory], having been authorised for the purpose, on behalf of [name of

insolvency professional entity] with [recognition number of the insolvency professional entity], hereby affirm

that the insolvency professional entity has

- (a) at all times complied with clauses (a) to (g) of sub-regulation (1) of regulation 12; and
- (b) complied with clauses (b) to (ca) of sub-regulation (2) of regulation 13 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 during the financial year

2. I, on behalf of [name of the insolvency professional entity], hereby submit the following information, reflecting the status as on 31st March ____ (Year):

(i) Sole objective/nature of business of the IPE [Description of the sole objective].

(ii) Net worth of the IPE:

(iii) Director / Partners:

Sl. No.	Name of the director/ Partner	Address of the director/ Partner	DIN/DPIN (if available)	PAN	Registration No. as an insolvency Professional	Professional members No. (if applicable)	% share in shares / capital Contributed	Whether Whole Time Director (Yes / No)
1	2	3	4	5	6	7	8	9

(iv) None of the directors / partners, as the case may be, is a director of or partner of another insolvency professional entity.

3. I, on behalf of [name of the insolvency professional entity], hereby affirm that all information contained in this form is complete and correct to the best of my knowledge and belief.

Yours faithfully,
Authorised Signatory
(Name)
(Designation)
(Name of IPE)
(IPE Recognition Number)

Place:

Date:

ATTACHMENTS

Certificate of net worth, (as at the end of last financial year) of IPE, issued by a Chartered Accountant along with copy of audited financial statements of the IPE, at the end of last financial year.]

**INSOLVENCY AND BANKRUPTCY
BOARD OF INDIA (LIQUIDATION
PROCESS) REGULATIONS, 2016-*Abridged***

- IBBI/2016-17/GN/REG005.-In exercise of the powers conferred by sections 5, 33, 34, 35, 37, 38, 39, 40, 41, 43, 45, 49, 50, 51, 52, 54, 196 and 208 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Board hereby makes the following Regulations, namely-

CHAPTER I PRELIMINARY

1. Short title and commencement.

- (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- (2) These Regulations shall come into force on the date of their publication in the Official Gazette.
- (3) These Regulations shall apply to the liquidation process under Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.

2. Definitions.

- (1) In these Regulations, unless the context otherwise requires-
 - (a) “books of the corporate debtor” means
 - (i) the books of account and the financial statements as defined in section 2(13) and 2(40) of the Companies Act, 2013,
 - (ii) the books of account as referred to in section 34 of the Limited Liability Partnership Act, 2008, or

- (iii) the books of accounts as specified under the applicable law, as the case may be;
- (b) “Code” means the Insolvency and Bankruptcy Code, 2016;
- (ba) “consultation committee” means the stakeholders’ consultation committee constituted under sub-regulation (1) of regulation 31A;
- (c) “contributory” means a member of the company, a partner of the limited liability partnership, and any other person liable to contribute towards the assets of the corporate debtor in the event of its liquidation;
- (ca) “Corporate Liquidation Account” means the Corporate Liquidation Account operated and maintained by the Board under regulation 46;]
- (d) “electronic means” mean an authorized and secured computer programme which is capable of producing confirmation of sending communication to the participant entitled to receive such communication at the last electronic mail address provided by such participant and keeping record of such communication;
- (e) “identification number” means the Limited Liability Partnership Identification Number or the Corporate Identity Number, as the case may be;
- (ea) “liquidation cost” under clause (16) of section 5 means-
 - (i) fee payable to the liquidator under regulation 4;
 - (ii) remuneration payable by the liquidator under sub-regulation (1) of regulation 7;
 - (iii) costs incurred by the liquidator under sub-regulation (2) of regulation 24;

- (iv) costs incurred by the liquidator for preserving and protecting the assets, properties, effects and actionable claims, including secured assets, of the corporate debtor;
- (v) costs incurred by the liquidator in carrying on the business of the corporate debtor as a going concern;
- (vi) interest on interim finance for a period of twelve months or for the period from the liquidation commencement date till repayment of interim finance, whichever is lower;
- (vii) the amount repayable to contributories under sub-regulation (3) of regulation 2A;
- (viii) any other cost incurred by the liquidator which is essential for completing the liquidation process:
 - Provided that the cost, if any, incurred by the liquidator in relation to compromise or arrangement under section 230 of the Companies Act, 2013 (18 of 2013), if any, shall not form part of liquidation cost.
- (f) “Preliminary Report” means the report prepared in accordance with Regulation 13;
- (g) “Progress Report” means the quarterly report prepared in accordance with Regulation 15;
- (h) “registered valuer” means a person registered as such in accordance with the Companies Act, 2013 (18 of 2013) and rules made there under;
- (i) “Schedule” means a schedule to these Regulations;
- (j) “section” means section of the Code; and
- (k) “stakeholders” means the stakeholders entitled to distribution of proceeds under section 53.

(2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations, but defined in the Code, shall have the meanings assigned to them in the Code.

2A. Contributions to liquidation costs.

(1) Where the committee of creditors did not approve a plan under sub-regulations (3) of regulation 39B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the liquidator shall call upon the financial creditors, being financial institutions, to contribute the excess of the liquidation costs over the liquid assets of the corporate debtor, as estimated by him, in proportion to the financial debts owed to them by the corporate debtor.

Illustration

- Assume that the excess of liquidation costs over liquid assets is Rs.10, as estimated by the

Sl. No.	Financial creditors	Amount of debt due to financial creditors (Rs.)	Amount to be contributed towards liquidation cost (Rs.)
(1)	(2)	(3)	(4)
1	Financial institution A	40	04
2	Financial institution B	60	06
3	Non-financial institution A	50	00

- (2) The contributions made under the plan approved under sub-regulation (3) of regulation 39B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 or contributions made under sub-regulation (1), as the case may be, shall be deposited in a designated escrow account to be opened and maintained in a scheduled bank, within seven days of the passing of the liquidation order.
- (3) The amount contributed under sub-regulation (2) shall be repayable with interest at bank rate referred to in section 49 of the Reserve Bank of India Act, 1934 (2 of 1934) as part of liquidation cost.

[*Explanation.- It is hereby clarified that the requirements of this regulation shall apply to the liquidation processes commencing on or after the date of the commencement of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019.*]

2B. Compromise or arrangement.

- (1) Where a compromise or arrangement is proposed under section 230 of the Companies Act, 2013 (18 of 2013), it shall be completed **within ninety days of the order of liquidation** under sub-sections (1) and (4) of section 33.
- Provided that a person, who is not eligible under the Code to submit a resolution plan for insolvency resolution of the corporate debtor, shall not be a party in any manner to such compromise or arrangement.]
 - ¹⁰[*Provided further that where the recommendation to explore proposal of compromise or arrangement has been made by the committee under regulation 39BA of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the liquidator shall file the proposal within thirty days of the order of liquidation.*]
- (2) **The time taken on compromise or arrangement, not exceeding ninety days, shall not be included in the liquidation period.(1 year+90 days)**
- (3) Any cost incurred by the liquidator in relation to compromise or arrangement shall be borne by the corporate debtor, where such compromise or arrangement is sanctioned by the Tribunal under sub-section (6) of section 230:

- Provided that such cost shall be borne by the parties who proposed compromise or arrangement, where such compromise or arrangement is not sanctioned by the Tribunal under sub-section (6) of section 230.

CHAPTER II

APPOINTMENT AND REMUNERATION OF LIQUIDATOR

3. Eligibility for appointment as liquidator.

- (1) An insolvency professional shall be eligible to be appointed as a liquidator if he, and every partner or director of the insolvency professional entity of which he is a partner or director, is independent of the corporate debtor.

Explanation— A person shall be considered independent of the corporate debtor, if he—

- (a) is eligible to be appointed as an independent director on the board of the corporate debtor under section 149 of the Companies Act, 2013 (18 of 2013), where the corporate debtor is a company;
- (b) is not a related party of the corporate debtor; or
- (c) has not been an employee or proprietor or a partner:
- (i) of a firm of auditors or [secretarial auditors] or cost auditors of the corporate debtor; or
 - (ii) of a legal or a consulting firm, that has or had any transaction with the corporate debtor contributing **ten per cent or more of the gross turnover of such firm**, in the last three financial years.

- (2) A liquidator shall disclose the existence of any pecuniary or personal relationship with the concerned corporate debtor or any of its stakeholders as soon as he becomes aware of it, to the Board and the Adjudicating Authority.
- (3) An insolvency professional shall not continue as a liquidator if the insolvency professional entity of which he is a director or partner, or any other partner or director of such insolvency professional entity represents any other stakeholder in the same liquidation process.

4. Liquidator's fee.

- (1) The fee payable to the liquidator shall be in accordance with the decision taken by the committee of creditors under regulation 39D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

[(1A) Where no fee has been fixed under sub-regulation (1), the consultation committee may fix the fee of the liquidator in its first meeting.]

- (2) In cases other than those covered under sub-regulation (1), the liquidator shall be entitled to a fee-
 - (a) at the same rate as the resolution professional was entitled to during the corporate insolvency resolution process, for the period of compromise or arrangement under section 230 of the Companies Act, 2013 (18 of 2013); and
 - (b) as a percentage of the amount realized net of other liquidation costs, and of the amount distributed, for the balance period of liquidation, as under:

- Clarification: For the purposes of clause (b), it is hereby clarified that where a liquidator realises any amount, but does not distribute the same, he shall be entitled to a fee corresponding to the amount realised by him. Where a liquidator distributes any amount, which is not realised by him, he shall be entitled to a fee corresponding to the amount distributed by him.]
- (3) Where the fee is payable under clause (b) of sub-regulation (2), the liquidator shall be entitled to receive half of the fee payable on realisation only after such realised amount is distributed.
- Clarification: Regulation 4 of these regulations, as it stood before the commencement of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019 shall continue to be applicable in relation to the liquidation processes already commenced before the coming into force of the said amendment Regulations.

CHAPTER III

POWERS AND FUNCTIONS OF LIQUIDATOR

5. Reporting.

- (1) The liquidator shall prepare and submit:
- (a) a preliminary report;
 - (b) an asset memorandum;

- (c) progress report(s);
 - (d) sale report(s);
 - (e) minutes of consultation with stakeholders; and
 - (f) the final report prior to dissolution to the Adjudicating Authority in the manner specified under these Regulations.(2) The liquidator shall preserve a physical as well as an electronic copy of the reports and minutes referred to in sub-regulation (1) for eight years after the dissolution of the corporate debtor.
- (3) Subject to other provisions of these Regulations, the liquidator shall make the reports and minutes referred to sub-regulation (1) available to a stakeholder in either electronic or physical form, on receipt of
- (a) an application in writing;
 - (b) costs of making such reports and minutes available to it; and
 - (c) an undertaking from the stakeholder that it shall maintain confidentiality of such reports and minutes and shall not use these to cause an undue gain or undue loss to itself or any other person.

6. Registers and books of account.

- (1) Where the books of account of the corporate debtor are incomplete on the liquidation commencement date, the liquidator shall have them completed and brought up-to-date, with all convenient speed, as soon as the order for liquidation is passed.

(2) The liquidator shall maintain the following registers and books, as may be applicable, in relation to the liquidation of the corporate debtor, and shall **preserve them for a period of eight years** after the dissolution of the corporate debtor-

- (a) Cash Book;
- (b) Ledger;
- (c) Bank Ledger;
- (d) Register of Fixed Assets and Inventories;
- (e) Securities and Investment Register;
- (f) Register of Book Debts and Outstanding Debts;
- (g) Tenants Ledger;
- (h) Suits Register;
- (i) Decree Register;
- (j) Register of Claims and Dividends;
- (k) Contributories Ledger;
- (l) Distributions Register;
- (m) Fee Register;

- (o) Documents Register;
 - (p) Books Register;
 - (q) Register of unclaimed dividends and undistributed proceeds; and
 - (r) such other books or registers as may be necessary to account for transactions entered into by him in relation to the corporate debtor.
- (3) The registers and books under sub-regulation (2) may be maintained in the forms indicated in Schedule III, with such modifications as the liquidator may deem fit in the facts and circumstances of the liquidation process.
- (4) The liquidator shall keep receipts for all payments made or expenses incurred by him.

7. Appointment of professionals.

- (1) A liquidator may appoint professionals to assist him in the discharge of his duties, obligations and functions for a reasonable remuneration and such remuneration shall form part of the liquidation cost.
- (2) The liquidator shall not appoint a professional under sub-regulation (1) who is his relative, is a related party of the corporate debtor or has served as an auditor to the corporate debtor in the five years preceding the liquidation commencement date.
- (3) A professional appointed or proposed to be appointed under sub-regulation (1) shall disclose the existence of any pecuniary or personal relationship with any of the stakeholders, or the concerned corporate debtor as soon as he becomes aware of it, to the liquidator.

8. Consultation with stakeholders.

- (1) The stakeholders consulted under section 35(2) shall extend all assistance and cooperation to the liquidator to complete the liquidation of the corporate debtor.
- (2) The liquidator shall maintain the particulars of any consultation with the stakeholders made under this Regulation, as specified in Form A of Schedule II.

9. Personnel to extend cooperation to liquidator.

- (1) The liquidator may make an application to the Adjudicating Authority for a direction that a person who-
 - (a) is or has been an officer, auditor, employee, promoter or partner of the corporate debtor;
 - (b) was the interim resolution professional, resolution professional or the previous liquidator of the corporate debtor; or
 - (c) has possession of any of the properties of the corporate debtor; shall cooperate with him in the collection of information necessary for the conduct of the liquidation.
- (2) **An application may be made under this Regulation only after the liquidator has made reasonable efforts to obtain the information from such person and failed to obtain it.(Pehle khud maang ke dekho)**

10. Disclaimer of onerous property.

- (1) Where any part of the property of a corporate debtor consists of-

- (a) land of any tenure, burdened with onerous covenants;
- (b) shares or stocks in companies;
- (c) any other property which is not saleable or is not readily saleable by reason of the possessor thereof being bound either to the performance of any onerous act or to the payment of any sum of money; or
- (d) unprofitable contracts;

The liquidator may, notwithstanding that he has endeavored to sell or has taken possession of the property or exercised any act of ownership in relation thereto or done anything in pursuance of the contract, make an application to the Adjudicating Authority **within six months** from the liquidation commencement date, or such extended period as may be allowed by the Adjudicating Authority, to disclaim the property or contract.

- (2) The liquidator shall not make an application under sub-regulation (1) if a person interested in the property or contract **inquired in writing whether he will make an application** to have such property disclaimed, **and he did not communicate his intention to do so within one month from receipt of such inquiry.**

- (3) The liquidator shall serve a notice to persons interested in the onerous property or contract at least seven days before making an application for disclaimer to the Adjudicating Authority:

Explanation: A person is interested in the onerous property or contract if he-

- (a) is entitled to the benefit or subject to the burden of the contract; or
- (b) claims an interest in a disclaimed property or is under a liability not discharged in respect of a disclaimed property.

- (4) Subject to the order of the Adjudicating Authority approving such disclaimer, the disclaimer shall operate to determine, from the date of disclaimer, the rights, interest and liabilities of the corporate debtor in or in respect of the property or contract disclaimed, but shall not, except so far as is necessary for the purpose of releasing the corporate debtor and the property of the corporate from liability, affect the rights, interest or liabilities of any other person. **(CD ke rights khatam honge, liability nahin)**
- (5) A person affected by the disclaimer under this Regulation shall be deemed to be a creditor of the corporate debtor for the amount of the compensation or damages payable in respect of such effect, and may accordingly be payable as a debt in liquidation under section 53(1)(f).

11. Extortionate credit transactions.

- A transaction shall be considered an extortionate credit transaction under section 50(2) where the terms-
 - (1) require the corporate debtor to make exorbitant payments in respect of the credit provided; or
 - (2) are unconscionable under the principles of law relating to contracts.

CHAPTER IV GENERAL

12. Public announcement by liquidator.

- (1) The liquidator shall make a public announcement in Form B of Schedule II within five days from his appointment.
- (2) The public announcement shall-

- (a) call upon stakeholders to submit their claims or update their claims submitted during the corporate insolvency resolution process, as on the liquidation commencement date; and
- (b) provide the last date for submission or updating of claims, which shall be thirty days from the liquidation commencement date.]
- [(c) provide that where a stakeholder does not submit its claims during the liquidation process, the claims submitted by such a stakeholder, and duly collated by the interim resolution professional or resolution professional, as the case may be, during the corporate insolvency resolution process under the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, shall be deemed to be submitted under section 38.]

(3) The announcement shall be published-

- (a) in one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, of the corporate debtor and any other location where in the opinion of the liquidator, the corporate debtor conducts material business operations;
- (b) on the website, if any, of the corporate debtor; and
- (c) on the website, if any, designated by the Board for this purpose.

[12A. Process email ID.

- The liquidator shall operate the process email account handed over to him by the resolution professional in accordance with regulation 4C of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and in the event of his replacement, the credentials of such email ID shall be handed over to the new liquidator.]

13. Preliminary report.

The liquidator shall submit a Preliminary Report to the Adjudicating Authority **within seventy five days** from the liquidation commencement date, detailing-

- (a) the capital structure of the corporate debtor;
- (b) the estimates of its assets and liabilities as on the liquidation commencement date based on the books of the corporate debtor:

- Provided that if the liquidator has reasons to believe, to be recorded in writing, that the books of the corporate debtor are not reliable, he shall also provide such estimates based on reliable records and data otherwise available to him;
- (c) whether, he intends to make any further inquiry in to any matter relating to the promotion, formation or failure of the corporate debtor or the conduct of the business thereof; and
- (d) the proposed plan of action for carrying out the liquidation, including the timeline within which he proposes to carry it out and the estimated liquidation costs.

14. Early dissolution.

Any time after the preparation of the Preliminary Report, if it appears to the liquidator that-

- (a) the realizable properties of the corporate debtor are insufficient to cover the cost of the liquidation process; and
- (b) the affairs of the corporate debtor do not require any further investigation; he may apply to the Adjudicating Authority for early dissolution of the corporate debtor and for necessary directions in respect of such dissolution.

15. Progress reports.

(1) **The liquidator shall submit ²⁰[Progress Reports, in the format stipulated by the Board, to the Adjudicating Authority and the Board”]as under-**

(a) the first Progress Report within fifteen days after the end of the quarter in which he is appointed;

(b) subsequent Progress Report(s) within fifteen days after the end of every quarter during which he acts as liquidator; and

- *Provided that if an insolvency professional ceases to act as a liquidator during the liquidation process, he shall file a Progress Report for the quarter up to the date of his so ceasing to act, within fifteen days of such cessation.*

(2) A Progress Report shall provide all information relevant to liquidation for the quarter, including-

(a) appointment, tenure of appointment and cessation of appointment of professionals;

(b) a statement indicating progress in liquidation, including

(i) settlement of list of stakeholders,

(ii) details of any property that remain to be sold and realized,

(iii) distribution made to the stakeholders, and

(iv) distribution of unsold property made to the stakeholders;

(c) details of fee or remuneration, including-

- (i) the fee due to and received by the liquidator together with a description of the activities carried out by him,
 - (ii) the remuneration or fee paid to professionals appointed by the liquidator together with a description of activities carried out by them,
 - (iii) other expenses incurred by the liquidator, **whether paid or not;**
 - (d) developments in any material litigation, by or against the corporate debtor;
 - (e) **filing of, and developments in applications for avoidance of transactions under Part II of the Code; and**
 - (f) changes, if any, in estimated liquidation costs.
- (3) A Progress Report shall enclose an account maintained by the liquidator showing-
- (a) his receipts and payments during the quarter; and
 - (b) the cumulative amount of his receipts and payments since the liquidation commencement date.
- (4) A Progress Report shall enclose a statement indicating any material change in expected realization of any property proposed to be sold, along with the basis for such change:
- (5) The Progress Report for the fourth quarter of the financial year shall enclose audited accounts of the liquidator's receipts and payments for the financial year:

- *Provided that in case an insolvency professional ceases to act as liquidator, the audited accounts of his receipts and payments for that part of the financial year during which he has acted as liquidator, shall be enclosed with the Progress Report to be filed after cessation of his appointment.*

Illustration: An insolvency professional becomes a liquidator on 13th February, 2017, and ceases to act as liquidator on 12th February, 2019. He shall submit Progress Reports as under:

REPORT NO	PERIOD COVERED IN THE QUARTER	LAST DATE OF SUBMISSION OF REPORT
1	13th February - 31st March, 2017	15th April, 2017
2	April - June, 2017	15th July, 2017
3	April - June, 2017	15th October, 2017
4	October - December, 2017	15th January, 2018
5	January - March, 2018	15th April, 2018
6	April - June, 2018	15th July, 2018
7	July - September, 2018	15th October, 2018
8	October - December, 2018	15th January, 2019
9	January - 12th February, 2019	27th February, 2019

Audited Account No.	Period covered in the Year	Last Date of Submission
1	13th February - 31st March, 2017	15th April, 2017
2	April - March, 2018	15th April, 2018
3	April - 12th February, 2019	27th February, 2019

CHAPTER V CLAIMS

16. Submission of claim.

- (1) A person, who claims to be a stakeholder, shall submit its claim, or update its claim submitted during the corporate insolvency resolution process, including interest, if any, on or before the last date mentioned in the public announcement.
- (2) A person shall prove its claim for debt or dues to him, including interest, if any, as on the liquidation commencement date.

17. Claims by operational creditors.

- (1) A person claiming to be an operational creditor of the corporate debtor, other than a workman or employee, shall submit proof of claim to the liquidator in person, by post or by electronic means in Form C of Schedule II.
- (2) The existence of debt due to an operational creditor under this Regulation may be proved on the basis of-
 - (a) the records available with an information utility, if any; or
 - (b) other relevant documents which adequately establish the debt, including any or all of the following -
 - (i) a contract for the supply of goods and services with corporate debtor;
 - (ii) an invoice demanding payment for the goods and services supplied to the corporate debtor;
 - (iii) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any; and
 - (iv) financial accounts.

18. Claims by financial creditors.

- (1) A person claiming to be a financial creditor of the corporate debtor shall submit proof of claim to the liquidator in electronic means in Form D of Schedule II.
- (2) The existence of debt due to the financial creditor may be proved on the basis of-
 - (a) the records available in an information utility, if any; or

- (b) other relevant documents which adequately establish the debt, including any or all of the following-
 - (i) a financial contract supported by financial statements as evidence of the debt;
 - (ii) a record evidencing that the amounts committed by the financial creditor to the corporate debtor under a facility has been drawn by the corporate debtor;
 - (iii) financial statements showing that the debt has not been repaid; and
 - (iv) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any.

19. Claims by workmen and employees.

- (1) A person claiming to be a workman or an employee of the corporate debtor shall submit proof of claim to the liquidator in person, by post or by electronic means in Form E of Schedule II.
- (2) Where there are dues to numerous workmen or employees of the corporate debtor, an authorized representative may submit one proof of claim for all such dues on their behalf in Form F of Schedule II.
- (3) The existence of dues to workmen or employees may be proved by them, individually or collectively, on the basis of-
 - (a) records available in an information utility, if any; or
 - (b) other relevant documents which adequately establish the dues, including any or all of the following –
 - (i) a proof of employment such as contract of employment for the period for which such workman or employee is claiming dues;

- (ii) evidence of notice demanding payment of unpaid amount and any documentary or other proof that payment has not been made; and
- (iii) an order of a court or tribunal that has adjudicated upon the non-payment of dues, if any.
- (4) **The liquidator may admit the claims of a workman or an employee on the basis of the books of account of the corporate debtor if such workman or employee has not made a claim.**

20. Claims by other stakeholders.

- (1) A person, claiming to be a stakeholder other than those under Regulations 17(1), 18(1), or 19(1), shall submit proof of claim to the liquidator in person, by post or by electronic means in Form G of Schedule II.
- (2) The existence of the claim of the stakeholder may be proved on the basis of -
 - (a) the records available in an information utility, if any, or
 - (b) other relevant documents which adequately establish the claim, including any or all of the following-
 - (i) documentary evidence of notice demanding payment of unpaid amount or bank statements of the claimant showing that the claim has not been paid and an affidavit that the documentary evidence and bank statements are true, valid and genuine;
 - (ii) documentary or electronic evidence of his shareholding; and
 - (iii) an order of a court, tribunal or other authority that has adjudicated upon the nonpayment of a claim, if any.

21. Proving security interest.

- The existence of a security interest may be proved by a secured creditor on the basis of-
 - (a) the records available in an information utility, if any;
 - (b) certificate of registration of charge issued by the Registrar of Companies; or
 - (c) proof of registration of charge with the Central Registry of Securitization Asset Reconstruction and Security Interest of India.

21A. Presumption of security interest.

- (1) A secured creditor shall inform the liquidator of its decision to relinquish its security interest to the liquidation estate or realise its security interest, as the case may be, in Form C or Form D of Schedule II:
 - Provided that, where a secured creditor does not intimate its decision within thirty days from the liquidation commencement date, the assets covered under the security interest shall be presumed to be part of the liquidation estate.
- (2) Where a secured creditor proceeds to realise its security interest, it shall pay -
 - (a) as much towards the amount payable under clause (a) and sub-clause (i) of clause (b) of sub-section (1) of section 53, as it would have shared in case it had relinquished the security interest, to the liquidator within ninety days from the liquidation commencement date; and

(b) the excess of the realised value of the asset, which is subject to security interest, over the amount of his claims admitted, to the liquidator within one hundred and eighty days from the liquidation commencement date:

- Provided that where the amount payable under this sub-regulation is not certain by the date the amount is payable under this sub-regulation, the secured creditor shall pay the amount, as estimated by the liquidator:
- Provided further that any difference between the amount payable under this sub-regulation and the amount paid under the first proviso shall be made good by the secured creditor or the liquidator, as the case may be, as soon as the amount payable under this sub-regulation is certain and so informed by the liquidator.

(3) Where a secured creditor fails to comply with sub-regulation (2), the asset, which is subject to security interest, shall become part of the liquidation estate.

22. Production of bills of exchange and promissory notes.

- Where a person seeks to prove a debt in respect of a bill of exchange, promissory note or other negotiable instrument or security of a like nature for which the corporate debtor is liable, such bill of exchange, note, instrument or security, as the case may be, shall be produced before the liquidator before the claim is admitted.

23. Substantiation of claims.

- The liquidator may call for such other evidence or clarification as he deems fit from a claimant for substantiating the whole or part of its claim.

24. Cost of proof.

(1) A claimant shall bear the cost of proving its claim.

(2) Costs incurred by the liquidator for verification and determination of a claim shall form part of liquidation cost:

- Provided that if a claim or part of the claim is found to be false, the liquidator shall endeavor to recover the costs incurred for verification and determination of claim from such claimant, and shall provide the details of the claimant to the Board.

25. Determination of quantum of claim.

- Where the amount claimed by a claimant is not precise due to any contingency or any other reason, the liquidator shall make the best estimate of the amount of the claim based on the information available with him.

26. Debt in foreign currency.

- The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as on the liquidation commencement date.
- Explanation- “The official exchange rate” is the reference rate published by the Reserve Bank of India or derived from such reference rates.

27. Periodical payments.

- In the case of rent, interest and such other payments of a periodical nature, a person may claim only for any amounts due and unpaid up to the liquidation commencement date.

28. Debt payable at future time.

- (1) A person may prove for a claim whose payment was not yet due on the liquidation commencement date and is entitled to distribution in the same manner as any other stakeholder.
- (2) Subject to any contract to the contrary, where a stakeholder has proved for a claim under sub-regulation (1), and the debt has not fallen due before distribution, he is entitled to distribution of the admitted claim reduced as follows-

$$X / (1+r)^n$$

where—

- (a) “X” is the value of the admitted claim;
- (b) “r” is the closing yield rate (%) of government securities of the maturity of “n” on the date of distribution as published by the Reserve Bank of India; and
- (c) “n” is the period beginning with the date of distribution and ending with the date on which the payment of the debt would otherwise be due, expressed in years and months in a decimalized form.

29. Mutual credits and set-off.

- Where there are mutual dealings between the corporate debtor and another party, the sums due from one party shall be set off against the sums due from the other to arrive at the net amount payable to the corporate debtor or to the other party.
- *Illustration: X owes Rs. 100 to the corporate debtor. The corporate debtor owes Rs. 70 to X.*
- After set off, Rs. 30 is payable by X to the corporate debtor.

30. Verification of claims

- The liquidator shall verify the claims submitted within thirty days from the last date for receipt of claims and may either admit or reject the claim, in whole or in part, as the case may be.
- [Provided that the liquidator shall also verify the claims collated during the corporate insolvency resolution process but not submitted during the liquidation process, within thirty days from the last date for receipt of claims during liquidation process and may either admit or reject the claim, in whole or in part.]

[30A. Transfer of debt due to creditors.

(1) A creditor may assign or transfer the debt due to him or it to any other person during the liquidation process in accordance with the laws for the time being in force dealing with such assignment or transfer.

(2) Where any creditor assigns or transfers the debt due to him or it to any other person under sub-regulation (1), both parties shall provide to the liquidator the terms of such assignment or transfer and the identity of the assignee or transferee.

(3) The liquidator shall modify the list of stakeholders in accordance with the provisions of regulation 31]

31. List of stakeholders.

- (1) The liquidator shall prepare a list of stakeholders, category-wise, on the basis of proofs of claims submitted and accepted under these Regulations, with-
 - (a) the amounts of claim admitted, if applicable,
 - (b) the extent to which the debts or dues are secured or unsecured, if applicable,
 - (c) the details of the stakeholders, and
 - (d) the proofs admitted or rejected in part, and the proofs wholly rejected.

- (2) The liquidator shall file the list of stakeholders with the Adjudicating Authority within forty-five days from the last date for receipt of claims, and the filing of the list shall be announced to the public in the manner specified in Regulation 12(3).
 - (3) The liquidator may apply to the Adjudicating Authority to modify an entry in the list of stakeholders filed with the Adjudicating Authority, when he comes across additional information warranting such modification, and shall modify the entry in the manner directed by the Adjudicating Authority.
 - (4) The liquidator shall modify an entry in the list of stakeholders filed with the Adjudicating Authority, in the manner directed by the Adjudicating Authority while disposing off an appeal preferred under section 42.
 - (5) The list of stakeholders, as modified from time to time, shall be-
 - (a) available for inspection by the persons who submitted proofs of claim;
 - (b) available for inspection by members, partners, directors and guarantors of the corporate debtor;
 - (c) displayed on the website, if any, of the corporate debtor.
- **[31A. Stakeholders' consultation committee.**
 - **[(1) The liquidator shall constitute a consultation committee, comprising of all creditors of the corporate debtor, within sixty days from the liquidation commencement date, based on the list of stakeholders prepared under regulation 31, to advise him on matters relating to-**
 - (a) remuneration of professionals appointed under regulation 7;**

- (b) sale under regulation 32, including manner of sale, pre-bid qualifications, reserve price, marketing strategy and auction process.;
- (c) fees of the liquidator;
- (d) valuation under sub- regulation (2) of regulation 35;
- (e) the manner in which proceedings in respect of preferential transactions, undervalued transaction, extortionate credit transaction or fraudulent or wrongful trading, if any, shall be pursued after closure of liquidation proceedings and the manner in which the proceeds, if any, from these proceedings shall be distributed.]

³³ [(1A) The committee of creditors under section 21 shall function as the consultation committee with same voting rights till constitution of the consultation committee under sub- regulation (1).]

³⁴ [(2) The voting share of a member of the consultation committee shall be in proportion to his admitted claim in the total admitted claim:

Provided a secured creditor who has not relinquished his security interest under section 52 shall not be part of the consultation committee;

³³ Inserted by Notification No. IBBI/2022-23/GN/REG094, dated 16th September, 2022 (w.e.f. 16-09-2022).

³⁴ Substituted by Notification No. IBBI/2022-23/GN/REG094, dated 16th September, 2022 (w.e.f. 16-09-2022).
Prior to substitution, sub-regulation (2) stood as:

“The composition of the consultation committee under sub-regulation (1) shall be as shown in the Table below:

Table

Class of Stakeholders	Description	Number of Representatives
(1)	(2)	(3)
Secured financial creditors, who have relinquished their security interests under section 52	Where claims of such creditors admitted during the liquidation process is less than 50% of liquidation value	Number of creditors in the category, subject to a maximum of 2
	Where claims of such creditors admitted during the liquidation process is at least 50% of liquidation value	Number of creditors in the category, subject to a maximum of 4
Unsecured financial creditors	Where claims of such creditors admitted during the liquidation process is less than 25% of liquidation value	Number of creditors in the category, subject to a maximum of 1
	Where claims of such creditors admitted during the liquidation process is at least 25% of liquidation value	Number of creditors in the category, subject to a maximum of 2
Workmen and employees	1	1
Governments	1	1
Operational creditors other than Workmen, employees and Governments	Where claims of such creditors admitted during the liquidation process is less than 25% of liquidation value	Number of creditors in the category, subject to a maximum of 1
	Where claims of such creditors admitted during the liquidation process is at least 25% of liquidation value	Number of creditors in the category, subject to a maximum of 2

Provided that the promoters, directors, partners or their representatives may attend the meeting of the consultation committee, but shall not have any right to vote.

Provided further that a financial creditor or his representative, if he is a related party of the corporate debtor, shall not have right to vote.]

³⁵[(3). The liquidator may facilitate the stakeholders of each class namely financial creditors in a class, workmen, employees, government departments, other operational creditors, shareholders, partners, to nominate their representative for participation in the consultation committee.]

³⁶ [(4) If the stakeholders of any class fail to nominate their representatives, under sub-regulation (3), such representatives shall be selected by a majority of voting share of the class, present and voting.]

³⁷[(4A) the representative under sub-regulation (3) or (4) shall vote in proportion to the voting share of the stakeholders it represents.]

(5) Subject to the provisions of the Code and these regulations, representatives in the consultation committee shall have access to all relevant records and information as may be required to provide advice to the liquidator under sub-regulation (1).

³⁸[(6) The liquidator shall convene the first meeting of the consultation committee within seven days of the liquidation commencement date and may convene other meetings, if he considers necessary, on a request received from one or more members of the consultation committee:

Provided that when a request is received by the liquidator from members, individually or collectively, having at least thirty three percent of the total voting rights, the liquidator shall mandatorily convene the meeting.]

(7)The liquidator shall chair the meetings of consultation committee and record deliberations of the meeting.

(8)The liquidator shall place the recommendation of committee of creditors made under sub-regulation (1) of regulation 39C of the Insolvency and Bankruptcy Board of India (Insolvency

³⁵ Substituted by Notification No. IBBI/2022-23/GN/REG094, dated 16th September, 2022 (w.e.f. 16-09-2022). Prior to substitution, sub-regulation (3) stood as: "The liquidator may facilitate the stakeholders of each class to nominate their representatives for inclusion in the consultation committee".

³⁶ Substituted by Notification No. IBBI/2021-22/GN/REG079, dated 30th September, 2021 (w.e.f. 30-09-2021). Prior to substitution, it stood as under:

"(4) If the stakeholders of any class fail to nominate their representatives, the required number of stakeholders with the highest claim amount in that class shall be included in the consultation committee."

³⁷ Inserted by Notification No. IBBI/2022-23/GN/REG094, dated 16th September, 2022 (w.e.f. 16-09-2022).

³⁸ Substituted by Notification No. IBBI/2022-23/GN/REG094, dated 16th September, 2022 (w.e.f. 16-09-2022). Prior to substitution, sub-regulation (6) stood as: "The liquidator shall convene a meeting of the consultation committee when he considers it necessary and shall convene a meeting of the consultation committee when a request is received from at least fifty-one percent of representatives in the consultation committee".

Resolution Process for Corporate Persons) Regulations, 2016, before the consultation committee for its information.

(9)The consultation committee shall advise the liquidator, by a vote of not less than sixty-six percent of the representatives of the consultation committee, ³⁹[voting].

(10) The advice of the consultation committee shall not be binding on the liquidator:

Provided that where the liquidator takes a decision different from the advice given by the consultation committee, he shall record the reasons for the same in writing [and ⁴⁰submit the records relating to the said decision, to the Adjudicating Authority and to the Board within five days of the said decision; and include it in the next progress report]

⁴¹[*Explanation*.- It is hereby clarified that the requirements of this regulation shall apply to the liquidation processes commencing on or after the date of the commencement of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019.]

⁴²[(11) The consultation committee, after recording the reasons, may by a majority vote of not less sixty-six per cent., propose to replace the liquidator and shall file an application, after obtaining the written consent of the proposed liquidator in Form AA of the Schedule II, before the Adjudicating Authority for replacement of the liquidator :

Provided that where a liquidator is proposed to be replaced, he shall-

- (a) continue to work till his replacement; and
- (b) be suitably remunerated for work performed till his replacement.

Provided that where a consultation committee under Regulation 31A has been constituted before the commencement of Insolvency and Bankruptcy Board of India (Liquidation Process) (Second Amendment) Regulations, 2022, the liquidator within thirty days of the commencement of the said Regulations, shall re-constitute the consultation committee as required under the said Regulations and provisions provided under amended Regulation 31A shall come into effect only after such constitution.]

CHAPTER VI REALISATION OF ASSETS

32. ⁴³[Sale of Assets, etc.

³⁹ Substituted by Notification No. IBBI/2022-23/GN/REG094, dated 16th September, 2022 (w.e.f. 16-09-2022). Prior to substitution, the words stood as: "present and voting".

⁴⁰ Substituted by Notification No. IBBI/2022-23/GN/REG094, dated 16th September, 2022 (w.e.f. 16-09-2022). Prior to substitution, the words stood as: "mention it in the next progress report"..

⁴¹ Inserted by Notification No. IBBI/2022-23/GN/REG082, dated 28th April, 2022 (w.e.f. 28-04-2022).

⁴² Inserted by Notification No. IBBI/2022-23/GN/REG094, dated 16th September, 2022 (w.e.f. 16-09-2022). ⁴³ Substituted by Notification No. IBBI/2018-19/GN/REG037, dated 22nd October, 2018 (w.e.f. 22-10-2018). Regulation 32, prior to substitution it stood as under:

“[32. Manner of sale.

The liquidator may

CHAPTER VI

REALISATION OF ASSETS

32. Sale of Assets, etc.

The liquidator may sell-

(a) an asset on a standalone basis;

- (b) the assets in a slump sale;
- (c) a set of assets collectively;
- (d) the assets in parcels;
- (e) the corporate debtor as a going concern; or
- (f) the business(s) of the corporate debtor as a going concern:
 - Provided that where an asset is subject to security interest, it shall not be sold under any of the clauses (a) to (f) unless the security interest therein has been relinquished to the liquidation estate.

32A. Sale as a going concern.

- (1) Where the committee of creditors has recommended sale under clause (e) or (f) of regulation 32 or where the liquidator is of the opinion that sale under clause (e) or (f) of regulation 32 shall maximize the value of the corporate debtor, he shall endeavour to first sell under the said clauses.
- (2) For the purpose of sale under sub-regulation (1), the group of assets and liabilities of the corporate debtor, as identified by the committee of creditors under sub-regulation (2) of regulation 39C of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 shall be sold as a going concern.

(3) Where the committee of creditors has not identified the assets and liabilities under sub-regulation (2) of regulation 39C of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the liquidator shall identify and group the assets and liabilities to be sold as a going concern, in consultation with the consultation committee.

[(4). The liquidator may sell the assets of the corporate debtor under clause (e) of regulation 32 exclusively only at the first auction]

[32B Conduct of meetings of the consultation committee.

- Save as otherwise provided under Chapter III of Part II of the Code and these Regulations, the provisions of regulations 18 to 26 of Chapter VI and Chapter VII of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 shall apply *mutatis mutandis* to meetings of the consultation committee under liquidation proceedings]

33. Mode of sale.

- (1) The liquidator shall ordinarily sell the assets of the corporate debtor through an auction in the manner specified in Schedule I.
- (2) The liquidator may sell the assets of the corporate debtor by means of private sale in the manner specified in Schedule I when-
 - (a) the asset is perishable;
 - (b) the asset is likely to deteriorate in value significantly if not sold immediately;
 - (c) the asset is sold at a price higher than the reserve price of a failed auction; or
 - (d) the prior permission of the Adjudicating Authority has been obtained for such sale:
 - Provided that the liquidator shall not sell the assets, **without prior permission of the Adjudicating Authority, by way of private sale to-(It means with prior permission it is possible)**

- (a) a related party of the corporate debtor;
 - (b) his related party; or
 - (c) any professional appointed by him.
- (3) The liquidator shall not proceed with the sale of an asset if he has reason to believe that there is any collusion between the buyers, or the corporate debtor's related parties and buyers, or the creditors and the buyer, and shall submit a report to the Adjudicating Authority in this regard, seeking appropriate orders against the colluding parties.

34. Asset memorandum.

- (1) [For cases under sub-regulation (1) of regulation 35, the liquidator shall, within thirty days from the liquidation commencement date, prepare an asset memorandum in accordance with this regulation based on the information memorandum prepared under section 29, with suitable modifications.]
- (1A) For cases covered under sub-regulation (2) of regulation 35, the liquidator shall prepare an asset memorandum in accordance with this Regulation within seventy-five days from the liquidation commencement date.]
- (2) The asset memorandum shall provide the following details in respect of the assets which are intended to be realized by way of sale-
 - (a) value of the asset, valued in accordance with Regulation 35;
 - (b) value of the assets or business(s) under clauses (b) to (f) of regulation 32, valued in accordance with regulation 35, if intended to be sold under those clauses;
 - (c) intended manner of sale in accordance with Regulation 32, and reasons for the same;
 - (d) the intended mode of sale and reasons for the same in accordance with Regulation 33;
 - (e) expected amount of realization from sale; and

- (f) any other information that may be relevant for the sale of the asset.
- (3) The asset memorandum shall provide the following details in respect of each of the assets other than those referred to in sub-regulation (2)-
 - (a) value of the asset;
 - (b) intended manner and mode of realization, and reasons for the same;
 - (c) expected amount of realization; and
 - (d) any other information that may be relevant for the realization of the asset.
- (4) The liquidator shall file the asset memorandum along with the preliminary report to the Adjudicating Authority.
- (5) [The liquidator shall share the asset memorandum with the Board and members of the consultation committee having voting rights after receiving an undertaking from each member that such member shall maintain confidentiality of the information and shall not use such information to cause an undue gain or undue loss to itself or any other person.]

35. Valuation of assets intended to be sold.

- (1) Where the valuation has been conducted under regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 or regulation 34 of the Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017, as the case may be, the liquidator shall consider the average of the estimates of the values arrived under those provisions for the purposes of valuations under these regulations.

(2) In cases not covered under sub-regulation (1) or where the liquidator is of the opinion that fresh valuation is required under the circumstances, he shall within seven days] of the liquidation commencement date, appoint two registered valuers to determine the realizable value of the assets or businesses under clauses (a) to (f) of regulation 32 of the corporate debtor:

- Provided that the following persons shall not be appointed as registered valuers, namely: -
 - (a) a relative of the liquidator;
 - (b) a related party of the corporate debtor;
 - (c) an auditor of the corporate debtor at any time during the five years preceding the insolvency commencement date; or
 - (d) a partner or director of the insolvency professional entity of which the liquidator is a partner or director.
- (3) The Registered Valuers appointed under sub-regulation (2) shall independently submit to the liquidator the estimates of realizable value of the assets or businesses, as the case may be, computed in accordance with the Companies (Registered Valuers and Valuation) Rules, 2017, after physical verification of the assets of the corporate debtor.
- (4) The average of two estimates received under sub-regulation (3) shall be taken as the value of the assets or businesses.

36. Asset sale report.

- On sale of an asset, the liquidator shall prepare an asset sale report in respect of said asset, to be enclosed with the Progress Reports, containing –
 - (a) the realized value;

- (b) cost of realization, if any;
- (c) the manner and mode of sale;
- (d) if the value realized is less than the value in the asset memorandum, the reasons for the same;
- (e) the person to whom the sale is made; and
- (f) any other details of the sale.

37. Realization of security interest by secured creditor

- (1) A secured creditor who seeks to realize its security interest under section 52 shall intimate the liquidator of the price at which he proposes to realize its secured asset.
- (2) The liquidator shall inform the secured creditor **within twenty one days of receipt** of the intimation under sub-regulation (1) if a person is **willing to buy the secured asset before the expiry of thirty days from the date of intimation** under sub-regulation (1), at a price higher than the price intimated under sub-regulation (1).
- (3) Where the liquidator informs the secured creditor of a person willing to buy the secured asset under sub-regulation (2), the secured creditor shall sell the asset to such person.
- (4) If the liquidator does not inform the secured creditor in accordance with sub-regulation (2), or the person does not buy the secured asset in accordance with sub-regulation (2), the secured creditor may realize the secured asset in the manner it deems fit, but at least at the price intimated under sub-regulation (1).

- (5) Where the secured asset is realized under sub-regulation (3), the secured creditor shall bear the cost of identification of the buyer under sub-regulation (2).
- (6) Where the secured asset is realized under sub-regulation (4), the liquidator shall bear the cost [***] incurred to identify the buyer under sub-regulation (2).
- (7) The provisions of this Regulation shall not apply if the secured creditor enforces his security interest under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002) or the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993).
- (8) A secured creditor shall not sell or transfer an asset, which is subject to security interest, to any person, who is not eligible under the Code to submit a resolution plan for insolvency resolution of the corporate debtor.]

[37A. Assignment of not readily realisable assets.

- (1) A liquidator may assign or transfer a not readily realisable asset through a transparent process, in consultation with the stakeholders' consultation committee in accordance with regulation 31A, for a consideration to any person, who is eligible to submit a resolution plan for insolvency resolution of the corporate debtor.

Explanation. — For the purposes of this sub-regulation, “not readily realisable asset” means any asset included in the liquidation estate which could not be sold through available options and includes contingent or disputed assets and assets underlying proceedings for preferential, undervalued, extortionate credit and fraudulent transactions referred to in sections 43 to 51 and section 66 of the code)

38. Distribution of unsold assets.

- (1) The liquidator may, with the permission of the Adjudicating Authority, distribute amongst the stakeholders, an asset that [could not be sold ,assigned or transferred]due to its peculiar nature or other special circumstances.
- (2) The application seeking permission of the Adjudicating Authority under sub-regulation (1) shall-
 - (a) identify the asset;
 - (b) provide a value of the asset
 - (c) detail the efforts made to sell the asset, if any; and

(d) provide reasons for such distribution.

39. Recovery of monies due.

- The liquidator shall endeavor to recover and realize all assets of and dues to the corporate debtor in a time-bound manner for maximization of value for the stakeholders.

40. Liquidator to realize uncalled capital or unpaid capital contribution.

(1) The liquidator shall realize any amount due from any contributory to the corporate debtor.

(2) Notwithstanding any charge or encumbrance on the uncalled capital of the corporate debtor, the liquidator shall be entitled to call and realize the uncalled capital of the corporate debtor and to collect the arrears, if any, due on calls made prior to the liquidation, by providing a notice to the contributory to make the payments within fifteen days from the receipt of the notice, **but shall hold all moneys so realized subject to the rights, if any, of the holder of any such charge or encumbrance.**

(3) No distribution shall be made to a contributory, unless he makes his contribution to the uncalled or unpaid capital as required in the constitutional documents of the corporate debtor.

- Explanation: For the purpose of this chapter and Schedule I, 'assets' include an asset, all assets, a set of assets or parcel of assets 23[, business], as the case may be, which are being sold.

CHAPTER VII

PROCEEDS OF LIQUIDATION AND DISTRIBUTION OF PROCEEDS

41. All money to be paid in to bank account.

- (1) The liquidator shall open a bank account in the name of the corporate debtor followed by the words 'in liquidation', in a scheduled bank, for the receipt of all moneys due to the corporate debtor.
- (2) The liquidator shall deposit in the bank account opened under sub-regulation (1) all moneys, including cheques and demand drafts received by him as the liquidator of the corporate debtor, and the realizations of each day shall be deposited into the bank account without any deduction not later than the next working day.
- (3) The liquidator **may maintain a cash of one lakh rupees** or such higher amount as may be permitted by the Adjudicating Authority to meet liquidation costs.
- (4) All payments out of the account by the liquidator **above five thousand rupees** shall be made by **cheques drawn or online banking** transactions against the bank account.

42. Distribution.

- (1) Subject to the provisions of section 53, the liquidator shall not commence distribution before the list of stakeholders and the asset memorandum has been filed with the Adjudicating Authority.
- (2) The liquidator shall distribute the proceeds from realization within [ninety days] from the receipt of the amount to the stakeholders.

(3) The insolvency resolution process costs, if any, and the liquidation costs shall be deducted before such distribution is made.

43. Return of money.

- A stakeholder shall forthwith return any monies received by him in distribution, which he was not entitled to at the time of distribution, or subsequently became not entitled to.

44. Completion of liquidation.

- (1) The liquidator shall liquidate the corporate debtor within a period of one year from the liquidation commencement date, notwithstanding pendency of any application for avoidance of transactions under Chapter III of Part II of the Code, before the Adjudicating Authority or any action thereof:
- (2) If the liquidator fails to liquidate the corporate debtor within [one year], he shall make an application to the Adjudicating Authority to continue such liquidation, along with a report explaining why the liquidation has not been completed and specifying the additional time that shall be required for liquidation.

[*Explanation.- In relation to the liquidation processes commenced prior to the commencement of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019, the requirements of this regulation as existing before such commencement, shall apply.*]

[44A. Treatment of avoidance of transaction.

- The liquidator shall, on the advice of the consultation committee, provide in the application along with the final report filed under regulation 45 for the manner in

which proceedings in respect of avoidance transactions, if any, under Chapter III or fraudulent or wrongful trading under Chapter VI of Part II of the Code, will be pursued after the dissolution or closure of liquidation process and the manner in which the proceeds, if any, from such proceedings shall be distributed.]

45. Final report prior to dissolution.

- (1) When the corporate debtor is liquidated, the liquidator shall make an account of the liquidation, showing how it has been conducted and how the corporate debtor's assets have been liquidated.
- (2) If the liquidation cost exceeds the estimated liquidation cost provided in the Preliminary Report, the liquidator shall explain the reasons for the same.
- (3) The liquidator shall submit an application along with the final report and the compliance certificate in form H to the Adjudicating Authority for –
 - (a) closure of the liquidation process of the corporate debtor where the corporate debtor is sold as a going concern; or
 - (b) for the dissolution of the corporate debtor, in cases not covered under clause (a)

- ⁶⁶**45A. Preservation of records.**

(1) The liquidator shall preserve copies of all such records which give a complete account of the liquidation process.

(2) Without prejudice to the generality of the provisions of sub-regulation (1), the liquidator shall preserve copies of records relating to or forming the basis of:-

(a) his appointment as liquidator, including the terms of appointment;

(b) handing over and taking over of the assignment;

(c) admission of corporate debtor into liquidation;

(d) public announcement;

(e) the constitution of consultation committee and minutes of consultation committee meetings during liquidation process;

(f) claims, verification of claims, and list of stakeholders;

(g) details of relinquishment or otherwise by secured creditors in liquidation process;

(h) engagement of professionals, registered valuers, etc. including work done, reports etc., submitted by them;

(i) Invitation, consideration and approval of plans / proposals / scheme received, in case of going concern sale in liquidation process or compromise or arrangement under section 230 of the Companies Act, 2013;

(j) all filings with the Adjudicating Authority, Appellate Authority, High Courts, Supreme Court, whichever applicable and their orders;

(k) statutory filings with Board and insolvency professional agencies;

(l) correspondence during the liquidation process;

(m) cost of liquidation process;

- (n) all reports, registers, documents such as preliminary report, asset memorandum, progress reports, asset sale report, annual status report, final report prior to dissolution, various registers and books, etc. mentioned in regulations 5 and 6 of these Regulations.
- (o) preferential, undervalued, extortionate credit transactions or fraudulent or wrongful trading.
- (p) any other records, which is required to give a complete account of the process.

(3) The liquidator shall preserve:

- (a) electronic copy of all records (physical and electronic) for a minimum period of eight years; and
- (b) a physical copy of records for a minimum period of three years;

- from the date of dissolution of the corporate debtor or closure of the liquidation process or the conclusion of any proceeding relating to the liquidation process, before the Board, the Adjudicating Authority, Appellate Authority or any Court, whichever is later.

(4) In case of replacement of liquidator, the outgoing liquidator shall handover the records under sub-regulation (1) and (2) to the new liquidator and be responsible for preserving the records not handed over, for any reason, to the new liquidator.

(5) Where the corporate debtor has been sold as a going concern under clause (e) of regulation 32, the general records of the corporate debtor shall be handed over to the successful buyer.

(6) The records of the corporate debtor shall be preserved by the liquidator as per the applicable laws.

(7) The liquidator shall preserve the records at a secure place and shall be obliged to produce records as may be required under the Code and the Regulations made thereunder.

Explanation - The records referred to in this regulation include records pertaining to the period of a liquidation process during which the liquidator acted as such, irrespective of the fact that he did not take up the assignment from its commencement or continued the assignment till its conclusion.]

46. Corporate Liquidation Account.

(1) **The Board shall operate and maintain an Account to be called the Corporate Liquidation Account in the Public Accounts of India:**

- Provided that until the Corporate Liquidation Account is operated as part of the Public Accounts of India, the Board shall open a separate bank account with a scheduled bank for the purposes of this regulation.

(2) A liquidator shall deposit the amount of unclaimed dividends, if any, and undistributed proceeds, if any, in a liquidation process along with any income earned thereon till the date of deposit into the Corporate Liquidation Account before he submits an application under sub regulation (3) of regulation 45.

(3) A liquidator, who holds any amount of unclaimed dividends or undistributed proceeds in a liquidation process on the date of commencement of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2020, shall deposit the same **within fifteen days of the date of such commencement, along with any income earned thereon till the date of deposit.**

- (4) A liquidator, who fails to deposit any amount into the Corporate Liquidation Account under this regulation, shall deposit the same along with **interest thereon at the rate of twelve percent per annum** from the due date of deposit till the date of deposit.
- (5) **A liquidator shall submit to the authority with which the corporate debtor is registered and the Board**, the evidence of deposit of the amount into the Corporate Liquidation Account under this regulation, and a statement in Form-I setting forth the nature of the amount deposited into the Corporate Liquidation Account, and the names and last known addresses of the stakeholders entitled to receive the unclaimed dividends or undistributed proceeds.
- (6) The liquidator shall be entitled to a receipt from the Board for any amount deposited into the Corporate Liquidation Account under this regulation.
- (7) A stakeholder, who claims to be entitled to any amount deposited into the Corporate Liquidation Account, **may apply to the Board in Form J** for an order for withdrawal of the amount:
 - Provided that if any other person other than the stakeholder claims to be entitled to any amount deposited into the Corporate Liquidation Account, he shall submit evidence to satisfy the Board that he is so entitled.
- (8) The Board may, if satisfied that the stakeholder or any other person referred to under sub regulation (7) is entitled to withdrawal of any amount from the Corporate Liquidation Account, make an order for the same in favour of that stakeholder or that other person.
- (9) The Board shall maintain a corporate debtor-wise ledger of the amount deposited into and the amount withdrawn from the Corporate Liquidation Account under this regulation.

- (10) The Board shall nominate an officer of the level of Executive Director of the Board as the custodian of the Corporate Liquidation Account and no proceeds shall be withdrawn without his approval.
- (11) The Board shall maintain proper accounts of the Corporate Liquidation Account and get the same audited annually.
- (12) The audit report along with the statement of accounts of the Corporate Liquidation Account referred to in sub-regulation (11) shall be placed before the Governing Board and shall be forwarded to the Central Government.
- (13) Any amount deposited into the Corporate Liquidation Account in pursuance of this regulation, which remains unclaimed or undistributed for a period of fifteen years from the date of order of dissolution of the corporate debtor and any amount of income or interest received or earned in the Corporate Liquidation Account shall be transferred to the Consolidated Fund of India.

47. Model time-line for liquidation process.

- The following Table presents a model timeline of liquidation process of a corporate debtor from the liquidation commencement date, assuming that the process does not include compromise or arrangement under section 230 of the Companies Act, 2013 (18 of 2013) or sale under regulation 32A:

Model Timeline for Liquidation Process

S.NO	SECTION/REGULATION	DESCRIPTION OF TASK	NORM	LATEST TIMELINE DAYS
1	2	3	4	5
1	Section 33 and 34	Commencement of liquidation and appointment of liquidator	LCD	0 = T
2	Section 33 (1) (b) (ii) / Reg. 12 (1, 2, 3)	Public announcement in Form B	W i t h i n 5 days of appointment of liquidator.	T + 5
3	Reg. 35 (2)	Appointment of registered valuers	Within 7 days of LCD	T + 7
3A	Reg 31A(6)	First meeting of SCC	Within 7 days of LCD	T + 7
4	Section 38 (1), Reg. 17, 18, 19, 20 and 21A	Submission of claims;	Within 30 days of LCD	T + 30
		Intimation of decision on relinquishment of security interest		
5	Section 38 (5)	Withdrawal/ modification of claim	Within 14 days of submission of	T + 44

S.NO	SECTION/ REGULATION	DESCRIPTION OF TASK	NORM	LATEST TIMELINE DAYS
7	Reg. 31A	Constitution of SCC	Within 60 days of LCD	T + 60
8	Section 40 (2)	Intimation about decision of acceptance/ rejection of claim	Within 7 days of admission or rejection of claim	T + 67
9	Reg. 31 (2)	Filing the list of stakeholders	Within 45 days from the last date of receipt of claims	T + 75
10	Section 42	Appeal by a creditor against the decision of the liquidator	Within 14 days of receipt of such Decision	T + 81
11	Reg. 13	Preliminary report to the AA	Within 75 days of LCD	T + 75
12	Reg. 34	Asset memorandum	Within (30/75) days of LCD	T + (30/75)

S.NO	SECTION/ REGULATION	DESCRIPTION OF TASK	NORM	LATEST TIMELINE DAYS
13	Reg. 15 (1), (2), (3), (4) and (5), and 36	Submission of progress reports to AA; Asset Sale report to be enclosed with every Progress Report, if sales are made	First progress report	Q1+15
			Q-2	Q2+15
			Q-3	Q3+15
			Q-4	Q4+15
			FY: 1 Audited accounts of liquidator's receipt & payments for the financial year	15 April

S.NO	SECTION/REGULATION	DESCRIPTION OF TASK	NORM	LATEST TIMELINE DAYS
14	Proviso to Reg. 15 (1)	Progress report in case of cessation of Liquidator	Within 15 days of cessation as Liquidator	Date of cessation + 15
15	Reg. 37 (2, 3)	Information to secured creditors	Within 21 days of receipt of intimation from secured creditor	Date of intimation + 21
16	Reg. 42 (2)	Distribution of the proceeds to the Stakeholders	Within 3 months from the receipt of Amount	Date of Realisation + 90
17	Reg.10 (1)	Application to AA for Disclaimer of onerous Property	Within 6 months from the LCD	T + 6 Months
18	Reg.10 (3)	Notice to persons interested in the onerous property or contract	At least 7 days before making an application to AA for[disclaimer].	

S.NO	SECTION/REGULATION	DESCRIPTION OF TASK	NORM	LATEST TIMELINE DAYS
19	Reg. 44	Liquidation of corporate debtor.	Within one year	T + 365
20	Reg. 46	Deposit the amount of unclaimed dividends and undistributed proceeds	Before submission of application under sub-regulation (3) of regulation 45	
21	Sch-1 Sl. No 12	Time period to H1 bidder to provide balance sale consideration	Within 90 days of the date of invitation to provide the balance Amount	

Exclusion of period of lockdown.

47A. Subject to the provisions of the Code, the period of lockdown imposed by the Central Government in the wake of Covid-19 outbreak shall not be counted for the purposes of computation of the time-line for any task that could not be completed due to such lockdown, in relation to any liquidation process.

Schedule I

Mode of Sale

(Under Regulation 33 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016)

1. AUCTION

(1) Where an asset is to be sold through auction, a liquidator shall do so in the manner specified herein.

⁷⁷[(1A) Subject to provisions of regulation 2B, the liquidator shall issue a public notice of an auction for sale under regulation 32 within forty-five days from the liquidation commencement date unless the consultation committee advises to extend the timeline.

(1B) The liquidator shall issue public notice for the next auction, in case of failure of the auction, within fifteen days from the last failed auction unless the consultation committee advises to deviate from the specified time period.

(1C) Notwithstanding anything contained in this Schedule, the liquidator shall complete an auction process within thirty-five days from the issue of public notice for auction.

(1D) The liquidator shall provide at least fourteen days from issue of public notice for submission of eligibility documents by prospective bidder.

(1E) The liquidator shall provide to qualified bidder at least seven days, for inspection or due diligence of assets under auction, from the date of declaration of qualified bidder.

(1F) A prospective bidder in an auction process shall deposit earnest money deposit at least up to two days before the date of auction.]

(2) The liquidator shall prepare a marketing strategy, with the help of marketing professionals, if required, for sale of the asset. The strategy may include-

- (a) releasing advertisements;
- (b) preparing information sheets for the asset;
- (c) preparing a notice of sale; and
- (d) liaising with agents.

(3) The liquidator shall prepare terms and conditions of sale, including reserve price, earnest money deposit as well as pre-bid qualifications, if any.

⁷⁷ Inserted by Notification IBBI/2022-23/GN/REG094, dated 16th September, 2022 (w.e.f. 16-09-2022).

⁷⁸[Provided that the liquidator shall not require payment of any non-refundable deposit or fee for participation in an auction under the liquidation process:
Provided further that the earnest money deposit shall not exceed ten percent. of the reserve price.]

(4)⁷⁹[The reserve price shall be the value of the asset arrived at in accordance with regulation 35.

(4A) Where an auction fails at the reserve price, the liquidator may reduce the reserve price by up to twenty-five percent of such value to conduct subsequent auction.

(4B) Where an auction fails at reduced price under clause (4A), the reserve price in subsequent auctions may be further reduced by not more than ten percent at a time.]

(5) The liquidator shall ⁸⁰[issue a public notice] of an auction in the manner specified in Regulation 12(3);

Provided that the liquidator may apply to Adjudicating Authority to dispense with the requirement of Regulation 12(3)(a) keeping in view the value of the asset intended to be sold by auction.

(6) The liquidator shall provide all assistance necessary for the conduct of due diligence by interested buyers.

(7) ⁸¹[From a date to be notified through circular by the Board, the liquidator shall sell the assets only through an electronic auction platform empanelled by the Board.]

(8) If the liquidator is of the opinion that a physical auction is likely to maximize the realization from the sale of assets and is in the best interests of the creditors, he may sell assets through a physical auction after obtaining the permission of the Adjudicating Authority. The liquidator may engage the services of qualified professional auctioneers specializing in auctioning such assets for this purpose.

(9) An auction shall be transparent, and the highest bid at any given point shall be visible to the other bidders.

⁷⁸ Inserted by Notification No. IBBI/2021-22/GN/REG079, dated 30th September, 2021 (w.e.f. 30-09-2021).

⁷⁹ Substituted by Notification No. IBBI/2019-20/GN/REG047 dated 25th July, 2019 (w.e.f. 25-07-2019). Prior to substitution it stood as under:

“The reserve price shall be the value of the asset arrived at in accordance with Regulation 34. Such valuation shall not be more than six months old. However, in the event that an auction fails at such price, the liquidator may reduce the reserve price up to seventy-five per cent of such value to conduct subsequent auctions.”

⁸⁰ Substituted by Notification No. IBBI/2021-22/GN/REG079, dated 30th September, 2021 (w.e.f. 30-09-2021).

Prior to substitution, it stood as under:

“make a public announcement”.

⁸¹ Substituted by Notification IBBI/2022-23/GN/REG094, dated 16th September, 2022 (w.e.f. 16-09-2022). Prior to substitution it stood as under: “The liquidator shall sell the assets through an electronic auction on an online portal, if any, designated by the Board, where the interested buyers can register, bid and receive confirmation of the acceptance of their bid online”.

- (10) If the liquidator is of the opinion that an auction where bid amounts are not visible is likely to maximize realizations from the sale of assets and is in the best interests of the creditors, he may apply, in writing, to the Adjudicating Authority for its permission to conduct an auction in such manner.
- (11) If required, the liquidator may conduct multiple rounds of auctions to maximize the realization from the sale of the assets, and to promote the best interests of the creditors.

⁸²[(11A) Where the liquidator rejects the highest bid in an auction process, he shall intimate the reasons for such rejection to the highest bidder and mention it in the next progress report.]

- (12) ⁸³[On the close of the auction, the highest bidder shall be invited to provide balance sale consideration within ninety days of the date of such demand:
Provided that payments made after thirty days shall attract interest at the rate of 12%:
Provided further that the sale shall be cancelled if the payment is not received within ninety days.
- (13) On payment of the full amount, the sale shall stand completed, the liquidator shall execute certificate of sale or sale deed to transfer such assets and the assets shall be delivered to him in the manner specified in the terms of sale.]

2. PRIVATE SALE

- (1) Where an asset is to be sold through private sale, a liquidator shall conduct the sale in the manner specified herein.
- (2) The liquidator shall prepare a strategy to approach interested buyers for assets to be sold by private sale.
- (3) Private sale may be conducted through directly liaising with potential buyers or their agents, through retail shops, or through any other means that is likely to maximize the realizations from the sale of assets.
- (4) The sale shall stand completed in accordance with the terms of sale.

⁸² Inserted by Notification No. IBBI/2021-22/GN/REG079, dated 30th September, 2021 (w.e.f. 30-09-2021).

⁸³ Substituted by Notification No. IBBI/2019-20/GN/REG047 dated 25th July, 2019 (w.e.f. 25-07-2019). Prior to substitution it stood as under:

“On the close of the auction, the highest bidder shall be invited to provide balance sale consideration within fifteen days of the date when he is invited to provide the balance sale consideration. On payment of the full amount, the sale shall stand completed, the liquidator shall execute certificate of sale or sale deed to transfer such assets ~~the~~ assets shall be delivered to him in the manner specified in the terms of sale.”

- (5) Thereafter, the assets shall be delivered to the purchaser, on receipt of full consideration for the assets, in the manner specified in the terms of sale.

**SCHEDULE II
FORM A
PROFORMA FOR REPORTING CONSULTATIONS WITH STAKEHOLDERS**

(Under Regulation 8 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016)

Separate proforma to be used for each stakeholder or group of homogenous stakeholders

NAME AND REGISTRATION NO. OF LIQUIDATOR:	
NAME OF CORPORATE DEBTOR BEING LIQUIDATED:	
LIQUIDATION CASE NO:	
NAME OF THE STAKEHOLDER: DATE OF CONSULTATION (IF HELD IN PERSON): NUMBER AND DATES OF COMMUNICATIONS RECEIVED FROM STAKEHOLDER: SUMMARY OF CONSULTATION:	⁸⁴ [FORM AA WRITTEN CONSENT TO ACT AS LIQUIDATOR (Under regulation 31A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016) [Date]

[Name of the insolvency professional]
[Registration number of the insolvency professional]
[Address of the insolvency professional registered with the Board]

To
The Stakeholders' Consultation Committee [name of corporate debtor]

Subject: Written Consent to act as liquidator.

I, [name], an insolvency professional enrolled with [name of insolvency professional agency] and registered with the Board, note that the consultation committee proposes to appoint me as liquidator under regulation 31A of Insolvency and Bankruptcy Board of India (Liquidation

⁸⁴ Inserted by Notification IBBI/2022-23/GN/REG094, dated 16th September, 2022 (w.e.f. 16-09-2022).

Process) Regulations, 2016 for conducting liquidation process of [name of the corporate debtor].

2. In accordance with aforementioned regulation, I hereby give consent to the proposed appointment.

3. I declare and affirm as under: -

- a. I am registered with the Board as an insolvency professional.
- b. I am not subject to any disciplinary proceedings initiated by the Board or the Insolvency Professional Agency.
- c. I do not suffer from any disability to act as a liquidator.
- d. I am eligible to be appointed as liquidator of the corporate debtor under regulation 3 and other applicable provisions of the Code and regulations.
- e. I shall make the disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
- f. I am having the following processes in hand:

Sl. No.	Role as	No. of Processes on the date of Consent
1	Interim Resolution Professional	
2	Resolution Professional of a. Corporate Debtors b. Individuals	
3	Liquidator of a. Liquidation Processes b. Voluntary Liquidation Processes	
Date:	Bankruptcy Trustee (Signature of the insolvency professional)	
Place:	Authorised Representative	Registration No.]
5		
6	Any other (Please state) SCHEDULE II	

⁸⁵ [**FORM B**

PUBLIC ANNOUNCEMENT

(Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016)

FOR THE ATTENTION OF THE STAKEHOLDERS OF [Name of Corporate Debtor]

⁸⁵ Substituted by Notification No. IBBI/2018-19/GN/REG037, dated 22nd October, 2018 (w.e.f. 22-10-2018).

Sl. No.	PARTICULARS	DETAILS
1.	Name of corporate debtor	
2.	Date of incorporation of corporate debtor	
3.	Authority under which corporate debtor is incorporated / registered	
4.	Corporate Identity No. / Limited Liability Identification No. of corporate debtor	
5.	Address of the registered office and principal office (if any) of corporate debtor	
6.	Date of closure of Insolvency Resolution Process	
7.	Liquidation commencement date of corporate debtor	
8.	Name and registration number of the insolvency professional acting as liquidator	
9.	Address and e-mail of the liquidator, as registered with the Board	
10.	Address and e-mail to be used for correspondence with the liquidator	
11.	Last date for submission of claims	

The stakeholders of [----Name of the corporate debtor] are hereby called upon to submit their claims with proof on or before -----⁸⁶[insert the date falling thirty days from the liquidation commencement date], to the liquidator at the address mentioned against item No.10.

The financial creditors shall submit their claims with proof by electronic means only. All other creditors may submit the claims with the proof in person, by post or by electronic means.

Submission of false or misleading proof of claims shall attract penalties.

⁸⁷[In case a stakeholder does not submit its claims during the liquidation process, the claims submitted by such a stakeholder during the corporate insolvency resolution process under the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, shall be deemed to be submitted under section 38.]

Name and signature of liquidator :

⁸⁶ Substituted by Notification No. IBBI/2019-20/GN/REG047 dated 25th July, 2019 (w.e.f. 25-07-2019).

⁸⁷ Inserted by Notification IBBI/2022-23/GN/REG094, dated 16th September, 2022 (w.e.f. 16-09-2022).

Date and place: _____ :

**SCHEDULE II
FORM C**

**PROOF OF CLAIM BY OPERATIONAL CREDITORS EXCEPT WORKMEN AND
EMPLOYEES**

*(Under Regulation 17 of the Insolvency and Bankruptcy Board of India (Liquidation
Process) Regulations, 2016)*

[Date]

To
The Liquidator
[Name of the Liquidator]
[Address as set out in the public announcement]

From
[Name and address of the operational creditor]

Subject: Submission of proof of claim in respect of the liquidation of [name of corporate debtor] under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

[Name of the operational creditor] hereby submits this proof of claim in respect of the liquidation of [name of corporate debtor]. The details for the same are set out below:

1.	NAME OF OPERATIONAL CREDITOR (IF AN INCORPORATED BODY PROVIDE IDENTIFICATION NUMBER AND PROOF OF INCORPORATION, IF A PARTNERSHIP OR INDIVIDUAL PROVIDE IDENTIFICATION RECORDS* OF ALL THE PARTNERS OR THE INDIVIDUAL)	
2.	ADDRESS OF OPERATIONAL CREDITOR FOR CORRESPONDENCE	
3.	TOTAL AMOUNT OF CLAIM, INCLUDING ANY INTEREST, AS AT LIQUIDATION COMMENCEMENT DATE AND DETAILS OF NATURE OF CLAIM	PRINCIPAL : INTEREST : TOTAL CLAIM :

4.	DETAILS OF DOCUMENTS BY REFERENCE TO WHICH THE DEBT CAN BE SUBSTANTIATED	
5.	DETAILS OF ANY DISPUTE AS WELL AS THERECORD OF PENDENCY OF SUIT OR ARBITRATION PROCEEDINGS	
6.	DETAILS OF HOW AND WHEN DEBT INCURRED	
7.	DETAILS OF ANY MUTUAL CREDIT,MUTUAL DEBTS, OR OTHER MUTUAL DEALINGS BETWEEN THE CORPORATE DEBTOR AND THE OPERATIONAL CREDITOR WHICH MAY BE SET-OFF AGAINST THE CLAIM	
8.	DETAILS OF ANY RETENTION OF TITLE IN RESPECT OF GOODS OR PROPERTIES TO WHICH THE DEBT REFERS OR ANY OTHER SECURITY	
⁸⁸ 8A.	WHETHER SECURITY INTEREST RELINQUISHED	Yes/ No]
9.	DETAILS OF ANY ASSIGNMENT OR TRANSFER OF DEBT IN HIS FAVOUR	
10.	DETAILS OF THE BANK ACCOUNT TO WHICH THE OPERATIONAL CREDITOR'S	
	Signature of operational creditor or person authorised to act on his behalf (Please enclose the authority if this is being submitted on behalf of the operational creditor)	
	Name in BLOCK LETTERS THE PROCEEDS OF LIQUIDATION CAN BE TRANSFERRED	
11.	LIST OUT AND ATTACH THE DOCUMENTS RELIED ON IN SUPPORT OF THE CLAIM.	(i)
Position	with or in relation to creditor	(ii) (iii)

⁸⁸ Inserted by Notification No. IBBI/2019-20/GN/REG047 dated 25th July, 2019 (w.e.f. 25-07-2019).

Address of person signing

*PAN, Passport, AADHAAR Card or the identity card issued by the Election Commission of India.

AFFIDAVIT

I, *[name of deponent]*, currently residing at *[address of deponent]*, do solemnly affirm and state as follows:

1. The above named corporate debtor was, at liquidation commencement date, that is, the _____ day of _____ 20_____ and still is, justly and truly indebted to me [or to me and *[insert name of co-partners]*, my co-partners in trade, or, as the case may be] in the sum of Rs. _____ for *[please state consideration]*.
2. In respect of my claim of the said sum or any part thereof, I have relied on and the documents specified below:
[Please list the documents relied on as evidence of debt.]
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief.
4. In respect of the said sum or any part thereof, I have not, nor have my partners or any of them, nor has any person, by my/our order, to my/our knowledge or belief, for my/our use, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the operational creditor which may be set-off against the claim.]

Solemnly, affirmed at _____ on _____ day, the _____ day of _____ 20_____

Before me,

Notary / Oath Commissioner

Deponent's signature

VERIFICATION

I, the Deponent hereinabove, do hereby verify and affirm that the contents of para_to_of this affidavit are true and correct to my knowledge and belief. Nothing is false and nothing material has been concealed therefrom.

Verified at _____ on this _____ day of _____ 201_____

Deponent's signature

**SCHEDULE II
FORM D
PROOF OF CLAIM BY FINANCIAL CREDITORS**

(Under Regulation 18 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016)

[Date]

To
The Liquidator
[Name of the Liquidator]
[Address as set out in the public announcement]

From
[Name and address of the registered office and principal office of the financial creditor]

Subject: Submission of proof of claim in respect of the liquidation of [name of corporate debtor] under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

[Name of the financial creditor] hereby submits this proof of claim in respect of the liquidation of [name of corporate debtor]. The details for the same are set out below:

1.	NAME OF FINANCIAL CREDITOR (IF AN INCORPORATED BODY PROVIDE IDENTIFICATION NUMBER AND PROOF OF INCORPORATION, IF A PARTNERSHIP OR INDIVIDUAL PROVIDE IDENTIFICATION RECORDS* OF ALL THE PARTNERS OR THE INDIVIDUAL)	
2.	ADDRESS AND EMAIL OF FINANCIAL CREDITOR FOR CORRESPONDENCE.	

3.	TOTAL AMOUNT OF CLAIM, INCLUDING ANY INTEREST, AS AT THE LIQUIDATION COMMENCEMENT DATE AND DETAILS OF NATURE OF CLAIM (WHETHER TERM LOAN, SECURED, UNSECURED)	PRINCIPAL : INTEREST : TOTAL CLAIM :
4.	DETAILS OF DOCUMENTS BY REFERENCE TO WHICH THE DEBT CAN BE SUBSTANTIATED	
5.	DETAILS OF ANY ORDER OF A COURT OF TRIBUNAL THAT HAS ADJUDICATED ON THE NON-PAYMENT OF DEBT	
6.	DETAILS OF HOW AND WHEN DEBT INCURRED	
7.	DETAILS OF ANY MUTUAL CREDIT, MUTUAL DEBTS, OR OTHER MUTUAL DEALINGS BETWEEN THE CORPORATE DEBTOR AND THE FINANCIAL CREDITOR WHICH MAY BE SET-OFF AGAINST THE CLAIM	
8.	DETAILS OF ANY SECURITY HELD, THE VALUE OF THE SECURITY, AND THE DATE IT WAS GIVEN	
⁸⁹ [8A]	WHETHER SECURITY INTEREST RELINQUISHED	Yes/ No]
9.	DETAILS OF ANY ASSIGNMENT OR TRANSFER OF DEBT IN HIS FAVOUR	
10.	DETAILS OF THE BANK ACCOUNT TO WHICH	
Signature	THE FINANCIAL CREDITOR'S SHARE OF THE PROCEEDS OF LIQUIDATION CAN BE	act on his behalf
⁸⁹ Inserted by Notification No. IBBI/2019-20/GN/REG047 dated 25 th July, 2019 (w.e.f. 25-07-2019).		
11.	LIST OUT AND ATTACH THE DOCUMENTS RELIED ON IN SUPPORT OF THE CLAIM.	(i) (ii) (iii)

(please enclose the authority if this is being submitted on behalf a financial creditor)
Name in BLOCK LETTERS
Position with or in relation to creditor
Address of person signing

*PAN, Passport, AADHAAR Card or the identity card issued by the Election Commission of India.

AFFIDAVIT

I, [*name of deponent*], currently residing at [*address of deponent*], do solemnly affirm and state as follows:

1. The above named corporate debtor was, at the liquidation commencement date, that is, the _____ day of _____ 20 and still is, justly and truly indebted to me [or to me and [*insert name of co-partners*], my co-partners in trade, or, as the case may be] in the sum of Rs. _____ for [*please state consideration*].
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below:
[*Please list the documents relied on as evidence of debt and of non-payment.*]
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief.
4. In respect of the said sum or any part thereof, I have not, nor have my partners or any of them, nor has any person, by my/our order, to my/our knowledge or belief, for my/our use, had or received any manner of satisfaction or security whatsoever, save and except the following:
[*Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the financial creditor which may be set-off against the claim.*]

Solemnly, affirmed at _____ on _____ day, the _____ day of _____ 20 _____

Before me,

Notary / Oath Commissioner.

Deponent's signature.

VERIFICATION

I, the Deponent hereinabove, do hereby verify and affirm that the contents of para_to_of this affidavit are true and correct to my knowledge and belief. Nothing is false and nothing material has been concealed therefrom.

Verified at _____ on this _____ day of _____ 201__.

Deponent's signature.

**SCHEDULE II
FORM E
PROOF OF CLAIM BY A WORKMAN OR EMPLOYEE**

(Under Regulation 19 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016)

[Date]

To
The Liquidator
[Name of the Liquidator]
[Address as set out in public announcement]

From
[Name and address of the workman / employee]

Subject: Submission of proof of claim in respect of liquidation of (Name of corporate debtor) under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

[Name of the workman / employee], hereby submits this proof of claim in respect of the liquidation of [name of corporate debtor]. The details for the same are set out below:

1.	NAME OF WORKMAN / EMPLOYEE	
----	----------------------------	--

2.	PAN, PASSPORT, THE IDENTITY CARD ISSUED BY THE ELECTION COMMISSION OF INDIA OR AADHAAR CARD OF WORKMAN / EMPLOYEE	
3.	ADDRESS AND EMAIL ADDRESS (IF ANY) OF WORKMAN / EMPLOYEE FOR CORRESPONDENCE	
4.	TOTAL AMOUNT OF CLAIM (INCLUDING ANY INTEREST AS AT THE LIQUIDATION COMMENCEMENT DATE)	
5.	DETAILS OF DOCUMENTS BY REFERENCE TO WHICH THE DEBT CAN BE SUBSTANTIATED.	
6.	DETAILS OF ANY DISPUTE AS WELL AS THE RECORD OF PENDENCY OR ORDER OF SUIT OR ARBITRATION PROCEEDINGS	
7.	DETAILS OF HOW AND WHEN CLAIM AROSE	
8.	DETAILS OF ANY MUTUAL CREDIT, MUTUAL DEBTS, OR OTHER MUTUAL DEALINGS BETWEEN THE CORPORATE DEBTOR AND THE WORKMAN / EMPLOYEE WHICH MAY BE SET-OFF AGAINST THE CLAIM	
9.	DETAILS OF THE BANK ACCOUNT TO WHICH THE WORKMAN / EMPLOYEE'S SHARE OF THE PROCEEDS OF LIQUIDATION CAN BE TRANSFERRED	
	Signature of workman / employee or person authorised to act on his behalf	(i)
10.	LIST OUT AND ATTACH THE DOCUMENTS RELIED ON IN SUPPORT OF THE CLAIM. <i>(Please enclose the authority if this is being submitted on behalf of an operational creditor)</i>	(ii)
		(iii)

Name in BLOCK LETTERS
Position with or in relation to creditor
Address of person signing

AFFIDAVIT

I, [*name of deponent*], currently residing at [*insert address*], do solemnly affirm and state as follows:

5. [*Name of corporate debtor*], the corporate debtor was, at the liquidation commencement date, that is, the _____ day of _____ 20____, justly and truly indebted to me in the sum of Rs. [*insert amount of claim*].

6. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below:

[Please list the documents relied on as evidence of claim]

7. The said documents are true, valid and genuine to the best of my knowledge, information and belief.

8. In respect of the said sum or any part thereof, I have not nor has any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the workman / employee which may be set-off against the claim.]

Solemnly, affirmed at [*insert place*] on _____ day, the _____ day of _____ 20_____

Before me,
Notary/ Oath Commissioner

Deponent's signature

VERIFICATION

I, the Deponent hereinabove, do hereby verify and affirm that the contents of paragraph ____ to ____ of this affidavit are true and correct to my knowledge and belief and no material facts have been concealed therefrom.

Verified at _____ on this _____ day of _____ 201__

Deponent's signature.

**SCHEDULE II
FORM F**

**PROOF OF CLAIM BY AUTHORISED REPRESENTATIVE OF WORKMEN OR
EMPLOYEES**

*(Under Regulation 19 of the Insolvency and Bankruptcy Board of India (Liquidation
Process) Regulations, 2016)*

[Date]

To
The Liquidator
[Name of the Liquidator]
[Address as set out in the public announcement]

From
[Name and address of the authorised representative of workmen/ employees]

Subject: Submission of proof of claim in respect of the liquidation of [name of corporate debtor] under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

I, [name of duly authorised representative of the workmen/ employees] currently residing at [address of duly authorised representative of the workmen/ employees], on behalf of the workmen and employees employed by the above named corporate debtor, solemnly affirm and say:

1. That the abovenamed corporate debtor was, on the liquidation commencement date, that is, the _____ day of _____ 20 and still is, justly truly indebted to the several persons whose names, addresses, and descriptions appear in the Annexure below in amounts severally set against their names in such Annexure for wages, remuneration and other amounts due to them respectively as workmen or/ and employees in the employ of the corporate debtor in respect of services rendered by them respectively to the corporate debtor during such periods as are set out against their respective names in the said Annexure.

2. That for which said sums or any part thereof, they have not, nor has any of them, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credits, mutual debts, or other mutual dealings between the corporate debtor and the workmen / employees which may be set-off against the claim.]

Signature :

ANNEXURE

1. Details of Employees/ Workmen

S No.	NAME OF EMPLOYEE/ WORKMEN	IDENTIFICATION NUMBER (PAN/, PASSPORT NUMBER/, AADHAAR NO. / ID CARD ISSUED BY THE ELECTION COMMISSION AND EMPLOYEE ID NO., IF ANY	TOTAL AMOUNT DUE AND DETAILS ON NATURE OF CLAIM	PERIOD OVER WHICH AMOUNT DUE	DETAILS OF EVIDENCE OF DEBT INCLUDING EMPLOYMENT CONTRACTS AND OTHER PROOFS
1.					
2.					
3.					
4.			56		
5.					

2. Particulars of how dues were incurred by the corporate debtor, including particulars of any dispute as well as the record of pendency of suit or arbitration proceedings.
3. Particulars of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the workmen / employee which may be set-off against the claim.
4. Please list out and attach the documents relied on to prove the claim.

AFFIDAVIT

I, *[insert full name, address and occupation of deponent]* do solemnly affirm and state as follows:

1. The above named corporate debtor was, at the liquidation commencement date that is, the _____ day of _____ 20____ and still is, justly and truly indebted to the workmen and employees in the sum of Rs. _____ for *[please state the nature and duration of employment]*.
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below:

[Please list the documents relied on as evidence of proof]
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief.
4. In respect of the said sum or any part thereof, the workmen / employees have not, nor has any person, by my order, to my knowledge or belief, for my use, had or has received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the workmen / employees which may be set-off against the claim.]

Solemnly, affirmed at _____ on _____ day, the _____ day of _____ 20_____

Before me,

Notary / Oath Commissioner.

Deponent's signature

VERIFICATION

I, the Deponent hereinabove, do hereby verify and affirm that the contents of para_to_of this affidavit are true and correct to my knowledge and belief. Nothing is false and nothing material has been concealed therefrom.

Verified at _____ on this _____ day of _____ 201 ____

Deponent's signature

SCHEDULE II
FORM G
PROOF OF CLAIM BY ANY OTHER STAKEHOLDER

(Under Regulation 20 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016)

[Date]

To
The Liquidator
[Name of the Liquidator]
[Address as set out in the public announcement]

From
[Name and address of the other stakeholder]

Subject: Submission of proof of claim in respect of the liquidation of [name of corporate debtor] under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

[Name of the other stakeholder] hereby submits this proof of claim in respect of the liquidation in the case of [name of corporate debtor]. The details for the same are set out below:

1.	NAME OF OTHER STAKEHOLDER (IF AN INCORPORATED BODY PROVIDE IDENTIFICATION NUMBER AND PROOF OF INCORPORATION. IF A PARTNERSHIP OR INDIVIDUAL PROVIDE IDENTIFICATION RECORDS* OF ALL THE PARTNERS OR THE INDIVIDUAL.)	
----	--	--

2.	ADDRESS AND EMAIL OF THE OTHER STAKEHOLDER FOR CORRESPONDENCE.	
3.	TOTAL AMOUNT OF CLAIM, INCLUDING ANY INTEREST AS AT LIQUIDATION COMMENCEMENT AND DETAILS OF NATURE OF CLAIM	PRINCIPAL : CLAIM : INTEREST : TOTAL CLAIM :
4.	DETAILS OF DOCUMENTS BY REFERENCE TO WHICH THE CLAIM CAN BE SUBSTANTIATED	
5.	DETAILS OF HOW AND WHEN CLAIM AROSE	
6.	DETAILS OF ANY MUTUAL CREDIT, MUTUAL DEBTS, OR OTHER MUTUAL DEALINGS BETWEEN THE CORPORATE DEBTOR AND THE OTHER STAKEHOLDER WHICH MAY BE SET-OFF AGAINST THE CLAIM	
7.	DETAILS OF ANY RETENTION OF TITLE IN RESPECT OF GOODS OR PROPERTIES TO WHICH THE CLAIM REFERS	
8.	DETAILS OF ANY ASSIGNMENT OR TRANSFER OF DEBT IN HIS FAVOUR	
9.	DETAILS OF THE BANK ACCOUNT TO WHICH THE OTHER STAKEHOLDER'S	
	SHARE OF THE PROCEEDS OF LIQUIDATION of other stakeholder or person authorised to act on his behalf (Please enclose the authority if this is being submitted on behalf of the other stakeholder)	
10.	LIST OUT AND ATTACH THE DOCUMENTS	(i)
Name	IN BLOCK LETTERS OF THE CLAIM.	(ii)
		(iii)

Position with or in relation to creditor
Address of person signing

*PAN, Passport, AADHAAR Card or the identity card issued by the Election Commission of India.

AFFIDAVIT

I, [*insert full name, address and occupation of deponent to be given*] do solemnly affirm and state as follows:

1. The above named corporate debtor was, at the liquidation commencement date, that is, the _____ day of _____ 20____ and still is, justly and truly indebted to me [or to me and [*insert name of co-partner*], my co-partners in trade, or, as the case may be,] in the sum of Rs. _____ for [*please state consideration*].
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below:
[*Please list the documents relied on as evidence of proof.*]
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief.
4. In respect of the said sum or any part thereof, I have not, nor have my partners or any of them, nor has any person, by my/our order, to my/our knowledge or belief, for my/our use, had or received any manner of satisfaction or security whatsoever, save and except the following:
[*Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the other stakeholder which may be set-off against the claim.*]

Solemnly, affirmed at _____ on _____ day, the _____ day of _____ 20_____

Before me,

Notary / Oath Commissioner.

Deponent's signature.

VERIFICATION

I, the Deponent hereinabove, do hereby verify and affirm that the contents of para_to_of this affidavit are true and correct to my knowledge and belief. Nothing is false and nothing material has been concealed therefrom.

Verified at _____ on this _____ day of _____ 201

Deponent's signature.

⁹⁰[FORM H COMPLIANCE CERTIFICATE

[Under Regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016]

I, [Name of the Liquidator], an insolvency professional enrolled with [name of insolvency professional agency] and registered with the Board with registration number [registration number], am the Liquidator for the Liquidation Process of [name of the corporate debtor (CD)].

2. The details of the Liquidation Process are as under:

Sl. No.	Particulars	Description
(1)	(2)	(3)
1	Name of the corporate debtor	
2	Case No. & NCLT Bench	
3	Date of initiation of liquidation	
4	Date of appointment of liquidator	
5	Date of commencement of CIRP	
6	Name of RP during CIRP and his registration No. as IP	
7	Name of Liquidator and his registration No. as IP	
8	Date of Publication of Public Announcement under Form B	
9	Date of Intimation to Registry and Information Utility, if any, about commencement of Liquidation	
10	Date of handover of charge by RP	
11	Date of submission of compliance, if any, directed by AA in the liquidation order and its particulars	
12	Date of appointment of registered valuers, if any	
13	Date of notice to creditors for payment of unpaid capital contribution.	
14	Date of realisation of uncalled capital/unpaid capital contribution.	
15	Date of opening of liquidation account with Bank A/c details	
16	Date of constitution of Consultation Committee	
17		

91[***]		
20	Date of filing of preliminary report & assets memorandum to AA	
21	Fair value	
22	Liquidation value	
23	Date of public ⁹² [notice] for auction (please add additional rows, if required)	
24	Date of order of AA to dispense with the public ⁹³ [notice] for Auction	
25	Date of permission of AA for physical Auction	
26	Date of permission of AA for private sale	
27	Date of permission of AA for distribution of unsold assets to stakeholders	
28	Date of permission of the liquidator to realise the un-relinquished security interest by the secured creditor	
29	Modified list of stakeholders and date of submission to AA	
30	Date of first realisation	
31	Date of second realisation	
32	Date of first distribution	
33	Date of second distribution	
34	Date of submission of Quarterly Progress Report-I (FY-1)	
35	Date of submission of Asset Sales Report to AA	
36	Date of submission of Quarterly Progress Report-II	
37	Date of submission of Quarterly Progress Report-III	
38	Date of submission of Quarterly Progress Report-IV & Audit Report	
39	Date of submission of Quarterly Progress Report-I (FY-2)	
40	Date of submission of Quarterly Progress Report-II	
41	Date of submission of Quarterly Progress Report-III	
42	Date of submission of Quarterly Progress Report-IV & Audit Report	
43	Date of submission of Quarterly Progress Report-I (FY-2)	
44	Date of application to AA as per Reg 46(1)	
	c) Income Tax Dept	62
	d) Inspector of Factory	
	e) GST/VAT	

⁹¹ Omitted by Notification No. IBBI/2021-22/GN/REG079, dated 30th September, 2021 (w.e.f. 30-09-2021).

⁹² Substituted by Notification No. IBBI/2021-22/GN/REG079, dated 30th September, 2021 (w.e.f. 30-09-2021).

Prior to substitution, it stood as under:

“announcement”

⁹³ Substituted by Notification No. IBBI/2021-22/GN/REG079, dated 30th September, 2021 (w.e.f. 30-09-2021).

Prior to substitution, it stood as under:

“announcement”

⁹⁴ Substituted by Notification No. IBBI/2019-20/GN/REG/053 dated 6th January, 2020 (w.e.f. 06-01-2020).

Prior to substitution, these entries stood as “

b) ESF

45	Amount deposited into Corporate Liquidation Account: (a) Amount of unclaimed dividends (b) Amount of undistributed proceeds (c) Income referred to in sub-regulation (2) and (3) of regulation 46 (d) Interest referred to in sub-regulation (4) of regulation 46
----	---

3. The details of the assets as per Asset Memorandum and Final Sale Report are as under:

Sl. No.	Assets under sub-regulation (5) of regulation 46]	Mode of Sale	Board and the Authority	Estimated Liquidation Value	Realisation Amount (Rs)	Date of Transfer to Liquidation Account
47	Date of Final Report to AA (prior to dissolution application)					
4. (a) Liquidation value of the liquidation estate: (b) Amount realised from sale of liquidation estate: (c) The amounts distributed to stakeholders as per section 52 or 53 of Code are as under: (Amount in Rs. lakh)						

Sl. No.	Stakeholders* under section 53 (1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	(a): CIRP Costs					
2	(a): Liquidation Costs					
3	(b)(i)					
4	(b)(ii)					
5	(c)					
6	(d)					
7	(e)(i)					

5. The Liquidation Process has been conducted as per the timeline indicated in regulation 47 as under:

Sl. No.	Section of the Code / Regulation	Description of Task	Timeline as per regulation	Actual Timeline
Total				

45	Date of transfer of undistributed/unclaimed assets or proceeds of liquidation to public Account of India	
46	Date of intimation as per Reg 46(2)	
47	Date of Final Report to AA (prior to dissolution application)"	

(1)	(2)	(3)	(4)
Section 33	Commencement of LCD and Appointment of Liquidator	T	T

6. The following are deviations /non-compliances with the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made, or circulars issued there under (If any deviation/ non-compliances were observed, please state the details and reasons for the same):

Sl. No.	Deviation/Non-compliance observed	Section of the Code / Regulation No. / Circular No.	Reasons	Whether rectified or not
(1)	(2)	(3)	(4)	(5)
1				

7. The dissolution application has been filed [before expiry of the period of one year] / [after expiry of one year]. Please state details of any extension sought with the reason and granted:

8. The details of application(s) filed / pending in respect of avoidance of transactions.

Sl. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order
(1)	(2)	(3)	(4)	(5)
1	Preferential transactions under section 43			
2	Undervalued transactions under section 45			
3	Extortionate credit transactions under section 50			
4	Fraudulent transactions under section 66			

9. All undischarged or matters pending before any Court or Tribunal relating to corporate debtor, if any, have been reported to AA.

10.I (Name of Liquidator), hereby certify that the contents of this certificate are true and correct to the best of my knowledge and belief, and nothing material has been concealed there from.

(Signature)

Name of the Liquidator:

IP Registration No:

Address as registered with the Board:

Email id as registered with the Board:

Date:

Place:]

⁹⁵[FORM -I

Deposit of Unclaimed Dividends and / or Undistributed Proceeds

[Under Regulation 46 (5) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016]

A. Details of Liquidation Process

⁹⁵ Inserted by Notification No. IBBI/2019-20/GN/REG/053 dated 6th January, 2020 (w.e.f. 06-01-2020).

Sl. No.	Description	Particulars
(1)	(2)	(3)
1	Name of the Corporate Debtor	
2	Identification Number of CD (CIN/DIN)	
3	CIRP Commencement Date	
4	Liquidation Commencement Date	
5	Date of Deposit into the Corporate Liquidation Account	
6	Amount deposited into the Corporate Liquidation Account (Rs.)	
7	Bank Account from which the amount is transferred to Corporate Liquidation Account (a) Account No: (b) Name of Bank: (c) IFSC: (d) MICR: (e) Address of Branch of the Bank:	

8 Details of the Amount (Rs.) deposited into Corporate Liquidation Account						
B. Details of Stakeholders entitled to Unclaimed Dividends or Undistributed Proceeds						
Sl. No.	Name of stakeholder entitled to receive unclaimed dividends or undistributed proceeds	Address, phone number and email address of the stakeholder	Identification Number of the stakeholder (PAN, CIN, Aadhar No.) (Please attach of deposit certificate)	Amount due to the stakeholder (Rs.)	Nature of Amount due	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1						
C. Details of Deposit made into the Corporate Liquidation Account						
I (Name of Liquidator) have deposited Rs. (Rupeesonly) into the Corporate Liquidation Account on ... vide acknowledgment no. dated						

I (Name of Liquidator) hereby certify that the details provided in this Form are true and correct to the best of my knowledge and belief, and nothing material has been concealed.

(Signature)
Name of the Liquidator
IP Registration No:
Address as registered with the Board:
Email id as registered with the Board:

Date:
Place:

FORM J
Withdrawal from Corporate Liquidation Account

[Under Regulation 46 (7) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016]

Sl. No.	Description	Particulars
(1)	(2)	(3)
1	Name of the Corporate Debtor	
2	Identification Number of CD (CIN/DIN)	
3	CIRP Commencement Date	
4	Liquidation Commencement Date	
5	Date of Dissolution Order	
6	Date of Deposit into the Corporate Liquidation Account	
7	Name of the Stakeholder seeking withdrawal	
8	Identification Number of the Stakeholder (a) PAN (b) CIN (c) Aadhaar No.	
9	Address and Email Address of Stakeholder	
10	Amount of Claim of the Stakeholder, admitted by the Liquidator	
11	Amount of unclaimed dividends / undistributed proceeds deposited by the liquidator in the Corporate Liquidation Account against the stakeholder	
12	Amount of unclaimed dividends / undistributed proceeds the Stakeholder seeks to withdraw from the Corporate Liquidation Account	
13	Bank Account to which the amount is to be transferred from the Corporate Liquidation Account, if withdrawal is approved	

DECLARATION

I, [Name of stakeholder] currently residing at [insert address], hereby declare and state as follows:

(b) Name of Bank:

1. I am entitled to receive a sum of Rs.... (Rupees ... only) from the Corporate Liquidation Account, as presented above.

2. In respect of the above sum or any part thereof, neither I nor any person, by my order, to my knowledge or belief, for any cause, has received any manner of satisfaction or security whatsoever, save and except the following:

3. I undertake to refund the entire amount with interest as decided by the Board, in case the Board finds this claim not entitled to this amount.

4. I authorise the Board to initiate appropriate legal action against me if my claim is found false at any time.

Date:
Place: (Signature of the Stakeholder)

VERIFICATION

I, [Name] the stakeholder hereinabove, do hereby verify that the contents of this Form are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this day of, 20...

(Signature of the Stakeholder)

[Note: In the case of a company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary and in the case of other entities, an officer authorised for the purpose by the entity].]

SCHEDULE III

(Under Regulation 6 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016)

The formats contained in this Schedule are indicative in nature, and the liquidator may make such modifications to them as he deems fit in the facts and circumstances of the liquidation.

CASH BOOK

Name of Corporate Debtor.....(in liquidation)

Date	Particulars	Ledger Folio No.	Receipt			Payments				Balance				
			Voucher No.	Cash	Bank	Total	Voucher No.	Cash	Bank	Total	Cash	Bank	Total	
1	2	3	5	6	7	9	10	11	12	13	14			
Under 'particulars', the head of account to which the entry relates should be indicated so that the entry may be posted under the proper head in the General Ledger.														

GENERAL LEDGER

Name of Corporate Debtor.....(in liquidation)
.....(Head of account)

Date	Particulars	Dr. (Rs.)	Cr. (Rs.)	Balance (Rs.)
------	-------------	--------------	--------------	------------------

1	2	3	4	5

Instructions:

1. A General Ledger should be maintained with such heads of account as the liquidator may think necessary and appropriate. The following heads of account may be found suitable:

- (1) Asset account
- (2) Investments account
- (3) Book Debts & Outstandings account
- (4) Calls
- (5) Rents Collected
- (6) Interest on Securities and Deposits
- (7) Advances received
- (8) Miscellaneous receipts payments
- (9) Establishment
- (10) Legal charges
- (11) Rents, Rates and Taxes
- (12) Fees and Commission account
- (13) Other expenses
- (14) Suspense account
- (15) Secured creditors
- (16) Dividend account.

2. The entries in the General Ledger should be posted from the Cash Book.

3. The total of the debit balances and the total of the credit balances of the several heads of account in the General Ledger should agree, after taking into consideration the cash and bank balances as shown in the Cash Book. The totals should be tallied once a month.

BANK LEDGER

Corporate debtor's (in liquidation) account with the Scheduled Bank

Date	Particulars	Deposits		Withdrawals		Balance
		Challan Number	Rs.	Cheque Number	Rs.	
1	2	3	4	5	6	7
1.						
2.						

REGISTER OF ASSETS

<i>Sl. No.</i>	<i>Description of assets</i>	<i>Date of taking possession</i>	<i>Serial number of the Register</i>	<i>Date</i>	<i>Date of realization</i>	<i>Amount</i>	<i>Remarks</i>
<i>Instructions: 2</i>		<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>
1.	All the assets of the corporate debtor except the liquidator's investments in securities and						
2.	outstandings to be realized should be entered in this Register.						

SECURITIES AND INVESTMENTS REGISTER

<i>Sl. No.</i>	<i>Petition number and name of the corporate debtor</i>	<i>Date of investment</i>	<i>Nature and particulars of security in which investment is made</i>	<i>Amount Invested (Rs.)</i>	<i>Dividend or interest received with date of receipt (Rs.)</i>	<i>Date of disposal</i>	<i>Remarks</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	
1.							
2.							

REGISTER OF BOOK DEBTS AND OUTSTANDINGS

<i>Sl. No.</i>	<i>Name and address of debtor</i>	<i>Particulars of debt</i>	<i>Amount due (Rs.)</i>	<i>Date of liability</i>	<i>Amount realised (Rs.)</i>	<i>Action taken</i>	<i>Date of realisation</i>	<i>Reference to Suits Register</i>	<i>Remarks</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>
<i>Instructions:</i>									
<i>2.</i>									
1. All debts due to the corporate debtor, both secured and unsecured, including amounts due for arrears of calls made prior to the liquidation, should be entered in this Register.									

TENANTS LEDGER

1. Description of property:
2. Name and address of tenant:
3. Date of tenancy:
4. Period of tenancy:
5. Rent (monthly or annual):
6. Special terms, if any:
7. Arrears on date of taking charge of property:
8. Advance received, if any:

<i>Month</i>	<i>Demand</i>	<i>Realisation</i>		<i>Balance</i>	<i>Remarks</i>
	<i>Amount (Rs.)</i>	<i>Date</i>	<i>Amount (Rs.)</i>	<i>Amount (Rs.)</i>	
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
January					
February					

SUITS REGISTER

Sl. No.	Numerical	Name and address of the plaintiff/peasant and his advocate	Name and address of defendant and his advocate	Amount claimed	Date of filing	Date of hearing	Date of decree	Nature of relief granted	Amount decreed	Costs decreed	Reference to Decree Register	Remarks
---------	-----------	--	--	----------------	----------------	-----------------	----------------	--------------------------	----------------	---------------	------------------------------	---------

Instructions:

1. Applications made by or against the corporate debtor which are in the nature of suits should also be entered in this Register.

1. **DECREE REGISTER**

Number of suit or application	Name and address of judgment debtor	Decree (Rs.)	Date of decree	Action taken	Amount realized (Rs.)	Date of realization	Reference to Register
Instructions:							
1. The purpose of the Register is to enable the liquidator to keep watch on the progress of the realization of decrees in favour of the corporate debtor in his charge.							
2. Every decree or order for payment of money or delivery of property in favour of the corporate debtor including an order for payment of costs whether made in a suit, appeal or application, should be entered in this Register.							

2. **REGISTER OF CLAIMS AND DISTRIBUTIONS**

		<i>Number of shares or extent of interest held, and amount paid thereon</i>	<i>Date of call and amount called</i>	<i>Amount paid and date of payment</i>	<i>(Repeat columns as under first call)</i>					
<i>1.</i>	<i>2.</i>	<i>3.</i>	<i>4.</i>	<i>5.</i>	<i>6 to 9</i>	<i>10</i>	<i>11</i>	<i>12</i>	<i>13</i>	<i>14</i>
<i>Instructions:</i>										
Only contributories settled on the list of stakeholders should be entered in this Register and they should be entered in the same order as in the list.										
<i>2.</i>										

DISTRIBUTIONS REGISTER

Date on which distribution is made:

Total amount payable in this round of distribution:

<i>Date</i>	<i>Number on list of stakeholders</i>	<i>Particulars</i>	<i>Receipts</i>	<i>Payments</i>
<i>1</i>	<i>2</i>		<i>4</i>	<i>5</i>
<i>1.</i>				
<i>2.</i>				
<i>Instructions:</i>				

1. Separate pages should be set apart for preferential and ordinary distributions.
2. The payments should be entered as and when they are made. Any amount which is returned unpaid should be re-entered in the account under 'Receipts'.
3. The number in column 2 should be the number of the stakeholders in the list of stakeholders as finally settled.
4. The total amount of unclaimed distribution payable into the ⁹⁶[Corporate Liquidation Account], and the amount paid into the Bank with the date of payment, should be shown at the end of the account.

⁹⁶ Substituted by Notification No. IBBI/2019-20/GN/REG053 dated 6th January, 2020 (w.e.f. 06-01-2020). Prior to substitution it stood as under:
"Public Account of India".

FEE REGISTER

<i>Amount realized on which fee are payable</i>	<i>Amount distributed on which fee are payable</i>	<i>Fee payable on the amounts in the two preceding columns</i>	<i>Fee, if any payable other wise under order of Adjudicating Authority</i>	<i>Total fee payable</i>	<i>Date of payment</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Instructions:</i>					
1. There should be a fresh opening for each year.					
2. The fees due to the liquidator should be entered in the Register as soon as the audit of the account for a quarter is completed.					

SUSPENSE REGISTER

<i>Date</i>	<i>Particulars</i>	<i>Debit (Rs.)</i>	<i>Credit (Rs.)</i>	<i>Balance (Rs.)</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
1.				
<i>Instructions:</i>				
1. Advances made by the liquidator to any person should be entered in this Register.				
2. There should be a separate opening for each person.				

DOCUMENTS REGISTER

<i>Sl. No.</i>	<i>Description of document</i>	<i>Date of receipt</i>	<i>From whom received</i>	<i>Reference number of shelf in which document is kept</i>	<i>How disposed of</i>	<i>Remarks</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>
<i>Instruction: All documents of title like title-deeds, shares, promissory notes, etc., should be entered in this Register.</i>						

BOOKS REGISTER

<i>Date</i>	<i>From whom received</i>	<i>Serial Number</i>	<i>Description of books, including files</i>	<i>Shelf number</i>	<i>How disposed of</i>	<i>Remarks</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>
<i>Instruction: All books and files of the corporate debtor which come into the hands of the liquidator should be entered in this Register.</i>						
<i>2.</i>						

REGISTER OF UNCLAIMED DIVIDENDS AND UNDISTRIBUTED ⁹⁷[PROCEEDS] DEPOSITED

<i>Sl. No.</i>	<i>Name of person entitled to the dividend or return</i>	<i>Whether Creditor or Contributor</i>	<i>Number on list of stakeholders</i>	<i>Date of declaration of dividend or return</i>	<i>Rate of dividend or return</i>	<i>Total amount payable (Rs.)</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>
1.						(Dr. M. S. Sahoo)
2.						Chairperson
						Insolvency and Bankruptcy Board of India

⁹⁷ Substituted by Notification No. IBBI/2019-20/GN/REG053 dated 6th January, 2020 (w.e.f. 06-01-2020). Prior to substitution it stood as under: "ASSETS".

**INSOLVENCY AND BANKRUPTCY BOARD
OF INDIA (FAST TRACK INSOLVENCY
RESOLUTION PROCESS FOR CORPORATE
PERSONS) REGULATIONS, 2017
[AMENDED UPTO 07.02.2018]**

Chapter IV

Fast Track Corporate insolvency resolution process

Section-55

Corporate Debtors :

with assets and income below a specified level,

with such class of creditors or such amount as specified

Such other categories as may be notified

An application for fast track corporate insolvency resolution process may be made in respect of the following corporate debtors, namely :-

- Small-sized Companies (As defined under the Companies Act, 2013) or
- Start-up Company other than a Partnership Firm or
- An Unlisted Company with total assets not exceeding one crore rupees (as reported in the books of the preceding financial year).

SMALL COMPANY UNDER CA 2013

“Small company” (defined in Section 2(85)) means a company, other than a public company,—

- (i) Whose paid-up share capital does not exceed Rs. 50 lakhs or such higher amount as may be prescribed which shall not be more than Rs. 5 Crores; [and]
- (ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed Rs. 2 Crores or such higher amount as may be prescribed which shall not be more than One hundred Crores rupees.

Provided that nothing in this clause shall apply to—

- (A) a holding company or a subsidiary company;
- (B) a Section 8 company or
- (C) a company or body corporate governed by any special Act

The Ministry of Corporate Affairs has notified an amendment in the Companies (Specification of Definitions Details) Rules, 2014 that came into

force on 1st April 2021.

- The MCA (Ministry of Corporate Affairs) has effected this amendment in accordance with the proposal of the Honourable Finance Minister to revise the definition of Small companies in India by increasing the paid-up capital limit from INR 50 Lacs to INR 2 Crores in the Union Budget 2021 while the turnover threshold by enhancing from INR 2 crores to 20 crores. Further amended on 15th September, 2022
- The new definition of the Small Companies As per the new definition and threshold limits, companies with a paid-up capital of INR 2 crore or less, and turnover of INR 20 crore or less are defined as small companies. The earlier threshold was INR 50 lacs or less in paid-up capital and INR 2 crore or less in turnover.

Criteria Old	Criteria New
Paid-up share capital	50 lakhs 2 crores
Turnover	2 crores to 20 crores.
- SO FOR EXAM What needs to be Criteria for Fast Track Unlisted company/ LLP
Assets not more than one crore Unlisted company/ LLP Paid up capital not more than 4 crores Unlisted company/ LLP Turnover not over 40 Crore

Definition of Start Up

An entity shall be considered as a **startup**(meaning of Startup) if it satisfies all the following conditions:

a. If it is incorporated/registered as any of the followings:

a. Private Limited Company (as defined in [Companies Act, 2013](#)).

b. Partnership Firm (registered under Partnership Act, 1932).

c. Limited Liability Partnership (registered under [Limited Liability Partnership Act, 2008](#)).

d. One Person Company (as defined in Companies Act, 2013).

Provided that such entity is not formed by splitting up or reconstruction of a business already in existence.

b. It has **not completed ten years** since incorporation/registration as above.

c. Its turnover for any of the financial years has **not exceeded INR 25 Crore**.

d. It satisfies any of the following conditions:

i) It is working towards:

Innovation of new products/processes/services or

Development of new products/processes/services or

Improvement of existing products/processes/services

ii) It is a scalable business model with a high potential of:

Employment generation or

Wealth creation.

Section 56

Time period for completion of fast track corporate insolvency resolution process –

- (1) Subject to the provisions of sub-section (3), the fast track corporate insolvency resolutions shall be completed within a period of **ninety days** from the insolvency commencement date.
- (2) The resolutions professional shall file an application to the adjudicating authority to extend the period of the fast track corporate insolvency resolution process beyond ninety days if instructed to do so by a resolution passed at a meeting of the committee of creditors and supported by a **vote of 75 percent** of the voting share.
- (3) On receipt of an application under sub-section (2), if the adjudicating authority is satisfied that the subject matter of the case is such that fast track corporate insolvency resolution process cannot be completed within a periods of ninety days by such further period, as it thinks fit, but not exceeding **forty-five days**:
PROVIDED that any extension of the fast track corporate insolvency resolution process under this section shall not be granted more than once.

SECTION 57 TO 58

Section-57

Manner of initiating fast track corporate insolvency resolution process–

An application for fast track corporate insolvency resolution process may be filed by a creditor or corporate debtor, as the case may be, along with:–

- (a) The proof of the existence of default as evidenced by records available with an information utility or such other means as may be specified by the Board; and
- (b) Such other information as may be specified by the Board to establish that the corporate debtor is eligible for fast track corporate insolvency resolution process.

Section-58

Applicability of Chapter II to this chapter

The process of conducting a corporate insolvency resolution process under chapter II and the provision relating to offences and penalties under chapter VII shall apply to this chapter as the context may require.

- IBBI/2017-18/GN/REG012 - In exercise of the powers conferred under sections 58, 196 and 208 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following Regulations, namely-

CHAPTER I PRELIMINARY

1. Short title and commencement.

- (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017.
- (2) These Regulations shall come into force on June 14, 2017.
- (3) These Regulations shall apply to the fast track process under Chapter IV of Part II of the Code.

2. Definitions.

- (1) In these Regulations, unless the context otherwise requires-
 - (a) “applicant” means the person filing an application under Chapter IV of Part II of the Code;
 - (b) “Code” means the Insolvency and Bankruptcy Code, 2016;
 - (c) “Code of Conduct” means the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
 - (d) “committee” means a committee of creditors established under section 21;

- (e) **["dissenting financial creditor" means a financial creditor who voted against the resolution plan or abstained from voting for the resolution plan, approved by the committee;]**
- (f) "electronic form" shall have the meaning assigned to it in the Information Technology Act, 2000 (21 of 2000);
- (g) "electronic means" means an authorized and secured computer programme which is capable of producing confirmation of sending communication to the participant entitled to receive such communication at the last electronic mail address provided by such participant and keeping record of such communication;
- (ga) **"evaluation matrix" means such parameters to be applied and the manner of applying such parameters, as approved by the committee, for consideration of resolution plans for its approval;**
- (gb) **"fair value" means the estimated realizable value of the assets of the corporate debtor, if they were to be exchanged on the insolvency commencement date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had acted knowledgeably, prudently and without compulsion;**
- (h) **"fast track process" means the fast track insolvency resolution process for corporate persons under Chapter IV of Part II of the Code;**
- (i) "fast track process costs" means the costs in Regulation 30;
- (j) **"fast track process period" means the period of ninety days beginning from the fast track recommencement date and ending on the ninetieth day;**

- (k) “identification number” means the Limited Liability Partnership Identification Number under the Limited Liability Partnership Act, 2008, or the Corporate Identity Number under the Companies Act, 2013, as the case may be;
- (l) “fast track commencement date” means the date of admission of an application by the Adjudicating Authority for initiating the fast track process under **Chapter IV of Part II of the Code;**
- (m) “insolvency professional entity” means an entity recognised as such under the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
- (n) **“liquidation value” means the estimated realizable value of the assets of the corporate debtor, if the corporate debtor were to be liquidated on the insolvency commencement date.]**
- (o) **“participant” means a person entitled to attend a meeting of the committee under section 24 or any other person authorised by the committee to attend the meeting;**
- (p) **“registered valuer” means a person registered as such in accordance with the Companies Act, 2013 (18 of 2013) and rules made there under;**
- (q) “section” means section of the Code;
- (r) “video conferencing or other audio and visual means” means such audio and visual facility which enables the participants in a meeting to communicate concurrently with one another and to participate effectively in the meeting.

(2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations, but defined in the Code, shall have the meanings assigned to them in the Code.

CHAPTER II GENERAL

3. Eligibility for resolution professional.

(1) An insolvency professional shall be eligible to be appointed as a resolution professional for a fast track process of a corporate debtor if he, and all partners and directors of the insolvency professional entity of which he is a partner or director, are independent of the corporate debtor.

Explanation— A person shall be considered independent of the corporate debtor, if he –

(a) is eligible to be appointed as an independent director on the board of the corporate debtor under section 149 of the Companies Act, 2013 (18 of 2013), where the corporate debtor is a company;

(b) is not a related party of the corporate debtor; or

(c) has not been an employee or proprietor or a partner:

1) of a firm of auditors or company secretaries in practice or cost auditors of the corporate debtor; or

2) of a legal or a consulting firm, which has or had any transaction with the corporate debtor amounting to **ten per cent** or more of the gross turnover of such firm,

at any time in the preceding three years.

- (2) An insolvency professional shall not be eligible to be appointed as a resolution professional if he, or the insolvency professional entity of which he is a partner or director, is under a restraint order of the Board.
- (3) **An insolvency professional shall make disclosures at the time of his appointment and thereafter in accordance with the Code of Conduct.**
- (4) An insolvency professional shall not continue as a resolution professional if the insolvency professional entity of which he is a director or a partner, or any other partner or director of such insolvency professional entity represents any other stakeholders in the same fast track process.

4. Access to books.

- Without prejudice to section 17(2)(d), the interim resolution professional may access the books of account, records and other relevant documents and information, to the extent relevant for discharging his duties under the Code, of the corporate debtor held with-
 - (a) depositories of securities;
 - (b) professional advisors of the corporate debtor;
 - (c) information utilities;
 - (d) other registries that record the ownership of assets;
 - (e) members, promoters, partners, board of directors and joint venture partners of the corporate debtor; and

(f) contractual counterparties of the corporate debtor.

5. Extortionate credit transaction.

• **A transaction shall be considered an extortionate credit transaction under section 50(2) where the terms:**

(a) require the corporate debtor to make exorbitant payments in respect of the credit provided; or

(b) are unconscionable under the principles of law relating to contracts.

CHAPTER III

PUBLIC ANNOUNCEMENT

6. Public announcement.

(1) An insolvency professional shall make a public announcement immediately on his appointment as an interim resolution professional.

*Explanation: 'Immediately' means **not later than three days** from the date of his appointment.*

(2) The public announcement referred to in sub-regulation (1) shall –

(a) be in Form A;

(b) (i) be published in one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, of the corporate debtor and any other location where in the opinion of the interim resolution professional, the corporate debtor conducts material business operations;

- (ii) be hosted on the website, if any, of the corporate debtor; and
- (iii) be hosted on the website, if any, designated by the Board for the purpose,
- (c) provide the last date for submission of proofs of claim, which shall be **ten days** from the date of appointment of the interim resolution professional.
- (3) **The applicant shall bear the expenses of the public announcement which may be reimbursed by the committee to the extent it ratifies them.**

Explanation-The expenses on the public announcement shall not form part of fast track process costs.

CHAPTER IV PROOF OF CLAIMS

7. Claims by operational creditors.

- (1) An operational creditor, other than workman or employee of the corporate debtor, shall submit proof of his claim to the interim resolution professional in person, by post or by electronic means in **Form B**.
 - *Provided that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.*
- (2) The existence of debt due to the operational creditor under this Regulation may be proved on the basis of-

- (a) the records available with an information utility, if any; or
- (b) other relevant documents, including -
 - (i) a contract for the supply of goods and services with corporate debtor;
 - (ii) an invoice demanding payment for the goods and services supplied to the corporate debtor;
 - (iii) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any; or
 - (iv) financial accounts.

8. Claims by financial creditors.

- (1) A financial creditor shall submit proof of claim to the interim resolution professional in electronic form in **Form C**:
 - *Provided that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.*
- (2) The existence of debt due to the financial creditor may be proved on the basis of -
 - (a) the records available with an information utility, if any; or
 - (b) other relevant documents, including -
 - (i) a financial contract supported by financial statements as evidence of the debt;

- (ii) a record evidencing that the amounts committed by the financial creditor to the corporate debtor under a facility has been drawn by the corporate debtor;
- (iii) financial statements showing that the debt has not been repaid; or
- (iv) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any.

9. Claims by workmen and employees.

- (1) A workman or an employee of the corporate debtor shall submit proof of claim to the interim resolution professional in person, by post or by electronic means in **Form D**:
 - *Provided that such person may submit supplementary documents or clarifications in support of the claim, on his own or if required by the interim resolution professional, before the constitution of the committee.*
- (2) Where there are dues to numerous workmen or employees of the corporate debtor, an **authorised representative** may submit one proof of claim for all such dues on their behalf in **Form E**.
- (3) The existence of dues to workmen or employees may be proved by them, individually or collectively on the basis of -
 - (a) records available with an information utility, if any; or
 - (b) other relevant documents, including –
 - (i) a proof of employment such as contract of employment for the period for which such workman or employee is claiming dues;

- (ii) evidence of notice demanding payment of unpaid dues and any documentary or other proof that payment has not been made; or
- (iii) an order of a court or tribunal that has adjudicated upon the non-payment of a dues, if any.

9A. Claims by other creditors.

- (1) A person claiming to be a creditor, other than those covered under regulations 7, 8, or 9, shall submit proof of its claim to the interim resolution professional or resolution professional in person, by post or by electronic means in **Form F** of the Schedule.
- (2) The existence of the claim of the creditor referred to in sub-section (1) may be proved on the basis of –
 - (a) the records available in an information utility, if any, or
 - (b) other relevant documents sufficient to establish the claim, including any or all of the following:-
 - (i) documentary evidence demanding satisfaction of the claim;
 - (ii) bank statements of the creditor showing non-satisfaction of claim;
 - (iii) an order of court or tribunal that has adjudicated upon non-satisfaction of claim, if any.

10. Substantiation of claims.

- The interim resolution professional or the resolution professional, as the case may be, may call for such other evidence or clarification as he deems fit from a creditor for substantiating the whole or part of its claim.

11. Cost of proof proving the debt

A creditor shall bear the cost of proving the debt due to such creditor.

12. Submission of proof of claims.

- (1) Subject to sub-regulation (2), a creditor shall submit proof of his claim on or before the last date mentioned in the public announcement.
- (2) A creditor, who failed to submit proof of claim within the time stipulated in the public announcement, may submit proof of such claim to the interim resolution professional or the resolution professional, as the case may be, **till the approval of a resolution plan** by the committee.
- (3) Where the creditor in sub-regulation (2) is a financial creditor, it shall be included in the committee from the date of admission of such claim:
 - *Provided that such inclusion shall not affect the validity of any decision taken by the committee prior to such inclusion.*

13. Verification of claims.

- (1) The interim resolution professional or the resolution professional, as the case may be, shall verify every claim, as on the fast track commencement date, **within seven days from the last date of the receipt of the claims**, and thereupon maintain a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it.

(2) The list of creditors shall be –

- (a) available for inspection by the persons who submitted proofs of claim;
- (b) available for inspection by members, partners, directors and guarantors of the corporate debtor;
- (c) displayed on the website, if any, of the corporate debtor;
- (d) filed with the Adjudicating Authority; and
- (e) presented at the first meeting of the committee.

14. Determination of amount of claim.

- (1) Where the amount claimed by a creditor is not precise or cannot be determined due to any contingency or other reason, the interim resolution professional or the resolution professional, as the case may be, shall make the best estimate of the amount of the claim based on the information available with him.
- (2) The interim resolution professional or the resolution professional, as the case may be, shall revise the amount of claims admitted, including the estimates of claims made under sub-regulation (1), as soon as may be practicable, when he receives additional information warranting such revision.

15. Debt in foreign currency.

- The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as on the fast track commencement date.

- Explanation - “official exchange rate” means the reference rate published by the Reserve Bank of India or derived from such reference rates.

CHAPTER V

COMMITTEE OF CREDITORS

16. Committee with only operational creditors.

- (1) Where the corporate debtor has no financial debt or where all financial creditors are related parties of the corporate debtor, the committee shall be set up in accordance with this Regulation.
- (2) **The committee formed under this Regulation shall consist of following members: -**
 - (a) **eighteen largest operational creditors by value:**
 - *Provided that if the number of operational creditors is less than eighteen, the committee shall include all such operational creditors;*
 - (b) **one representative elected by all workmen other than those workmen included under sub-clause (a); and**
 - (c) **one representative elected by all employees other than those employees included under sub-clause (a).**
- (3) **Every member of the committee formed under this Regulation shall have voting rights in proportion of the debt due to such creditor or debt represented by such representative, as the case may be, to the total debt.**

Explanation – For the purposes of this sub-regulation, ‘total debt’ means the sum of-

- (a) the amount of debt due to the creditors listed in sub-regulation 2(a);
 - (b) the amount of the aggregate debt due to workmen under sub-regulation 2(b); and
 - (c) the amount of the aggregate debt due to employees under sub-regulation 2(c).
- (4) A committee formed under this Regulation and its members shall have the same rights, powers, duties and obligations as a committee comprising financial creditors and its members, as the case may be.

17. Filings by the interim resolution professional.

- (1) The interim resolution professional shall file a report certifying the constitution of the committee to the Adjudicating Authority **on or before the expiry of twenty-one days** from the date of his appointment.
- (2) Based on records of the corporate debtor and claims, if the interim resolution professional is of the opinion that the fast track process is not applicable to the corporate debtor as per notifications under section 55(2), he shall file an application to the Adjudicating Authority along with the report in sub-regulation (1), to pass an order converting the fast track process to corporate insolvency resolution process under Chapter II of Part II of the Code.
- (3) If the Adjudicating Authority passes an order converting fast track to corporate insolvency resolution process on an application under sub-regulation (2), the process shall be carried on in accordance with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- (4) The interim resolution professional shall **convene the first meeting of the committee within seven days** of filing the report(s) under this Regulation.

CHAPTER VI

MEETINGS OF THE COMMITTEE

18. Meetings of the committee.

- A resolution professional may convene a meeting of the committee as and when he considers necessary, and shall convene a meeting if a request to that effect is made by members of the committee representing **thirty-three per cent** of the voting rights.

19. Notice for meetings of the committee.

- (1) Subject to this Regulation, a meeting of the committee shall be called by giving **not less than seven days' notice** in writing to every creditor, delivered at the address he has provided to the resolution professional and such notice may be served by hand delivery, or by registered post but in any event, be served on every participant by electronic means in accordance with Regulation 20.
- (2) The committee may reduce the notice period from seven days to such other period of not less than twenty four hours, as it deems fit.

20. Service of notice by electronic means.

- (1) A notice by electronic means may be sent to the participants through e-mail as a text or as an attachment to e-mail or as a notification providing electronic link or Uniform Resource Locator for accessing such notice.
- (2) The subject line in e-mail shall state the name of the corporate debtor, the place, if any, the time and the date on which the meeting is scheduled.
- (3) If notice is sent in the form of a non-editable attachment to an e-mail, such attachment shall be in the Portable Document Format or in a non-editable format together with a 'link or instructions' for recipient for downloading relevant version of the software.
- (4) When notice or notifications of availability of notice are sent by an e-mail, the resolution professional shall ensure that it uses a system which produces confirmation of the total number of recipients e-mailed and a record of each recipient to whom the notice has been sent and copy of such record and any notices of any failed transmissions and subsequent re-sending shall be retained as ‘‘proof of sending’’.
- (5) The obligation of the resolution professional shall be satisfied when he transmits the e-mail and he shall not be held responsible for a failure in transmission beyond its control.
- (6) The notice made available on the electronic link or Uniform Resource Locator shall be readable, and the recipient should be able to obtain and retain copies and the resolution professional shall give the complete Uniform Resource Locator or address of the website and full details of how to access the document or information.

(7) If a creditor, other than a member of the committee, fails to provide or update the relevant e-mail address to the resolution professional, the non-receipt of such notice by such participant of any meeting shall not invalidate the decisions taken at such meeting.

21. Contents of the notice for meeting.

(1) The notice shall inform the participants of the venue, the time and date of the meeting and of the option available to them to participate through video conferencing or other audio and visual means, and shall also provide all the necessary information to enable participation through such means.

(2) The notice of the meeting shall provide that a creditor may attend and vote in the meeting either in person or through an authorised representative:

- *Provided that such creditor shall inform the resolution professional, in advance of the meeting, of the identity of the authorised representative who will attend and vote at the meeting on its behalf.*

(3) The notice of the meeting shall contain an agenda of the meeting with the following-

(i) a list of the matters to be discussed at the meeting;

(ii) a list of the issues to be voted upon at the meeting; and

(iii) copies of all documents relevant to the matters to be discussed and the issues to be voted upon at the meeting; and

(4) The notice of the meeting shall-

- (a) state the process and the manner for voting and the time schedule, including the time period during which the votes may be cast:
- (b) provide the login ID and the details of a facility for generating password and for keeping security and casting of an electronic vote in a secure manner; and
- (c) provide contact details of the person who will address the queries connected with the voting.

22. Quorum at the meeting.

- (1) A meeting of the committee shall be quorate if members of the committee representing at least thirty-three percent of the voting rights are present either in person or by video conferencing or other audio and visual means:**
 - *Provided that the committee may modify the percentage of voting rights required for quorum in respect of any future meetings of the committee.*
- (2) Where a meeting of the committee could not be held for want of quorum, unless the committee has previously decided otherwise, the meeting shall automatically stand adjourned at the same time and place on the next day.
- (3) In the event a meeting of the committee is adjourned in accordance with sub-regulation (2), the adjourned meeting shall be quorate with the members of the committee attending the meeting.

23. Participation through video conferencing.

- (1) The notice convening the meetings of the committee shall provide the participants an option to attend the meeting through video conferencing or other audio and visual means in accordance with this Regulation.
- (2) The resolution professional shall make necessary arrangements to ensure uninterrupted and clear video or audio and visual connection.
- (3) The resolution professional shall take due and reasonable care-
 - (a) to safeguard the integrity of the meeting by ensuring sufficient security and identification procedures;
 - (b) to ensure availability of proper video conferencing or other audio and visual equipment or facilities for providing transmission of the communications for effective participation of the participants at the meeting;
 - (c) to record proceedings and prepare the minutes of the meeting;
 - (d) to store for safekeeping and marking the physical recording(s) or other electronic recording mechanism as part of the records of the corporate debtor;
 - (e) to ensure that no person other than the intended participants attends or has access to the proceedings of the meeting through video conferencing or other audio and visual means; and
 - (f) to ensure that participants attending the meeting through audio and visual means are able to hear and see, if applicable, the other participants clearly during the course of the meeting:

- *Provided that the persons, who are differently abled, may make request to the resolution professional to allow a person to accompany him at the meeting.*
- (4) Where a meeting is conducted through video conferencing or other audio and visual means, the scheduled venue of the meeting as set forth in the notice convening the meeting, which shall be in India, shall be deemed to be the place of the said meeting and all recordings of the proceedings at the meeting shall be deemed to be made at such place.

24. Conduct of meeting.

- (1) **The resolution professional shall act as the Chairperson of the meeting of the committee.**
- (2) At the commencement of a meeting, the resolution professional shall take a roll call when every participant attending through video conferencing or other audio and visual means shall state, for the record, the following:-
- (a) his name;
 - (b) whether he is attending in the capacity of a member of the committee or any other participant;
 - (c) whether he is representing a member or group of members;
 - (d) the location from where he is participating;
 - (e) that he has received the agenda and all the relevant material for the meeting; and
 - (f) that no one other than him is attending or has access to the proceedings of the meeting at the location of that person.

- (3) After the roll call, the resolution professional shall inform the participants of the names of all persons who are present for the meeting and confirm if the required quorum is complete.
- (4) The resolution professional shall ensure that the required quorum is present throughout the meeting.
- (5) From the commencement of the meeting till its conclusion, no person other than the participants and any other person whose presence is required by the resolution professional shall be allowed access to the place where meeting is held or to the video conferencing or other audio and visual facility, without the permission of the resolution professional.
- (6) The resolution professional shall ensure that minutes are made in relation to each meeting of the committee and such minutes shall disclose the particulars of the participants who attended the meeting in person, through video conferencing, or other audio and visual means.
- (7) **The resolution professional shall circulate the minutes of the meeting to all participants by electronic means within forty-eight hours of the said meeting.**

CHAPTER VII

VOTING BY THE COMMITTEE

25. Voting by the committee.

- (1) The actions listed in section 28(1) shall be considered in meetings of the committee.

- (2) Any action other than those listed in section 28(1) may be considered in meetings of the committee.
- (3) The resolution professional may, at the meeting, take a vote of the members of the committee who are participating in the meeting on any item listed for voting after discussion on the same.
- (4) The resolution professional shall –
 - (a) circulate the minutes of the meeting by electronic means to all members of the committee within forty-eight hours of the conclusion of the meeting; and
 - (b) seek a vote on the matters listed for voting in the meeting from the members of the committee who did not participate in the meeting or did not vote at the meeting, if any, by electronic means or electronic voting system, where the voting shall be kept open for twenty-four hours from the circulation of the minutes.
- (5) At the end of the voting period, the electronic voting portal shall forthwith be blocked.
- (6) Once a vote on a resolution is cast by a member of the committee, such member shall not be allowed to change it subsequently.
- (7) The resolution professional shall within twenty four hours of the conclusion of the voting, or forty eight hours of the conclusion of the meeting if no electronic vote is required to be sought under this regulation, circulate by electronic means the decision of the committee on agenda items along with the names of the members of the committee who voted for or against the decision, or abstained from voting.

Explanation- **For the purposes of these Regulations –**

- (a) the expressions “voting by electronic means” and its grammatical variant or “electronic voting system” means a “secured system” based process of display of electronic ballots, recording of votes of the members of the committee and the number of votes polled in favour or against, such that the voting exercised by way of electronic means gets registered and counted in an electronic registry in a centralized server with adequate cyber security;
- (b) the expression “secured system” means computer hardware, software, and procedure that –
 - (i) are reasonably secure from unauthorized access and misuse;
 - (ii) provide a reasonable level of reliability and correct operation;
 - (iii) are reasonably suited to perform the intended functions; and
 - (iv) adhere to generally accepted security procedures.

CHAPTER VIII

CONDUCT OF THE FAST TRACK PROCESS

26. Appointment of registered valuer.

- The resolution professional shall **within seven days of his appointment**, appoint **one registered valuer (two or three in other cases)** to determine the fair value and the liquidation value of the corporate debtor in accordance with Regulation 34:

Provided that the following persons shall not be appointed as registered valuers, namely:-

- (a) a relative of the resolution professional;**
- (b) a related party of the corporate debtor;**
- (c) an auditor of the corporate debtor at any time during the five years preceding the insolvency commencement date; or**
- (d) a partner or director of the insolvency professional entity of which the resolution professional is a partner or director.**

27. Transfer of debt due to creditors.

- (1) In the event a creditor assigns or transfers the debt due to such creditor to any other person during the fast track process period, both parties shall provide the interim resolution professional or the resolution professional, as the case may be, the terms of such assignment or transfer and the identity of the assignee or transferee.

(2) The resolution professional shall notify each creditor and the Adjudicating Authority of any resultant change in the committee within two days of such change.

28. Sale of assets outside the ordinary course of business.

(1) The resolution professional may sell unencumbered asset(s) of the corporate debtor, other than in the ordinary course of business, if he is of the opinion that such a sale is necessary for a better realisation of value under the facts and circumstances of the case:

- *Provided that the book value of all assets sold during fast track process period in aggregate under this sub-regulation **shall not exceed ten percent of the total claims admitted by the interim resolution professional.***

(2) A sale of assets under this Regulation shall require the approval of the committee.

(3) A bona fide purchaser of assets sold under this Regulation shall have a free and marketable title to such assets notwithstanding the terms of the constitutional documents of the corporate debtor, shareholders' agreement, joint venture agreement or other document of a similar nature.

29. Assistance of local district administration.

The interim resolution professional or the resolution professional, as the case may be, may make an application to the Adjudicating Authority for an order seeking the assistance of the local district administration in discharging his duties under the Code or these Regulations.

CHAPTER IX

FAST TRACK PROCESS COSTS

30. Fast track process costs.

“Fast track process costs” shall mean –

- (a) **the amount of any interim finance and the costs incurred in raising such finance; (slightly different)**
- (b) the fees payable to any person acting as a resolution professional;
- (c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern;
- (d) any costs incurred at the expense of the Government to facilitate the process;
- (e) amounts due to suppliers of essential goods and services under Regulation 31;
- (f) amounts due to a person whose rights are prejudicially affected on account of the moratorium imposed under section 14(1)(d);
- (g) expenses incurred on or by the interim resolution professional to the extent ratified under Regulation 32;
- (h) expenses incurred on or by the resolution professional fixed under Regulation 33; and
- (i) other costs directly relating to the fast track process and approved by the committee.

31. Essential supplies.

- The essential goods and services referred to in section 14(2) shall mean-
 - (a) electricity;
 - (b) water;
 - (c) telecommunication services; and
 - (d) information technology services, to the extent these are not a direct input to the output produced or supplied by the corporate debtor.
- **Illustration-Water supplied to a corporate debtor will be essential supplies for drinking and sanitation purposes, and not for generation of hydro-electricity.**

32. Costs of the interim resolution professional.

- (1) The applicant shall fix the expenses to be incurred on or by the interim resolution professional.**
- (2) The Adjudicating Authority shall fix expenses where the applicant has not fixed expenses under sub-regulation (1).**
- (3) The applicant shall bear the expenses which shall be reimbursed by the committee to the extent it ratifies.
- (4) The amount of expenses ratified by the committee shall be treated as fast track process costs.

- *Explanation- For the purposes of this Regulation, “expenses” means the fee to be paid to the interim resolution professional and other expenses, including the cost of engaging professional advisors, to be incurred by the interim resolution professional.*

33. Resolution professional costs.

- **The committee shall fix the expenses to be incurred on or by the resolution professional and the expenses shall constitute fast track process costs.**
- *Explanation- For the purposes of this Regulation, “expenses” mean the fee to be paid to the resolution professional and other expenses, including the cost of engaging professional advisors, to be incurred by the resolution professional.*

CHAPTER X

RESOLUTION PLAN

34. Fair value and Liquidation value.

- (1) The registered valuer appointed under regulation 26 shall submit to the resolution professional an estimate of the fair value and of the liquidation value computed in accordance with internationally accepted valuation standards, after physical verification of the inventory and fixed assets of the corporate debtor.

Note:As on Fast Track Commencement date

- (2) After the receipt of resolution plans in accordance with the Code and these regulations, the resolution professional shall provide the fair value and the liquidation value to every member of the committee in electronic form, on receiving an undertaking from the member to the effect that such member shall maintain confidentiality of the fair value and the liquidation value and shall not use such values to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of the section 29.
- (3) The resolution professional and registered valuer shall maintain the confidentiality of the fair value and the liquidation value.]

35. Information memorandum.

- (1) Subject to sub-regulation (4), the resolution professional shall submit the information memorandum in electronic form to-
- (a) each member of the committee within two weeks of his appointment as resolution professional; and**
 - (b) each prospective resolution applicant latest by the date of invitation of resolution plan under clause (h) of sub-section (2) of section 25 of the Code.**
- (2) The information memorandum shall contain the following details of the corporate debtor-
- (a) assets and liabilities with such description, as on the insolvency commencement date, as are generally necessary for ascertaining their values.

- Explanation: 'Description' includes the details such as date of acquisition, cost of acquisition, remaining useful life, identification number, depreciation charged, book value, and any other relevant details.】
- (b) the latest annual financial statements;
- (c) audited financial statements of the corporate debtor for the last two financial years and provisional financial statements for the current financial year made up to a date not earlier than fourteen days from the date of the application;
- (d) a list of creditors containing the names of creditors, the amounts claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims;
- (e) particulars of a debt due from or to the corporate debtor with respect to related parties;
- (f) details of guarantees that have been given in relation to the debts of the corporate debtor by other persons, specifying which of the guarantors is a related party;
- (g) the names and addresses of the members or partners holding at least one per cent stake in the corporate debtor along with the size of stake;
- (h) details of all material litigation and an ongoing investigation or proceeding initiated by Government and statutory authorities;
- (i) the number of workers and employees and liabilities of the corporate debtor towards them;
- (j) [***]

(k) [***]

(l) other information, which the resolution professional deems relevant to the committee.

(3) A member of the committee may request the resolution professional for further information of the nature described in this regulation and the resolution professional shall provide such information to all members within reasonable time if such information has a bearing on the resolution plan.

(4) The resolution professional shall share the information memorandum after receiving an undertaking from a member of the committee or a prospective resolution applicant to the effect that such member or resolution applicant shall maintain confidentiality of the information and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29.]

(35A) Invitation of Resolution Plans.

(1) The resolution professional shall issue an invitation, including evaluation matrix, to the prospective resolution applicants in accordance with clause (h) of sub-section (2) of section 25, to submit resolution plans **at least fifteen days before the last date of submission of resolution plans.**

(2) **Where the invitation does not contain the evaluation matrix, the resolution professional shall issue, with the approval of the committee, the evaluation matrix to the prospective resolution applicants at least eight days before the last date for submission of resolution plans.**

(3) The resolution professional may modify the invitation, the evaluation matrix or both with the approval of the committee within the timelines given under sub-regulation (1) or sub-regulation (2) as the case may be.

- (4) The timelines specified under this regulation shall not apply to an ongoing fast track corporate insolvency resolution process-
 - (a) where a period of less than twenty-two days is left for submission of resolution plans under sub-regulation (1);
 - (b) where a period of less than eleven days is left for submission of resolution plans under sub-regulation (2).
- (5) The resolution professional shall publish brief particulars of the invitation in Form G of the Schedule:
 - (a) on the website, if any, of the corporate debtor; and
 - (b) on the website, if any, designated by the Board for the purpose.”.

36. Resolution plan.

- (1) A resolution plan shall provide for the measures, as may be necessary for insolvency resolution of the corporate debtor for maximization of value of its assets, including but not limited to the following:-
 - (a) transfer of all or part of the assets of the corporate debtor to one or more persons;
 - (b) sale of all or part of the assets whether subject to any security interest or not;
 - (c) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;
 - (d) satisfaction or modification of any security interest;
 - (e) curing or waiving of any breach of the terms of any debt due from the corporate debtor;
 - (f) reduction in the amount payable to the creditors;

- (g) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;
- (h) amendment of the constitutional documents of the corporate debtor;
- (i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;
- (j) change in portfolio of goods or services produced or rendered by the corporate debtor;
- (k) change in technology used by the corporate debtor; and
- (l) obtaining necessary approvals from the Central and State Governments and other authorities.]

37. Mandatory contents of the resolution plan.

- (1) A resolution plan shall identify specific sources of funds that will be used to pay the -
 - (a) fast track process costs and provide that the fast track process costs will be paid in priority to any other creditor;
 - (b) liquidation value due to operational creditors and provide for such payment in priority to any financial creditor which shall in any event be made before the expiry of thirty days after the approval of a resolution plan by the Adjudicating Authority; and **(no such time limit in CIRP)**
 - (c) liquidation value due to dissenting financial creditors and provide that such payment is made before any recoveries are made by the financial creditors who voted in favour of the resolution plan.

(1A) A resolution plan shall include a statement as to how it has dealt with the Interests of all stakeholders, including financial creditors and operational creditors, of the corporate debtor.]

(2) A resolution plan shall provide:

(a) the term of the plan and its implementation schedule;

(b) the management and control of the business of the corporate debtor during its term;
and

(c) adequate means for supervising its implementation.

(3) A resolution plan shall contain details of the resolution applicant and other connected persons to enable the committee to assess the credibility of such applicant and other connected persons to take a prudent decision while considering the resolution plan for its approval.

Explanation : For the purposes of this sub-regulation,-

(i) 'details' shall include the following in respect of the resolution applicant and other connected persons, namely:-

(a) identity;

(b) conviction for any offence , if any, during the preceding five years;

(c) criminal proceedings pending, if any;

(d) disqualification, if any, under Companies Act, 2013, to act as a director;

- (e) identification as a willful defaulter, if any, by any bank or financial institution or consortium thereof in accordance with the guidelines of the Reserve Bank of India;
 - (f) debarment, if any, from accessing to, or trading in, securities markets under any order or directions of the Securities and Exchange Board of India,; and
 - (g) transactions, if any, with the corporate debtor in the preceding two years.
- (ii) the expression 'connected persons' means-
- (a) persons who are promoters or in the management or control of the resolution applicant;
 - (b) persons who will be promoters or in management or control of the business of the corporate debtor during the implementation of the resolution plan ;
 - (c) holding company, subsidiary company, associate company and related party of the persons referred to in items (a) and (b).

38. Approval of resolution plan.

- (1) **A resolution applicant shall submit resolution plan(s) prepared in accordance with the Code and these regulations to the resolution professional within the time given in the invitation made under clause (h) of sub-section (2) of section 25.**

- (2) The resolution professional shall submit to the committee all resolution plans which comply with the requirements of the Code and regulations made there under along with the details of following transactions, if any, observed, found or determined by him:-
- (a) preferential transactions under section 43;
 - (b) undervalued transactions under section 45;
 - (c) extortionate credit transactions under section 50; and
 - (d) fraudulent transactions Under section 66, and the orders, if any, of the adjudicating authority in respect of such transactions.
- (3) The committee may approve any resolution plan with such modifications as it deems fit.
- (3A) The committee shall, while approving the resolution plan under sub-section (4) of section 30, specify the amounts payable from resources under the resolution plan for the purposes under sub-regulation (1) of regulation 37.
- (4) The resolution professional shall submit the resolution plan approved by the committee to the Adjudicating Authority, **at least fifteen days before the expiry of the maximum period permitted under section 56 for the completion of the fast track corporate insolvency resolution process, with the certification that-**
- (a) the contents of the resolution plan meet all the requirements of the Code and the Regulations; and**
 - (b) the resolution plan has been approved by the committee:**

- Provided that the timeline specified in this sub-regulation shall not apply to an ongoing fast track corporate insolvency resolution process which has completed 50th day from its commencement date.]
- (5) The resolution professional shall forthwith send a copy of the order of the Adjudicating Authority approving or rejecting a resolution plan to the participants and the resolution applicant.
- (6) A provision in a resolution plan which would otherwise require the consent of the members or partners of the corporate debtor, as the case may be, under the terms of the constitutional documents of the corporate debtor, shareholders' agreement, joint venture agreement or other document of a similar nature, shall take effect notwithstanding that such consent has not been obtained.
- (7) No proceedings shall be initiated against the interim resolution professional or the resolution professional, as the case may be, for any actions of the corporate debtor, prior to the fast track commencement date.
- (8) A person in charge of the management or control of the business and operations of the corporate debtor after a resolution plan is approved by the Adjudicating Authority, may make an application to the Adjudicating Authority for an order seeking the assistance of the local district administration in implementing the terms of a resolution plan.

39. Extension of the fast track process period.

- (1) **The committee is of the opinion that the fast track process cannot be completed within the stipulated 90 days, it may instruct the resolution professional to make an application to the Adjudicating Authority under section 56 to extend the fast track process period.**
- (2) The resolution professional shall, on receiving an instruction from the committee under this Regulation, make an application to the Adjudicating Authority for such extension.

**INSOLVENCY AND BANKRUPTCY
BOARD OF INDIA (INFORMATION
UTILITIES) REGULATIONS, 2017
[AMENDED UPTO 13.11.2020]**

IBBI/2016-17/GN/REG009.- In exercise of the powers conferred by sections 196, 209, 210, 211, 212, 213, 214, 215, 216 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Board hereby makes the following Regulations to provide a framework for registration and regulation of information utilities in terms hereof, namely-

CHAPTER I PRELIMINARY

1. Short title and commencement.

- (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017.
- (2) These Regulations shall come into force on 1st April, 2017.

2. Definitions.

- (1) In these Regulations, unless the context otherwise requires-
 - (a) “Application Programming Interface” means a mechanism that allows a system or service to access data or functionality provided by another system or service;
 - (aa) “Board” means the Insolvency and Bankruptcy Board of India established under section 188 of the Code;]

- (b) “certificate of registration” means a certificate of registration granted or renewed by the Board under section 210 read with these Regulations and the terms “registration” and “renewal” shall be construed accordingly;
- (c) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016) and includes the rules, regulations, guidelines and directions issued there under;
- (d) “control” shall have the meaning assigned to it under section 2(27) of the Companies Act, 2013 (18 of 2013);
- (da) “financial information” means any public announcement made under the Code, for the purposes of sub-clause (f) of clause (13) of section 3;
- (e) “Governing Board” means the Board of Directors, as defined under section 2(10) of the Companies Act, 2013 (18 of 2013), of the company registered as an information utility;
- (f) “host bank” means the financial institution hosting the repayment account;
- (g) “independent director” shall have the meaning assigned to it under section 149(6) of the Companies Act, 2013 (18 of 2013);
- (h) “information” means financial information as defined in section 3(13);
- (i) “key managerial personnel” shall have the meaning assigned to it under section 2(51) of the Companies Act, 2013 (18 of 2013);

- (j) “net worth” shall have the meaning assigned to it under section 2(57) of the Companies Act, 2013 (18 of 2013);
 - (k) “outsourcing” means contracting out services to a third party;
 - (l) “public company” shall have the meaning assigned to it under section 2(71) of the Companies Act, 2013 (18 of 2013);
 - (m) “repayment account” means the bank account to which a debtor is obliged to repay its debt, as recorded in an information utility;
 - (n) “section” means a section of the Code;
 - (o) “secure systems” shall have the meaning assigned to it in section 2(1)(ze) of the Information Technology Act, 2000 (21 of 2000);
 - (p) “Schedule” means schedule attached to these Regulations;
 - (q) “submission of information” includes updating of information, as the context may require;
 - (r) “Technical Standards” means the standards laid down by the Board through guidelines issued under Regulation 13, from time to time; and
 - (s) “user” means a person who avails of the services of an information utility.
- (2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations, shall have the meanings assigned to them in the Code.

CHAPTER II

REGISTRATION

3. Eligibility for registration.

- No person shall be eligible to be registered as an information utility unless it is a public company and -
 - (a) its sole object is to provide core services and other services under these Regulations, and discharge such functions as may be necessary for providing these services;
 - (b) its shareholding and governance is in accordance with Chapter III;
 - (c) its bye-laws are in accordance with Chapter IV;
 - (d) it has a minimum net worth of fifty crore rupees;
 - (g) the person itself, its promoters, its directors, its key managerial personnel, and persons holding more than 5%, directly or indirectly, of its paid-up equity share capital or its total voting power, are fit and proper persons:
- *Explanation: For determining whether a person is fit and proper under these Regulations, the Board may take account of relevant considerations, including-*

- (i) integrity, reputation and character,
- (ii) absence of conviction by a court for an offence:
 - Provided that a person may be considered 'fit and proper' if he has been sentenced to imprisonment for a period of less than six months;
 - Provided that a person shall not be considered 'fit and proper' if he has been sentenced to imprisonment for a period (a) of not less than six months, but less than seven years and a period of five years has not elapsed from the date of expiry of the sentence, or (b) of seven years or more.
- (iii) absence of restraint order, in force, issued by a financial sector regulator or the Adjudicating Authority, and
- (iv) financial solvency.

4. Application for registration or renewal thereof.

- (1) A person eligible for registration as an information utility may make an application to the Board in Form A of the Schedule, along with a non-refundable application fee of five lakh rupees.
- (2) An information utility seeking renewal of registration shall, at least six months before the expiry of its registration, make an application for renewal in Form A of the Schedule, along with a non-refundable application fee of five lakh rupees.
- (3) The Board shall acknowledge an application made under this Regulation within seven days of its receipt.

5. Disposal of application.

- (1) The Board shall examine the application, and give an opportunity to the applicant to remove the deficiencies, if any, in the application.
- (2) The Board may require the applicant to submit, within reasonable time, additional documents or clarification that it deems fit.
- (3) The Board may require the applicant to appear, within reasonable time, before the Board in person, or through its authorised representative for clarifications required for processing the application.
- (4) If the Board is satisfied, after such inspection or inquiry as it deems necessary, that the applicant-
 - (a) is eligible under Regulation 3;
 - (b) has the technical competence and financial capacity required to function as an information utility;
 - (c) has adequate infrastructure to provide services in accordance with the Code;
 - (d) has in its employment, persons having adequate professional and other relevant experience, to provide services in accordance with the Code; and
 - (e) has complied with the conditions of the certificate of registration, if he has submitted an application for renewal under Regulation 4(2) it may grant or renew a certificate of registration to the applicant as an information utility in Form B of the Schedule, within sixty days of receipt of the application, excluding the time given by the Board for removing the deficiencies, or presenting additional documents or clarifications, or appearing in person, as the case may be.

- (5) If, after considering an application made under Regulation 4, the Board is of the *prima facie opinion that the registration ought not to be granted or ought not to be renewed*, or be granted or renewed with additional conditions, it shall communicate the reasons for forming such an opinion within forty-five days of receipt of the application, excluding the time given by the Board for removing the deficiencies, presenting additional documents or clarifications, or appearing in person, as the case may be.
- (6) The applicant shall submit an explanation as to why its application should be accepted within fifteen days of the receipt of the communication under sub regulation (5), to enable the Board to form a final opinion.
- (7) After considering the explanation, if any, given by the applicant under sub regulation (6), the Board shall communicate its decision to-
 - (a) accept the application, along with the certificate of registration; or
 - (b) reject the application by an order, giving reasons thereof within thirty days of receipt of explanation.
- (8) The order rejecting an application for renewal of registration shall require the information utility to-
 - (a) discharge any pending obligations;
 - (b) continue its functions till such time as may be directed, to enable its users to transfer information stored with it to another information utility; and
 - (c) comply with any other directions as considered appropriate.

6. Conditions of registration.

- (1) The certificate of registration shall be valid for a period of five years from the date of issue.
- (2) The certificate of registration shall be subject to the conditions that the information utility shall—
 - (a) abide by the Code;
 - (b) abide by its bye-laws;
 - (c) at all times after the grant of the certificate continue to satisfy the requirements under Regulation 5(4);
 - (d) pay a fee of fifty lakh rupees to the Board, within fifteen days of receipt of intimation of registration or renewal from the Board, as applicable;
 - (e) pay an annual fee of fifty lakh rupees to the Board, within fifteen days from the date of commencement of the financial year:
 - Provided that no annual fee shall be payable in the financial year in which an information utility is granted registration or renewal, as the case may be:
 - Provided further that without prejudice to any other action which the Board may take as it deems fit, any delay in payment of fee by an information utility shall attract simple interest at the rate of twelve percent per annum until paid.

Illustration

- (a) Where an information utility is registered on 1st December, 2016, it shall pay a fee of fifty lakh rupees within fifteen days of receipt of intimation of registration. No further payment is required to be made for the financial year 2016-17. The annual fee of fifty lakh rupees for the financial year 2017-18 becomes due on 1st April, 2017 and the same shall be paid on or before 15th April, 2017 and so on.
- (b) Where the annual fee is paid on 20th April, 2017, interest at the rate of twelve percent per annum shall be paid for the delay of five days.
- (f) seek prior approval of the Board for-
 - (i) the acquisition of shares or voting power by a person, which taken together with paid-up equity shares or voting power, if any, held by such person, entitles him to hold more than five per cent, directly or indirectly, of the paid-up equity share capital or total voting power;
 - (ii) a change of control;
 - (iii) a merger, amalgamation or restructuring;
 - (iv) sale, disposal, or acquisition of the whole, or substantially the whole, of its undertaking;
 - (v) voluntary liquidation, dissolution, or any similar action involving the discontinuation of its business.
- (g) intimate the Board if a person holding more than five per cent, directly or indirectly, of its paid-up equity share capital or total voting power ceases to hold at least five per cent, directly or indirectly, of its paid-up equity share capital or total voting power, within fifteen days from such cessation;

- (h) take adequate steps for redressal of grievances;
- (i) take over information stored with other information utilities on the directions of and in the manner directed by the Board, and provide core services to their users; and
- (j) abide by such other conditions as may be stipulated by the Board.

7. In-principle approval.

- (1) Any person who seeks to establish an information utility may make an application for an in-principle approval, demonstrating that the conditions in sub-regulation (2) are satisfied, along with a non-refundable application fee of five lakh rupees.
- (2) If the Board is satisfied, after such inspection or inquiry as it deems necessary, that-
 - (a) the applicant is a fit and proper person; and
 - (b) the proposed or existing company which may receive registration would be able to meet the eligibility criteria under Regulation 3, it may grant in-principle approval which shall be valid for a period not exceeding one year and be subject to such conditions as it deems fit.
- (3) During the validity of in-principle approval, the company referred to in sub regulation 2(b) may make an application for a certificate of registration as an information utility to the Board in accordance with Regulation 4, but shall not be required to pay the application fee for registration.

CHAPTER III

SHAREHOLDING AND GOVERNANCE

8. Shareholding.

- (1) No person shall at any time, directly or indirectly, either by itself or together with persons acting in concert, acquire or hold more than ten per cent of the paid-up equity share capital or total voting power of an information utility:
- *Provided that the following persons may, directly or indirectly, either by themselves or together in concert, acquire or hold up to twenty-five percent of the paid-up equity share capital or total voting power of an information utility :-*
 - (a) government company;
 - (b) stock exchange;
 - (c) depository;
 - (d) bank;
 - (e) insurance company; and
 - (f) public financial institution.
- (2) Notwithstanding anything to the contrary contained in sub-regulation (1) –

- (a) a person may, directly or indirectly, either by itself or together with persons acting in concert, hold up to fifty-one percent of the paid-up equity share capital or total voting power of an information utility up to three years from the date of its registration; or
- (b) an Indian company, (i) which is listed on a recognised Stock Exchange in India, or (ii) where no individual, directly or indirectly, either by himself or together with persons acting in concert, holds more than ten percent of the paid-up equity share capital, may hold up to hundred percent of the paid-up equity share capital or total voting power of an information utility up to three years from the date of its registration.

Provided that the information utility is registered before 30th September, 2018.

- (3) The provisions of this Regulation shall not apply to the holding of shares or voting power by the Central Government or a State Government.

9. Composition of the Governing Board.

(1) The Governing Board shall consist of -

- (a) managing director;
- (b) independent directors; and
- (c) shareholder directors:

- Provided that more than half of the directors shall be citizens of India and shall be residents in India.

- (2) The managing director shall not be considered either an independent director or a shareholder director.
- (3) Any employee of an information utility may be appointed as a director on its Governing Board in addition to the managing director, but such director shall be deemed to be a shareholder director.
- (4) The number of independent directors shall not be less than the number of shareholder directors:
 - Provided that no meeting of the Governing Board shall be held without the presence of at least one independent director.
- (5) An independent director shall be an individual-
 - (a) who is a person of ability and integrity;
 - (b) who has expertise in the field of finance, law, management or insolvency;
 - (c) who is not a relative of the directors of the Governing Board;
 - (d) who has or had no pecuniary relationship with the information utility, or any of its directors, or any of its shareholders holding more than ten per cent. of its share capital, during the immediately preceding two financial years or during the current financial year;
 - (e) who is not a shareholder of the information utility; and
 - (f) who is not a member of the Board of Directors of any of the shareholders holding more than ten per cent. of the share capital of the information utility.

- (6) An independent director shall be nominated by the Board from amongst the list of names proposed by the information utility.
- (7) An individual may serve as an independent director for a maximum of two terms of three years each or part thereof, or up to the age of seventy-five years, whichever is earlier.
- (8) The second term referred to in sub-regulation (7) may be subject to a satisfactory performance review of the first term by the Governing Board.
- (9) A cooling off period of three years shall be applicable for an independent director to become a shareholder director in the same or another information utility.
- (10) The directors shall elect an independent director as the Chairperson of the Governing Board.
- (11) A director, who has any interest, direct or indirect, pecuniary or otherwise, in any matter coming up for consideration at a meeting of the Governing Board or any of its Committees, shall as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Governing Board or the Committee, as the case may be, and the director shall not take part in any deliberation or decision of the Governing Board or the Committee with respect to that matter.

9A. Managing director.

- (1) An information utility shall, subject to the guidelines issued by the Board from time to time, determine the qualification and experience, manner of appointment, terms and conditions of appointment and other procedural formalities associated with the selection and appointment of the managing director, subject to the condition that-
 - (a) an individual shall be selected as managing director through an open advertisement in all editions of at least one national daily newspaper;
 - (b) an individual at the time joining as managing director shall not be above the age of fifty-five years, which may be relaxed by the Governing Board up to sixty years, after recording reasons therefore; and
 - (c) an individual shall not serve as managing director after he has attained the age of sixty-five years.
- (2) The appointment of an individual as the managing director shall be for a tenure of not less than three years but not exceeding five years.
- (3) An individual may serve as managing director for a maximum of two terms.
- (4) The process of appointment for the second term as managing director shall be conducted afresh.
- (5) The appointment and remuneration payable to the managing director shall be approved by a compensation committee constituted by the Governing Board.

- (6) The appointment, renewal of appointment and termination of service of the managing director shall be subject to prior approval of the Board.
- (7) The managing director shall be liable for removal or termination of services by the Governing Board, with the prior approval of the Board, for failure to give effect to the directions, guidelines and other orders issued by the Governing Board or the Board, or the rules, the articles of association or bye-laws of the information utility or on the ground of misconduct or incapacity to continue in office.
- (8) The Board may *Suo Motu remove or terminate the services of the managing director, if it deems fit, in the interest of stakeholders of the insolvency resolution process or in the public interest, after giving a reasonable opportunity of being heard.*

9B. Compliance. - Every information utility registered as on the date of commencement of the

- Insolvency and Bankruptcy Board of India (Information Utilities) (Second Amendment) Regulations, 2018, shall comply with regulations 9 and 9A, within one year from the date of such commencement.

10. Regulatory Committee.

- (1) An information utility may constitute a Regulatory Committee from amongst the independent directors.
- (2) The Regulatory Committee, if constituted, shall oversee the information utility's compliance with the Code.
- (3) The compliance officer shall report to the Regulatory Committee, wherever constituted.

11. Compliance officer.

- (1) An information utility shall designate or appoint a compliance officer who shall be responsible for ensuring compliance with the provisions of the Code applicable to the information utility, in letter and spirit.
- (2) The compliance officer shall, immediately and independently, report to the Board any non-compliance of any provision of the Code observed by him.
- (3) The compliance officer shall submit a compliance certificate to the Board annually, verifying that the information utility has complied with the requirements of the Code, and has redressed customer grievances.
- (4) The Governing Board shall appoint or remove a compliance officer only by means of a resolution passed at its meeting.

12. Grievance Redressal Policy.

- (1) An information utility shall have a Grievance Redressal Policy to deal with any grievance from -
 - i. any user; or
 - ii. any other person or class of persons as may be provided by the Governing Board in respect of its services.
- b. The Grievance Redressal Policy shall provide for
 - i. the constitution of a Grievance Redressal Committee;

- ii. the functions of the Grievance Redressal Committee;
- iii. the format and manner for filing grievances;
- iv. maximum time and format for acknowledging receipt of a grievance;
- v. maximum time for the disposal of the grievance by way of dismissal, resolution or the initiation of mediation;
- vi. details of the mediation mechanism;
- vii. provision of a report of the grievance and mediation proceedings to the parties to the grievance upon dismissal or resolution of the grievance;
- viii. action to be taken in case of malicious or false complaints;
- ix. maintenance of a register of grievances received and resolutions arrived at;
- x. disclosure of receipt and disposal of grievances to the public in the form and manner directed by the Board;
- xi. periodic reporting of the receipt and disposal of grievances to the Governing Board; and
- xii. periodic review of the Grievance Redressal Mechanism by the Governing Board.

CHAPTER IV

TECHNICAL STANDARDS AND BYE-LAWS

13. Technical Standards.

- (1) The Board may lay down Technical Standards, through guidelines, for the performance of core services and other services under these Regulations.
- (2) Without prejudice to the generality of sub-regulation (1), the Board may lay down Technical Standards for all or any of the following matters, namely :-
 - (a) the Application Programming Interface;
 - (b) standard terms of service;
 - (c) registration of users;
 - (d) unique identifier for each record and each user;
 - (e) submission of information;
 - (f) identification and verification of persons;
 - (g) authentication of information;
 - (h) verification of information;
 - (i) data integrity;

- (j) consent framework for providing access to information to third parties;
- (k) security of the system;
- (l) security of information;
- (m) risk management framework;
- (n) porting of information;
- (o) exchange or transfer of information between information utilities;
- (p) inter-operability among information utilities;
- (q) preservation of information; and
- (r) purging of information.

14. Technical Committee.

- The Board shall lay down the Technical Standards based on the recommendations of a Technical Committee constituted by it.
 - (1) The Technical Committee shall comprise of at least three members who have special knowledge and experience in the field of law, finance, economics, information technology or data management.
 - (2) The Board may invite the Chief Executive Officers or managing directors of information utilities to attend the meetings of the Technical Committee.

15. Bye-laws of information utilities.

- (1) An information utility, for the conduct of its operations, shall have bye-laws consistent with the Code.
- (2) The bye-laws shall be consistent with, and provide for all matters contained in the Technical Standards, if any.
- (3) Without prejudice to the generality of sub-regulation (1), the bye-laws shall provide for-
 - (a) the manner and process of providing core services and other services under these Regulations;
 - (b) risk management;
 - (ba) minimum service quality standards, including timelines for-
 - (i) Registration of users,
 - (ii) Issuance of record of default, and
 - (iii) issuance of annual statement to registered users.
 - (bb) adoption of quality standards and quality standards certifications.

(c) rights of users; and

(d) grievance redressal.

(4) The bye-laws of the information utility, as amended from time to time, shall be published on its website.

16. Amendment to bye-laws.

(1) The Governing Board may amend the bye-laws of the information utility by a resolution passed by votes in favour being not less than three times the number of the votes, if any, cast against the resolution, by the directors.

(2) A resolution passed in accordance with sub-regulation (1) shall be filed with the Board within seven days from the date of its passing, for its approval

- (3) The amendments to the bye-laws shall come into effect on the seventh day of the receipt of the approval under sub-regulation (2), unless otherwise directed by the Board.
- (4) The information utility shall file a printed copy of the amended bye-laws with the Board within fifteen days from the date when such amendment is made effective.
- (5) Notwithstanding anything to the contrary contained in this Regulation, the Board may direct an information utility to amend any provision in its bye-laws.

CHAPTER V

CORE SERVICES

17. Provision of services.

- (1) An information utility shall provide-
 - (a) core services;
 - (b) other services under these Regulations; in accordance with the Code.
- (2) An information utility may provide services incidental to the services under sub regulation (1), with the permission of the Board.
- (3) An information utility shall comply with the applicable Technical Standards, while providing services.

18. Registration of users.

- (1) A person shall register itself with an information utility for

- (a) submitting information to; or
- (b) accessing information stored with any of the information utilities.
- (2) The information utility shall verify the identity of the person under sub-regulation (1) and grant registration.
- (3) Upon registration of a person under sub-regulation (2), the information utility shall intimate it of its unique identifier.
- (4) A person registered once with an information utility shall not register itself with any information utility again.
- (5) An information utility shall provide a registered user a functionality to enable its authorised representatives to carry on the activities in sub-regulation (1) on its behalf.
- (6) An information utility shall-
 - (a) maintain a list of the
 - (i) registered users;
 - (ii) the unique identifiers of the registered users; and
 - (iii) the unique identifiers assigned to the debts under Regulation 20.
 - (b) make the list under clause (a) available to all information utilities and the Board.

19. Use of different information utilities.

- (1) A registered user may submit information to any information utility.
- (2) Different parties to the same transaction may use different information utilities to submit, or access information in respect of the same transaction:
 - Illustration: A debt transaction has creditor A and debtor B. A may submit information about the debt to information utility X, while B may submit information about the same debt to information utility Y.
- (3) A user may access information stored with an information utility through any information utility.

20. Acceptance and receipt of information.

- (1) An information utility shall accept information submitted by a user in Form C of the Schedule.
- (2) On receipt of the information submitted under sub-regulation (1), the information utility shall-
 - (a) assign a unique identifier to the information, including records of debt;
 - (b) acknowledge its receipt, and notify the user of-
 - (i) the unique identifier of the information;
 - (ii) the terms and conditions of authentication and verification of information; and
 - (iii) the manner in which the information may be accessed by other parties.

21. Information of default.

- (1) An information utility shall expeditiously undertake the process of authentication and verification of information of default as soon as it is received.
- (2) For the purpose of sub-regulation (1), the information utility shall-
 - (a) deliver the information of default to the debtor seeking confirmation of the same within the time specified in the Technical Standards;
 - (b) remind the debtor at least three times for confirmation of information of default, in case the debtor does not respond, allow three days each time for the debtor to respond;
 - (c) deliver the information of default or the reminder, as the case may be, to the debtor either by hand, post or electronic means at the postal or e-mail address of the debtor-
 - (i) registered with the information utility by him, failing which,
 - (ii) recorded with any other statutory repository as approved by the Board, failing which,
 - (iii) submitted in Form C of the Schedule.
- (3) On completion of the process under sub-regulation (2), the information utility shall record the status of authentication of information of default as indicated in the Table below:

Table

S.NO	Response of the Debtor	Status of Authentication	Color of the Status
(1)	(2)	(3)	(4)
1	Debtor confirms the information of default	Authenticated	GREEN
2	Debtor disputes the information of default	Disputed	RED
3	Debtor does not respond even after three reminders	Deemed to be Authenticated	YELLOW

information utility shall communicate the status of authentication in physical or electronic form of the relevant color, as indicated in column (4) of the Table thereof, to the registered users who are-

- (a) creditors of the debtor who has defaulted;
- (b) parties and sureties, if any, to the debt in respect of which the information of default has been received.

21A. Dissemination of public announcement.

- An information utility shall disseminate every public announcement it receives or has access to, on the date of its receipt or access, as the case may be, to its registered users, who are creditors of the corporate debtor undergoing insolvency proceeding under the Code.

22. Storage of information.

- (1) An information utility shall store all information in a facility located in India.
- (2) The facility under sub-regulation (1) shall be governed by the laws of India.

23. Access to information.

- (1) An information utility shall allow the following persons to access information stored with it-
 - (a) the user which has submitted the information;
 - (b) all the parties to the debt and the host bank, if any, if the information is of the categories in section 3(13)(a), (c) and (d);
 - (c) the corporate person and its auditor, if the information is of the categories in section 3(13)(b) and (e);
 - (d) the insolvency professional, to the extent provided in the Code;
 - (e) the Adjudicating Authority;
 - (f) the Board;
 - (g) any person authorised to access the information under any other law; and
 - (h) any other person who the persons referred to in (a), (b) or (c) have consented to share the information with.

- (2) An information utility shall in all cases enable the user to view-
 - (a) the date the information was last updated;
 - (b) the status of authentication; and
 - (c) the status of verification while providing access to the information.
- (3) An information utility shall provide information to the Adjudicating Authority and Board free of charge.

24. Accessing information stored with other information utilities.

- (1) An information utility shall provide a functionality to enable users to access information stored with any information utility, which they are entitled to access.
- (2) The functionality under sub-regulation (1) shall enable other information utilities to provide access to information to the user directly.
- (3) The functionality shall ensure privacy and confidentiality of information.

25. Annual statement.

- (1) An information utility shall provide every user an annual statement of all information pertaining to the user, free of charge.
- (2) An information utility shall provide the user a functionality to mark information as erroneous and correct it.

26. Porting information from registries.

- (1) An information utility may import information from such registries as may be notified by the Board from time to time.
- (2) An information utility shall render the core services under section 3 (9) (b), (c) and (d) in accordance with these Regulations for the information imported under sub regulation (1).

27. Duties of the user.

- (1) A user ,who has submitted information in Form c of the schedule to an information utility, shall submit the information updated as on the last day of every month , in the first week of following month

Provided that information of default shall be updated within seven days of occurrence of default.]

- (2) A user shall expeditiously correct information as soon as it finds it erroneous, stating the reasons, if any.

CHAPTER VI

DUTIES OF INFORMATION UTILITIES

28. General duties.

- (1) An information utility shall provide services with due and reasonable care, skill and diligence.
- (2) An information utility shall hold the information as a custodian.

29. Non-discrimination.

An information utility shall provide services without discrimination in any manner.

- *Explanation: An information utility shall not deny its services to any person on the basis of-*
 - (a) place of residence or business; or
 - (b) type of personality, whether natural or artificial.

30. Other duties.

(1) An information utility shall-

- (a) provide services to a user based on its explicit consent;
- (b) guarantee protection of the rights of users;
- (c) establish adequate procedures and facilities to ensure that its records are protected against loss or destruction;
- (d) adopt secure systems for information flows;
- (e) protect its data processing systems against unauthorized access, alteration, destruction, disclosure or dissemination of information; and
- (f) transfer all the information submitted by a user, and stored with it to another information utility on the request of the user.

(2) An information utility shall not-

- (a) outsource the provision of core services to a third-party service provider;

- (b) use the information stored with it for any purpose other than providing services under these Regulations, without the prior approval of the Board;
- (c) seek data or details of users except as required for the provision of the services under these Regulations.

31. Insurance.

- An information utility shall make adequate arrangements, including insurance, for indemnifying the users for losses that may be caused to them by any wrongful act, negligence or default of the information utility, its employees or any other person whose services are used for the provision of services under these Regulations.

32. Fee.

(1) The information utility shall-

- (a) charge uniform fee for providing the same service to different users;
- (b) disclose the fee structure for provision of services on its website; and
- (c) disclose any proposed increase in the fees for the provision of services on its website at least three months before the increase in fees is effected.

(2) The fee charged for -

- (a) providing services shall be a reasonable reflection of the service provided; and

(b) providing access to information shall not exceed the fee charged for submission of information to the information utility.

33. Risk management.

- An information utility shall establish an appropriate risk management framework in accordance with the Technical Standards, if any, which provides for matters, including-
 - (a) reliable, recoverable and secure systems;
 - (b) provision of core services during disasters and emergencies; and
 - (c) business continuity plans which shall include disaster recovery sites.

34. Audit of information technology framework.

- (1) An information utility shall appoint an external auditor having relevant qualifications to audit its information technology framework, interface and data processing systems every year.
- (2) The auditor appointed under sub-regulation (1) shall submit a report to the Governing Board.
- (3) The information utility shall submit the report received under sub-regulation (2), along with the comments of the Governing Board, if any, to the Board within one month from the receipt of the report from the external auditor.

35. Preservation Policy.

- (1) An information utility shall have a Preservation Policy providing for the form, manner and duration of preservation of—
 - (a) information stored with it; and
 - (b) details of the transactions of the information utility with each user in respect of the information stored with it.
- (2) The Preservation Policy shall be consistent with the Technical Standards, if any.

36. Provision of information to the Board.

- (1) An information utility shall provide such information as may be required by the Board.
- (2) Without prejudice to the provisions of sub-regulation (1), an information utility shall provide a report to the Board annually, in the manner directed by the Board, stating the—
 - (a) number and types of records collected;
 - (b) number and types of users registered;
 - (c) number and types of unique debts recorded;
 - (d) number and types of security interests recorded;
 - (e) volume of debts recorded;

- (f) volume of secured debts recorded;
- (g) number of instances and types of defaults recorded;
- (h) number and types of disputes recorded;
- (i) number of times information was accessed by the Adjudicating Authority and Board; and
- (j) any other information as may be directed by the Board.

36A. Publication of Statistical Information

- (1) An information utility shall publish statistics relating to debt related information in its possession , quarterly.
- (2) The statistics in sub –regulation (1) shall provide distribution of debts in terms of currency, geography, sector, size, tenor , type , lending arrangement , and incidence of default.]

37. Inspection.

- (1) Without prejudice to the provisions of sections 217-220, the Board shall inspect an information utility with such periodicity as may be considered necessary.
- (2) An information utility shall extend all assistance and co-operation to the Board to carry out an inspection under sub-regulation (1).

CHAPTER VII

SERVICES TO INSOLVENCY PROFESSIONALS

38. Storing information submitted by insolvency professionals.

- (1) An insolvency professional may submit reports, registers and minutes in respect of any insolvency resolution, liquidation or bankruptcy proceedings to an information utility for storage.

- (2) The information utility shall not provide access to the reports, registers and minutes submitted under sub-regulation (1) to any person other than the concerned insolvency professional, the Board or the Adjudicating Authority.
- (3) The information utility shall discharge the duties specified in Chapter VI in respect of the reports, registers and minutes submitted under sub-regulation (1).

CHAPTER VIII

SURRENDER OR CANCELLATION OF REGISTRATION

39. Exit management plan.

- (1) An information utility shall, at all times, have an exit management plan which shall include-
 - (a) mechanisms to enable users to transfer information to other information utilities expeditiously;
 - (b) mechanisms for preservation and transfer of information; and
 - (c) timelines and cost estimates of implementing the exit management plan.
- (2) An information utility shall not amend its exit management plan without the prior approval of the Board.

40. Surrender of registration.

- (1) An information utility may submit an application for surrender of its certificate of registration to the Board, providing -

- (a) the reasons for such surrender;
 - (b) details of its pending and on-going activities; and
 - (c) details of how the exit management plan shall be implemented.
- (2) The Board shall within seven days of receipt of the application, publish a notice of receipt of such application on its website and invite objections to the surrender of registration to be submitted within fourteen days of the publication of the notice.
- (3) After considering the application and the objections received, if any, the Board may, within thirty days from the last date for submission of objections, approve the application for surrender of registration subject to such conditions as it deems fit.
- (4) The approval under sub-regulation (3) may require the information utility to-
- (a) discharge any pending obligations; or
 - (b) continue such functions till such time as may be directed.
- (5) The Board, after being satisfied that the requirements of sub-regulation (4) have been complied with, shall publish a notice on its website stating that the surrender of registration by the information utility has taken effect.

41. Disciplinary proceedings.

- (1) Based on the findings of an inspection or investigation, or on material otherwise available on record, if the Board is of the *prima facie opinion that sufficient cause* exists to take actions permissible under section 220, it shall issue a show-cause notice to the information utility.
- (2) The show-cause notice shall be in writing and shall state-
 - (a) the provisions of the Code under which it has been issued;
 - (b) the details of the alleged facts;
 - (c) the details of the evidence in support of the alleged facts;
 - (d) the provisions of the Code allegedly violated, or the manner in which the public interest has allegedly been affected;
 - (e) the actions or directions that the Board proposes to take or issue if the allegations are established;
 - (f) the manner in which the information utility is required to respond to the show cause notice;
 - (g) consequences of failure to respond to the show-cause notice within the given time; and
 - (h) procedure to be followed for disposal of the show-cause notice.
- (3) The show-cause notice shall enclose copies of relevant documents and extracts of relevant portions from the report of investigation or inspection, or other records.

- (4) A show-cause notice issued shall be served on the information utility in the following manner-
 - (a) by sending it to the information utility at its registered office, by registered post with acknowledgement due; and
 - (b) by an appropriate electronic means to the email address provided by the information utility to the Board.
- (5) The Disciplinary Committee shall dispose of the show-cause notice by a reasoned order in adherence to principles of natural justice.
- (6) The Disciplinary Committee shall endeavor to dispose of the show-cause notice within a period of six months of the issue of the show-cause notice.
- (7) The order in disposal of a show-cause notice may provide for-
 - (a) no action;
 - (b) warning;
 - (c) any of the actions under section 220(2) to (4); or
 - (d) a reference to the Board to take any action under section 220(5).
- (8) The order passed under sub-regulation (7) shall not become effective until thirty days have elapsed from the date of issue of the order, unless the Disciplinary Committee states otherwise in the order along with the reasons for the same.

- (9) The order passed under sub-regulation (7) shall be issued to the information utility immediately, and be published on the website of the Board.
- (10) If the order passed under sub-regulation (7) suspends or cancels the registration of the information utility, the Disciplinary Committee may require the information utility to-
- (a) discharge pending obligations;
 - (b) continue its functions till such time as may be directed, only to enable users to transfer information stored with it to another information utility; and
 - (c) comply with any other directions.

42. Appeal.

- An appeal may be preferred under section 211, within a period of thirty days of receipt of the order, in the manner prescribed in Part III of the **National Company Law** Appellate Tribunal Rules, 2016.

**INSOLVENCY AND BANKRUPTCY
BOARD OF INDIA (INFORMATION
UTILITIES) REGULATIONS, 2017
[AMENDED UPTO 13.04.2021]**

IBBI/2016-17/GN/REG009.- In exercise of the powers conferred by sections 196, 209, 210, 211, 212, 213, 214, 215, 216 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Board hereby makes the following Regulations to provide a framework for registration and regulation of information utilities in terms hereof, namely-

CHAPTER I PRELIMINARY

1. Short title and commencement.

- (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017.
- (2) These Regulations shall come into force on 1st April, 2017.

2. Definitions.

- (1) In these Regulations, unless the context otherwise requires-
 - (a) “Application Programming Interface” means a mechanism that allows a system or service to access data or functionality provided by another system or service;
 - (aa) “Board” means the Insolvency and Bankruptcy Board of India established under section 188 of the Code;]

- (b) “certificate of registration” means a certificate of registration granted or renewed by the Board under section 210 read with these Regulations and the terms “registration” and “renewal” shall be construed accordingly;
- (c) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016) and includes the rules, regulations, guidelines and directions issued there under;
- (d) “control” shall have the meaning assigned to it under section 2(27) of the Companies Act, 2013 (18 of 2013);
- (da) “financial information” means any public announcement made under the Code, for the purposes of sub-clause (f) of clause (13) of section 3;
- (e) “Governing Board” means the Board of Directors, as defined under section 2(10) of the Companies Act, 2013 (18 of 2013), of the company registered as an information utility;
- (f) “host bank” means the financial institution hosting the repayment account;
- (g) “independent director” shall have the meaning assigned to it under section 149(6) of the Companies Act, 2013 (18 of 2013);
- (h) “information” means financial information as defined in section 3(13);
- (i) “key managerial personnel” shall have the meaning assigned to it under section 2(51) of the Companies Act, 2013 (18 of 2013);

- (j) “net worth” shall have the meaning assigned to it under section 2(57) of the Companies Act, 2013 (18 of 2013);
 - (k) “outsourcing” means contracting out services to a third party;
 - (l) “public company” shall have the meaning assigned to it under section 2(71) of the Companies Act, 2013 (18 of 2013);
 - (m) “repayment account” means the bank account to which a debtor is obliged to repay its debt, as recorded in an information utility;
 - (n) “section” means a section of the Code;
 - (o) “secure systems” shall have the meaning assigned to it in section 2(1)(ze) of the Information Technology Act, 2000 (21 of 2000);
 - (p) “Schedule” means schedule attached to these Regulations;
 - (q) “submission of information” includes updating of information, as the context may require;
 - (r) “Technical Standards” means the standards laid down by the Board through guidelines issued under Regulation 13, from time to time; and
 - (s) “user” means a person who avails of the services of an information utility.
- (2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations, shall have the meanings assigned to them in the Code.

CHAPTER II

REGISTRATION

3. Eligibility for registration.

- No person shall be eligible to be registered as an information utility unless it is a public company and -
 - (a) its sole object is to provide core services and other services under these Regulations, and discharge such functions as may be necessary for providing these services;
 - (b) its shareholding and governance is in accordance with Chapter III;
 - (c) its bye-laws are in accordance with Chapter IV;
 - (d) it has a minimum net worth of fifty crore rupees;
 - (g) the person itself, its promoters, its directors, its key managerial personnel, and persons holding more than 5%, directly or indirectly, of its paid-up equity share capital or its total voting power, are fit and proper persons:
- *Explanation: For determining whether a person is fit and proper under these Regulations, the Board may take account of relevant considerations, including-*

- (i) integrity, reputation and character,
- (ii) absence of conviction by a court for an offence:
 - Provided that a person may be considered 'fit and proper' if he has been sentenced to imprisonment for a period of less than six months;
 - Provided that a person shall not be considered 'fit and proper' if he has been sentenced to imprisonment for a period (a) of not less than six months, but less than seven years and a period of five years has not elapsed from the date of expiry of the sentence, or (b) of seven years or more.
- (iii) absence of restraint order, in force, issued by a financial sector regulator or the Adjudicating Authority, and
- (iv) financial solvency.

4. Application for registration or renewal thereof.

- (1) A person eligible for registration as an information utility may make an application to the Board in Form A of the Schedule, along with a non-refundable application fee of five lakh rupees.
- (2) An information utility seeking renewal of registration shall, at least six months before the expiry of its registration, make an application for renewal in Form A of the Schedule, along with a non-refundable application fee of five lakh rupees.
- (3) The Board shall acknowledge an application made under this Regulation within seven days of its receipt.

5. Disposal of application.

- (1) The Board shall examine the application, and give an opportunity to the applicant to remove the deficiencies, if any, in the application.
- (2) The Board may require the applicant to submit, within reasonable time, additional documents or clarification that it deems fit.
- (3) The Board may require the applicant to appear, within reasonable time, before the Board in person, or through its authorised representative for clarifications required for processing the application.
- (4) If the Board is satisfied, after such inspection or inquiry as it deems necessary, that the applicant-
 - (a) is eligible under Regulation 3;
 - (b) has the technical competence and financial capacity required to function as an information utility;
 - (c) has adequate infrastructure to provide services in accordance with the Code;
 - (d) has in its employment, persons having adequate professional and other relevant experience, to provide services in accordance with the Code; and
 - (e) has complied with the conditions of the certificate of registration, if he has submitted an application for renewal under Regulation 4(2) it may grant or renew a certificate of registration to the applicant as an information utility in Form B of the Schedule, within sixty days of receipt of the application, excluding the time given by the Board for removing the deficiencies, or presenting additional documents or clarifications, or appearing in person, as the case may be.

- (5) If, after considering an application made under Regulation 4, the Board is of the *prima facie opinion that the registration ought not to be granted or ought not to be renewed*, or be granted or renewed with additional conditions, it shall communicate the reasons for forming such an opinion within forty-five days of receipt of the application, excluding the time given by the Board for removing the deficiencies, presenting additional documents or clarifications, or appearing in person, as the case may be.
- (6) The applicant shall submit an explanation as to why its application should be accepted within fifteen days of the receipt of the communication under sub regulation (5), to enable the Board to form a final opinion.
- (7) After considering the explanation, if any, given by the applicant under sub regulation (6), the Board shall communicate its decision to-
 - (a) accept the application, along with the certificate of registration; or
 - (b) reject the application by an order, giving reasons thereof within thirty days of receipt of explanation.
- (8) The order rejecting an application for renewal of registration shall require the information utility to-
 - (a) discharge any pending obligations;
 - (b) continue its functions till such time as may be directed, to enable its users to transfer information stored with it to another information utility; and
 - (c) comply with any other directions as considered appropriate.

6. Conditions of registration.

- (1) The certificate of registration shall be valid for a period of five years from the date of issue.
- (2) The certificate of registration shall be subject to the conditions that the information utility shall—
 - (a) abide by the Code;
 - (b) abide by its bye-laws;
 - (c) at all times after the grant of the certificate continue to satisfy the requirements under Regulation 5(4);
 - (d) pay a fee of fifty lakh rupees to the Board, within fifteen days of receipt of intimation of registration or renewal from the Board, as applicable;
 - (e) pay an annual fee of fifty lakh rupees to the Board, within fifteen days from the date of commencement of the financial year:
 - Provided that no annual fee shall be payable in the financial year in which an information utility is granted registration or renewal, as the case may be:
 - Provided further that without prejudice to any other action which the Board may take as it deems fit, any delay in payment of fee by an information utility shall attract simple interest at the rate of twelve percent per annum until paid.

Illustration

- (a) Where an information utility is registered on 1st December, 2016, it shall pay a fee of fifty lakh rupees within fifteen days of receipt of intimation of registration. No further payment is required to be made for the financial year 2016-17. The annual fee of fifty lakh rupees for the financial year 2017-18 becomes due on 1st April, 2017 and the same shall be paid on or before 15th April, 2017 and so on.
- (b) Where the annual fee is paid on 20th April, 2017, interest at the rate of twelve percent per annum shall be paid for the delay of five days.
- (f) seek prior approval of the Board for-
 - (i) the acquisition of shares or voting power by a person, which taken together with paid-up equity shares or voting power, if any, held by such person, entitles him to hold more than five per cent, directly or indirectly, of the paid-up equity share capital or total voting power;
 - (ii) a change of control;
 - (iii) a merger, amalgamation or restructuring;
 - (iv) sale, disposal, or acquisition of the whole, or substantially the whole, of its undertaking;
 - (v) voluntary liquidation, dissolution, or any similar action involving the discontinuation of its business.
- (g) intimate the Board if a person holding more than five per cent, directly or indirectly, of its paid-up equity share capital or total voting power ceases to hold at least five per cent, directly or indirectly, of its paid-up equity share capital or total voting power, within fifteen days from such cessation;

- (h) take adequate steps for redressal of grievances;
- (i) take over information stored with other information utilities on the directions of and in the manner directed by the Board, and provide core services to their users; and
- (j) abide by such other conditions as may be stipulated by the Board.

7. In-principle approval.

- (1) Any person who seeks to establish an information utility may make an application for an in-principle approval, demonstrating that the conditions in sub-regulation (2) are satisfied, along with a non-refundable application fee of five lakh rupees.
- (2) If the Board is satisfied, after such inspection or inquiry as it deems necessary, that-
 - (a) the applicant is a fit and proper person; and
 - (b) the proposed or existing company which may receive registration would be able to meet the eligibility criteria under Regulation 3, it may grant in-principle approval which shall be valid for a period not exceeding one year and be subject to such conditions as it deems fit.
- (3) During the validity of in-principle approval, the company referred to in sub regulation 2(b) may make an application for a certificate of registration as an information utility to the Board in accordance with Regulation 4, but shall not be required to pay the application fee for registration.

CHAPTER III

SHAREHOLDING AND GOVERNANCE

8. Shareholding.

- (1) No person shall at any time, directly or indirectly, either by itself or together with persons acting in concert, acquire or hold more than ten per cent of the paid-up equity share capital or total voting power of an information utility:
- *Provided that the following persons may, directly or indirectly, either by themselves or together in concert, acquire or hold up to twenty-five percent of the paid-up equity share capital or total voting power of an information utility :-*
 - (a) government company;
 - (b) stock exchange;
 - (c) depository;
 - (d) bank;
 - (e) insurance company; and
 - (f) public financial institution.
- (2) Notwithstanding anything to the contrary contained in sub-regulation (1) –

- (a) a person may, directly or indirectly, either by itself or together with persons acting in concert, hold up to fifty-one percent of the paid-up equity share capital or total voting power of an information utility up to three years from the date of its registration; or
- (b) an Indian company, (i) which is listed on a recognised Stock Exchange in India, or (ii) where no individual, directly or indirectly, either by himself or together with persons acting in concert, holds more than ten percent of the paid-up equity share capital, may hold up to hundred percent of the paid-up equity share capital or total voting power of an information utility up to three years from the date of its registration.

Provided that the information utility is registered before 30th September, 2018.

- (3) The provisions of this Regulation shall not apply to the holding of shares or voting power by the Central Government or a State Government.

9. Composition of the Governing Board.

(1) The Governing Board shall consist of -

- (a) managing director;
- (b) independent directors; and
- (c) shareholder directors:

- Provided that more than half of the directors shall be citizens of India and shall be residents in India.

- (2) The managing director shall not be considered either an independent director or a shareholder director.
- (3) Any employee of an information utility may be appointed as a director on its Governing Board in addition to the managing director, but such director shall be deemed to be a shareholder director.
- (4) The number of independent directors shall not be less than the number of shareholder directors:
 - Provided that no meeting of the Governing Board shall be held without the presence of at least one independent director.
- (5) An independent director shall be an individual-
 - (a) who is a person of ability and integrity;
 - (b) who has expertise in the field of finance, law, management or insolvency;
 - (c) who is not a relative of the directors of the Governing Board;
 - (d) who has or had no pecuniary relationship with the information utility, or any of its directors, or any of its shareholders holding more than ten per cent. of its share capital, during the immediately preceding two financial years or during the current financial year;
 - (e) who is not a shareholder of the information utility; and
 - (f) who is not a member of the Board of Directors of any of the shareholders holding more than ten per cent. of the share capital of the information utility.

- (6) An independent director shall be nominated by the Board from amongst the list of names proposed by the information utility.
- (7) An individual may serve as an independent director for a maximum of two terms of three years each or part thereof, or up to the age of seventy-five years, whichever is earlier.
- (8) The second term referred to in sub-regulation (7) may be subject to a satisfactory performance review of the first term by the Governing Board.
- (9) A cooling off period of three years shall be applicable for an independent director to become a shareholder director in the same or another information utility.
- (10) The directors shall elect an independent director as the Chairperson of the Governing Board.
- (11) A director, who has any interest, direct or indirect, pecuniary or otherwise, in any matter coming up for consideration at a meeting of the Governing Board or any of its Committees, shall as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Governing Board or the Committee, as the case may be, and the director shall not take part in any deliberation or decision of the Governing Board or the Committee with respect to that matter.

9A. Managing director.

- (1) An information utility shall, subject to the guidelines issued by the Board from time to time, determine the qualification and experience, manner of appointment, terms and conditions of appointment and other procedural formalities associated with the selection and appointment of the managing director, subject to the condition that-
 - (a) an individual shall be selected as managing director through an open advertisement in all editions of at least one national daily newspaper;
 - (b) an individual at the time joining as managing director shall not be above the age of fifty-five years, which may be relaxed by the Governing Board up to sixty years, after recording reasons therefore; and
 - (c) an individual shall not serve as managing director after he has attained the age of sixty-five years.
- (2) The appointment of an individual as the managing director shall be for a tenure of not less than three years but not exceeding five years.
- (3) An individual may serve as managing director for a maximum of two terms.
- (4) The process of appointment for the second term as managing director shall be conducted afresh.
- (5) The appointment and remuneration payable to the managing director shall be approved by a compensation committee constituted by the Governing Board.

- (6) The appointment, renewal of appointment and termination of service of the managing director shall be subject to prior approval of the Board.
- (7) The managing director shall be liable for removal or termination of services by the Governing Board, with the prior approval of the Board, for failure to give effect to the directions, guidelines and other orders issued by the Governing Board or the Board, or the rules, the articles of association or bye-laws of the information utility or on the ground of misconduct or incapacity to continue in office.
- (8) The Board may *Suo Motu remove or terminate the services of the managing director, if it deems fit, in the interest of stakeholders of the insolvency resolution process or in the public interest, after giving a reasonable opportunity of being heard.*

9B. Compliance. - Every information utility registered as on the date of commencement of the

- Insolvency and Bankruptcy Board of India (Information Utilities) (Second Amendment) Regulations, 2018, shall comply with regulations 9 and 9A, within one year from the date of such commencement.

10. Regulatory Committee.

- (1) An information utility may constitute a Regulatory Committee from amongst the independent directors.
- (2) The Regulatory Committee, if constituted, shall oversee the information utility's compliance with the Code.
- (3) The compliance officer shall report to the Regulatory Committee, wherever constituted.

11. Compliance officer.

- (1) An information utility shall designate or appoint a compliance officer who shall be responsible for ensuring compliance with the provisions of the Code applicable to the information utility, in letter and spirit.
- (2) The compliance officer shall, immediately and independently, report to the Board any non-compliance of any provision of the Code observed by him.
- (3) The compliance officer shall submit a compliance certificate to the Board annually, verifying that the information utility has complied with the requirements of the Code, and has redressed customer grievances.
- (4) The Governing Board shall appoint or remove a compliance officer only by means of a resolution passed at its meeting.

12. Grievance Redressal Policy.

- (1) An information utility shall have a Grievance Redressal Policy to deal with any grievance from -
 - i. any user; or
 - ii. any other person or class of persons as may be provided by the Governing Board in respect of its services.
- b. The Grievance Redressal Policy shall provide for
 - i. the constitution of a Grievance Redressal Committee;

- ii. the functions of the Grievance Redressal Committee;
- iii. the format and manner for filing grievances;
- iv. maximum time and format for acknowledging receipt of a grievance;
- v. maximum time for the disposal of the grievance by way of dismissal, resolution or the initiation of mediation;
- vi. details of the mediation mechanism;
- vii. provision of a report of the grievance and mediation proceedings to the parties to the grievance upon dismissal or resolution of the grievance;
- viii. action to be taken in case of malicious or false complaints;
- ix. maintenance of a register of grievances received and resolutions arrived at;
- x. disclosure of receipt and disposal of grievances to the public in the form and manner directed by the Board;
- xi. periodic reporting of the receipt and disposal of grievances to the Governing Board; and
- xii. periodic review of the Grievance Redressal Mechanism by the Governing Board.

CHAPTER IV

TECHNICAL STANDARDS AND BYE-LAWS

13. Technical Standards.

- (1) The Board may lay down Technical Standards, through guidelines, for the performance of core services and other services under these Regulations.
- (2) Without prejudice to the generality of sub-regulation (1), the Board may lay down Technical Standards for all or any of the following matters, namely :-
 - (a) the Application Programming Interface;
 - (b) standard terms of service;
 - (c) registration of users;
 - (d) unique identifier for each record and each user;
 - (e) submission of information;
 - (f) identification and verification of persons;
 - (g) authentication of information;
 - (h) verification of information;
 - (i) data integrity;

- (j) consent framework for providing access to information to third parties;
- (k) security of the system;
- (l) security of information;
- (m) risk management framework;
- (n) porting of information;
- (o) exchange or transfer of information between information utilities;
- (p) inter-operability among information utilities;
- (q) preservation of information; and
- (r) purging of information.

14. Technical Committee.

- The Board shall lay down the Technical Standards based on the recommendations of a Technical Committee constituted by it.
 - (1) The Technical Committee shall comprise of at least three members who have special knowledge and experience in the field of law, finance, economics, information technology or data management.
 - (2) The Board may invite the Chief Executive Officers or managing directors of information utilities to attend the meetings of the Technical Committee.

15. Bye-laws of information utilities.

- (1) An information utility, for the conduct of its operations, shall have bye-laws consistent with the Code.
- (2) The bye-laws shall be consistent with, and provide for all matters contained in the Technical Standards, if any.
- (3) Without prejudice to the generality of sub-regulation (1), the bye-laws shall provide for-
 - (a) the manner and process of providing core services and other services under these Regulations;
 - (b) risk management;
 - (ba) minimum service quality standards, including timelines for -
 - i. registration of users,
 - ii. issuance of record of default, and
 - iii. issuance of annual statement to registered user
 - (bb) adoption of quality standards and quality standards certifications.

(c) rights of users; and

(d) grievance redressal.

(4) The bye-laws of the information utility, as amended from time to time, shall be published on its website.

16. Amendment to bye-laws.

(1) The Governing Board may amend the bye-laws of the information utility by a resolution passed by votes in favour being not less than three times the number of the votes, if any, cast against the resolution, by the directors.

(2) A resolution passed in accordance with sub-regulation (1) shall be filed with the Board within seven days from the date of its passing, for its approval

- (3) The amendments to the bye-laws shall come into effect on the seventh day of the receipt of the approval under sub-regulation (2), unless otherwise directed by the Board.
- (4) The information utility shall file a printed copy of the amended bye-laws with the Board within fifteen days from the date when such amendment is made effective.
- (5) Notwithstanding anything to the contrary contained in this Regulation, the Board may direct an information utility to amend any provision in its bye-laws.

CHAPTER V

CORE SERVICES

17. Provision of services.

- (1) An information utility shall provide-
 - (a) core services;
 - (b) other services under these Regulations; in accordance with the Code.
- (2) An information utility may provide services incidental to the services under sub regulation (1), with the permission of the Board.
- (3) An information utility shall comply with the applicable Technical Standards, while providing services.

18. Registration of users.

- (1) A person shall register itself with an information utility for

- (a) submitting information to; or
- (b) accessing information stored with any of the information utilities.
- (2) The information utility shall verify the identity of the person under sub-regulation (1) and grant registration.
- (3) Upon registration of a person under sub-regulation (2), the information utility shall intimate it of its unique identifier.
- (4) A person registered once with an information utility shall not register itself with any information utility again.
- (5) An information utility shall provide a registered user a functionality to enable its authorised representatives to carry on the activities in sub-regulation (1) on its behalf.
- (6) An information utility shall-
 - (a) maintain a list of the
 - (i) registered users;
 - (ii) the unique identifiers of the registered users; and
 - (iii) the unique identifiers assigned to the debts under Regulation 20.
 - (b) make the list under clause (a) available to all information utilities and the Board.

19. Use of different information utilities.

- (1) A registered user may submit information to any information utility.
- (2) Different parties to the same transaction may use different information utilities to submit, or access information in respect of the same transaction:
 - Illustration: A debt transaction has creditor A and debtor B. A may submit information about the debt to information utility X, while B may submit information about the same debt to information utility Y.
- (3) A user may access information stored with an information utility through any information utility.

20. Acceptance and receipt of information.

- (1) An information utility shall accept information submitted by a user in Form C of the Schedule.
- (2) On receipt of the information submitted under sub-regulation (1), the information utility shall-
 - (a) assign a unique identifier to the information, including records of debt;
 - (b) acknowledge its receipt, and notify the user of-
 - (i) the unique identifier of the information;
 - (ii) the terms and conditions of authentication and verification of information; and
 - (iii) the manner in which the information may be accessed by other parties.

21. Information of default.

- (1) An information utility shall expeditiously undertake the process of authentication and verification of information of default as soon as it is received.
- (2) For the purpose of sub-regulation (1), the information utility shall-
 - (a) deliver the information of default to the debtor seeking confirmation of the same within the time specified in the Technical Standards;
 - (b) remind the debtor at least three times for confirmation of information of default, in case the debtor does not respond, allow three days each time for the debtor to respond;
 - (c) deliver the information of default or the reminder, as the case may be, to the debtor either by hand, post or electronic means at the postal or e-mail address of the debtor-
 - (i) registered with the information utility by him, failing which,
 - (ii) recorded with any other statutory repository as approved by the Board, failing which,
 - (iii) submitted in Form C of the Schedule.
- (3) On completion of the process under sub-regulation (2), the information utility shall record the status of authentication of information of default as indicated in the Table below:

Table

S.NO	Response of the Debtor	Status of Authentication	Color of the Status
(1)	(2)	(3)	(4)
1	Debtor confirms the information of default	Authenticated	GREEN
2	Debtor disputes the information of default	Disputed	RED
3	Debtor does not respond even after three reminders	Deemed to be Authenticated	YELLOW

information utility shall communicate the status of authentication in physical or electronic form of the relevant color, as indicated in column (4) of the Table thereof, to the registered users who are-

- (a) creditors of the debtor who has defaulted;
- (b) parties and sureties, if any, to the debt in respect of which the information of default has been received.

21A. Dissemination of public announcement.

- An information utility shall disseminate every public announcement it receives or has access to, on the date of its receipt or access, as the case may be, to its registered users, who are creditors of the corporate debtor undergoing insolvency proceeding under the Code.

22. Storage of information.

- (1) An information utility shall store all information in a facility located in India.
- (2) The facility under sub-regulation (1) shall be governed by the laws of India.

23. Access to information.

- (1) An information utility shall allow the following persons to access information stored with it-
 - (a) the user which has submitted the information;
 - (b) all the parties to the debt and the host bank, if any, if the information is of the categories in section 3(13)(a), (c) and (d);
 - (c) the corporate person and its auditor, if the information is of the categories in section 3(13)(b) and (e);
 - (d) the insolvency professional, to the extent provided in the Code;
 - (e) the Adjudicating Authority;
 - (f) the Board;
 - (g) any person authorised to access the information under any other law; and
 - (h) any other person who the persons referred to in (a), (b) or (c) have consented to share the information with.

- (2) An information utility shall in all cases enable the user to view-
 - (a) the date the information was last updated;
 - (b) the status of authentication; and
 - (c) the status of verification while providing access to the information.
- (3) An information utility shall provide information to the Adjudicating Authority and Board free of charge.

24. Accessing information stored with other information utilities.

- (1) An information utility shall provide a functionality to enable users to access information stored with any information utility, which they are entitled to access.
- (2) The functionality under sub-regulation (1) shall enable other information utilities to provide access to information to the user directly.
- (3) The functionality shall ensure privacy and confidentiality of information.

25. Annual statement.

- (1) An information utility shall provide every user an annual statement of all information pertaining to the user, free of charge.
- (2) An information utility shall provide the user a functionality to mark information as erroneous and correct it.

26. Porting information from registries.

- (1) An information utility may import information from such registries as may be notified by the Board from time to time.
- (2) An information utility shall render the core services under section 3 (9) (b), (c) and (d) in accordance with these Regulations for the information imported under sub regulation (1).

27. Duties of the user.

- (1) A user, who has submitted information in Form C of the Schedule to an information utility, shall submit the information updated as on the last day of every month, in the first week of following month:
Provided that information of default shall be updated within seven days of occurrence of default.
- (2) A user shall expeditiously correct information as soon as it finds it erroneous, stating the reasons, if any.

CHAPTER VI

DUTIES OF INFORMATION UTILITIES

28. General duties.

- (1) An information utility shall provide services with due and reasonable care, skill and diligence.
- (2) An information utility shall hold the information as a custodian.

29. Non-discrimination.

An information utility shall provide services without discrimination in any manner.

- *Explanation: An information utility shall not deny its services to any person on the basis of-*
 - (a) place of residence or business; or
 - (b) type of personality, whether natural or artificial.

30. Other duties.

(1) An information utility shall-

- (a) provide services to a user based on its explicit consent;
- (b) guarantee protection of the rights of users;
- (c) establish adequate procedures and facilities to ensure that its records are protected against loss or destruction;
- (d) adopt secure systems for information flows;
- (e) protect its data processing systems against unauthorized access, alteration, destruction, disclosure or dissemination of information; and
- (f) transfer all the information submitted by a user, and stored with it to another information utility on the request of the user.

(2) An information utility shall not-

- (a) outsource the provision of core services to a third-party service provider;

- (b) use the information stored with it for any purpose other than providing services under these Regulations, without the prior approval of the Board;
- (c) seek data or details of users except as required for the provision of the services under these Regulations.

31. Insurance.

- An information utility shall make adequate arrangements, including insurance, for indemnifying the users for losses that may be caused to them by any wrongful act, negligence or default of the information utility, its employees or any other person whose services are used for the provision of services under these Regulations.

32. Fee.

(1) The information utility shall-

- (a) charge uniform fee for providing the same service to different users;
- (b) disclose the fee structure for provision of services on its website; and
- (c) disclose any proposed increase in the fees for the provision of services on its website at least three months before the increase in fees is effected.

(2) The fee charged for -

- (a) providing services shall be a reasonable reflection of the service provided; and

(b) providing access to information shall not exceed the fee charged for submission of information to the information utility.

33. Risk management.

- An information utility shall establish an appropriate risk management framework in accordance with the Technical Standards, if any, which provides for matters, including-
 - (a) reliable, recoverable and secure systems;
 - (b) provision of core services during disasters and emergencies; and
 - (c) business continuity plans which shall include disaster recovery sites.

34. Audit of information technology framework.

- (1) An information utility shall appoint an external auditor having relevant qualifications to audit its information technology framework, interface and data processing systems every year.
- (2) The auditor appointed under sub-regulation (1) shall submit a report to the Governing Board.
- (3) The information utility shall submit the report received under sub-regulation (2), along with the comments of the Governing Board, if any, to the Board within one month from the receipt of the report from the external auditor.

35. Preservation Policy.

- (1) An information utility shall have a Preservation Policy providing for the form, manner and duration of preservation of—
 - (a) information stored with it; and
 - (b) details of the transactions of the information utility with each user in respect of the information stored with it.
- (2) The Preservation Policy shall be consistent with the Technical Standards, if any.

36. Provision of information to the Board.

- (1) An information utility shall provide such information as may be required by the Board.
- (2) Without prejudice to the provisions of sub-regulation (1), an information utility shall provide a report to the Board annually, in the manner directed by the Board, stating the—
 - (a) number and types of records collected;
 - (b) number and types of users registered;
 - (c) number and types of unique debts recorded;
 - (d) number and types of security interests recorded;
 - (e) volume of debts recorded;

- (f) volume of secured debts recorded;
- (g) number of instances and types of defaults recorded;
- (h) number and types of disputes recorded;
- (i) number of times information was accessed by the Adjudicating Authority and Board; and
- (j) any other information as may be directed by the Board.

36A. Publication of statistical information –

- (1) An information utility shall publish statistics relating to debt related information in its possession, quarterly.
- (2) The statistics in sub-regulation (1) shall provide distribution of debts in terms of currency, geography, sector, size, tenor, type, lending arrangement, and incidence of default.

37. Inspection.

- (1) Without prejudice to the provisions of sections 217-220, the Board shall inspect an information utility with such periodicity as may be considered necessary.
- (2) An information utility shall extend all assistance and co-operation to the Board to carry out an inspection under sub-regulation (1).

CHAPTER VII

SERVICES TO INSOLVENCY PROFESSIONALS

38. Storing information submitted by insolvency professionals.

- (1) An insolvency professional may submit reports, registers and minutes in respect of any insolvency resolution, liquidation or bankruptcy proceedings to an information utility for storage.

- (2) The information utility shall not provide access to the reports, registers and minutes submitted under sub-regulation (1) to any person other than the concerned insolvency professional, the Board or the Adjudicating Authority.
- (3) The information utility shall discharge the duties specified in Chapter VI in respect of the reports, registers and minutes submitted under sub-regulation (1).

CHAPTER VIII

SURRENDER OR CANCELLATION OF REGISTRATION

39. Exit management plan.

- (1) An information utility shall, at all times, have an exit management plan which shall include-
 - (a) mechanisms to enable users to transfer information to other information utilities expeditiously;
 - (b) mechanisms for preservation and transfer of information; and
 - (c) timelines and cost estimates of implementing the exit management plan.
- (2) An information utility shall not amend its exit management plan without the prior approval of the Board.

40. Surrender of registration.

- (1) An information utility may submit an application for surrender of its certificate of registration to the Board, providing -

- (a) the reasons for such surrender;
 - (b) details of its pending and on-going activities; and
 - (c) details of how the exit management plan shall be implemented.
- (2) The Board shall within seven days of receipt of the application, publish a notice of receipt of such application on its website and invite objections to the surrender of registration to be submitted within fourteen days of the publication of the notice.
- (3) After considering the application and the objections received, if any, the Board may, within thirty days from the last date for submission of objections, approve the application for surrender of registration subject to such conditions as it deems fit.
- (4) The approval under sub-regulation (3) may require the information utility to-
- (a) discharge any pending obligations; or
 - (b) continue such functions till such time as may be directed.
- (5) The Board, after being satisfied that the requirements of sub-regulation (4) have been complied with, shall publish a notice on its website stating that the surrender of registration by the information utility has taken effect.

41. Disciplinary proceedings.

- (1) Based on the findings of an inspection or investigation, or on material otherwise available on record, if the Board is of the *prima facie opinion that sufficient cause* exists to take actions permissible under section 220, it shall issue a show-cause notice to the information utility.
- (2) The show-cause notice shall be in writing and shall state-
 - (a) the provisions of the Code under which it has been issued;
 - (b) the details of the alleged facts;
 - (c) the details of the evidence in support of the alleged facts;
 - (d) the provisions of the Code allegedly violated, or the manner in which the public interest has allegedly been affected;
 - (e) the actions or directions that the Board proposes to take or issue if the allegations are established;
 - (f) the manner in which the information utility is required to respond to the show cause notice;
 - (g) consequences of failure to respond to the show-cause notice within the given time; and
 - (h) procedure to be followed for disposal of the show-cause notice.
- (3) The show-cause notice shall enclose copies of relevant documents and extracts of relevant portions from the report of investigation or inspection, or other records.

- (4) A show-cause notice issued shall be served on the information utility in the following manner-
 - (a) by sending it to the information utility at its registered office, by registered post with acknowledgement due; and
 - (b) by an appropriate electronic means to the email address provided by the information utility to the Board.
- (5) The Disciplinary Committee shall dispose of the show-cause notice by a reasoned order in adherence to principles of natural justice.
- (6) The Disciplinary Committee shall endeavor to dispose of the show-cause notice within a period of six months of the issue of the show-cause notice.
- (7) The order in disposal of a show-cause notice may provide for-
 - (a) no action;
 - (b) warning;
 - (c) any of the actions under section 220(2) to (4); or
 - (d) a reference to the Board to take any action under section 220(5).
- (8) The order passed under sub-regulation (7) shall not become effective until thirty days have elapsed from the date of issue of the order, unless the Disciplinary Committee states otherwise in the order along with the reasons for the same.

- (9) The order passed under sub-regulation (7) shall be issued to the information utility immediately, and be published on the website of the Board.
- (10) If the order passed under sub-regulation (7) suspends or cancels the registration of the information utility, the Disciplinary Committee may require the information utility to-
- (a) discharge pending obligations;
 - (b) continue its functions till such time as may be directed, only to enable users to transfer information stored with it to another information utility; and
 - (c) comply with any other directions.

42. Appeal.

- An appeal may be preferred under section 211, within a period of thirty days of receipt of the order, in the manner prescribed in Part III of the **National Company Law** Appellate Tribunal Rules, 2016.

A. Details relating to Creation of Debt		
Sl. No.	Nature of information	Particulars
I	II	III
Details of the user submitting information		
1	Business date (The information will be as on date. For example, data of 30 th April 2020 submitted even on a later date, say on 05 th May 2020, will be as on the business date – 30 th April 2020)	
2	UIN (PAN)	
3	Full Name (Please provide your First, Middle and Last name without salutations)	
4	Relationship (Debtor/Creditor/ Guarantor/ Co-obligant / Security Provider / Assignee)	
5	Date of Birth/ Date of incorporation	
6	Communication address	
7	PIN Code	
8	Telephone No.	
9	Mobile No.	
10	Email ID-1 (for Submission acknowledgment, other submission related messages or any other general purpose message)	
11	Email ID-2 (for Dispute alert sent to submitter)	
12	Email ID-3 (for Default alert sent to submitter)	
Details of Other Parties to the Debt (Apart from the person submitting the debt)		
Details of Parties (please add as many parties as may be applicable)		
13	Relationship (Debtor/Creditor/ Guarantor/ Co-obligant / Security Provider / Assignee)	
14	Party name (Please provide your First, Middle and Last name without salutations)	

म		असाधारण
15	Registered / Permanent Address	
16	Registered Address PIN Code	
17	Communication address	
18	Communication Address PIN Code	
19	Party Type (Indian Entity, Resident Individual, Foreign Entity, NRI/Foreign Individual)	
20	Legal Constitution (Public Ltd. company, Private Ltd. company, LLP, Proprietorship, Partnership, Entity Created by or under a Statute, Trust, HUF, Co-op Society, Association of Persons, Government, Self Help Group, Resident Individual, Non-Resident Foreign Company).	
21	M S M E F l a g (Y / N)	
22	M S M E S u b - t y p e (M i c r o - S m a l l - M e d i u m)	
23	Industry Category	
24	Date of Birth/ Date of incorporation	
25	Corporate Identification Number (CIN/LLPIN) for registered corporate entities.	

46	I n t e r m e d i a r y S t a t u s (Y e s . N o)	
47	Debt subtype	
48	F u n d e d T y p e I n d i c a t o r (F u n d e d . N o n - f u n d	

अ		असाधारण
75	Date of valuation	
76	ROC Charge ID (as registered with MCA, where applicable)	
77	CERSAI Security Interest ID	
78	Part-B Remarks (Any remarks that can be helpful for Other Parties during authentication)	
C. Details relating to Default of Debt (If not applicable, please write NA)		
79	Date of default	
80	Total Outstanding Amount	
81	Default amount	
82	Days past due	
83	Amount of last repayment	
84	Date of last repayment	
85	Date of filing of suit	
86	Part-C Remarks (Any remarks that can be helpful for Other Parties during authentication)	
87	Documents* uploaded as proof for Debt, Security and Default:- Debt: a. Copy of Loan Agreement (as revised from time to time) b. Repayment schedule (If in possession of the submitter) c. Balance Confirmation d. Balance Sheet and Cash Flow Statements (If the submitter is the Debtor) e. Any other documents relating to creation of debt/change in the terms of the debt Security: a. Copy of the Security Deed b. Copy of the Valuation Report c. Proof of Registration with CERSAI d. Copy of the Certificate of Registration of Charge e. Any other document relating to creation of security Default: Any documents attached as a proof of default	

* Documents can be submitted at any stage, not necessarily along with the data in Form C.”

Dr. M. S. SAHOO, Chairperson

[ADVT.- III/4/Exty./39/2021-22]

Note : The Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017 were published *vide* notification No. IBBI/2016-17/GN/REG009 dated 31st March, 2017 in the Gazette of India, Extraordinary, Part III, Section 4, No. 129 on 31st March, 2017 and were last amended by the Insolvency and Bankruptcy Board of India (Information Utilities) (Amendment) Regulations, 2020 published *vide* notification No. IBBI/2020-21/GN/REG065, dated the 13th November, 2020 in the Gazette of India, Extraordinary, Part III, Section 4, No. 488 on 13th November, 2020.

**INSOLVENCY AND BANKRUPTCY BOARD
OF INDIA (MODEL BYE- LAWS AND
GOVERNING BOARD OF INSOLVENCY
PROFESSIONAL AGENCIES)
REGULATIONS, 2016**

[AMENDED UPTO 14-01-2021]

IBBI/2016-17/GN/REG001.- In exercise of the powers conferred by sections 196, 203 and 205 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following Regulations, namely -

CHAPTER I PRELIMINARY

Short title and commencement.

1. (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016. **In Short IPA Regulations.**
- (2) These Regulations shall come into force on the date of their publication in the Official Gazette.

Definitions.

2. (1) In these Regulations, unless the context otherwise requires
 - (a) “Board” means the Insolvency and Bankruptcy Board of India established under section 188 of the Code;
 - (aa) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
 - (b) “Governing Board” means the Board of Directors, as defined under section 2(10) of Companies Act, 2013 (18 of 2013), of the company registered as an insolvency professional agency; **So Board and Governing Board are different.**
 - (c) **“model bye-laws” means the model bye-laws as contained in the Schedule to these Regulations. Given on Slide 9.**
- (2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations

CHAPTER II BYE LAWS

3. Insolvency professional agencies to have Bye-Laws.

- (1) A company shall submit to the Board its bye-laws along with the application for its registration as an insolvency professional agency.
- (2) The bye-laws shall provide for all matters specified in the model bye-laws.
- (3) The bye-laws shall at all times be consistent with the model bye-laws.
- (4) The insolvency professional agency shall publish its **bye-laws, the composition of all committees formed, and all policies created under the bye-laws on its website.**

4. Amendment of Bye-Laws.

- (1) The Governing Board may amend the bye-laws by a resolution passed by votes in favour being not less than three times the number of the votes, if any, cast against the resolution, by the directors.
- (2) A resolution passed in accordance with sub-regulation (1) shall be filed with the Board **within seven days** from the date of its passing, for its approval.
- (3) The amendments to the bye-laws shall come into effect on the **seventh day of the receipt of the approval**, unless otherwise specified by the Board.
- (4) The insolvency professional agency shall file a printed copy of the amended bye-laws with the Board **within fifteen days** from the date when such amendment is made effective.

CHAPTER III GOVERNING BOARD

Composition of the Governing Board.

5. Composition of the Governing Board.-

- 1) The Governing Board shall consist of
 - (a) managing director;
 - (b) independent directors; and
 - (c) shareholder directors:

Provided that the Governing Board shall have **minimum seven directors**

- 2) **The managing director shall not be considered either an independent director or a shareholder director.**
- 3) **Any employee** of an insolvency professional agency may be appointed as a director on its Governing Board in addition to the managing director, but such director **shall be deemed to be a shareholder director.**
- 4) More than half of the directors shall be persons resident in India at the time of their appointment, and at all times during their tenure as directors.
 - (4A) **A shareholder director shall be an individual**, who satisfies the eligibility norms, including experience and qualification, as decided by the Governing Board.
- 5) **The number of independent directors shall not be less than the number of shareholder directors:**
Provided that no meeting of the Governing Board shall be held without the presence of at least one independent director.

- 6) An independent director shall be an individual-
 - (a) who is a person of ability and integrity;
 - (b) who has expertise in the field of finance, law, economics, accountancy, valuation, management or insolvency;
 - (c) who is not an insolvency professional;**
 - (d) who is not a relative of the directors of the Governing Board;
 - (e) who had or has no pecuniary relationship with the insolvency professional agency, or any of its directors, or any of its shareholders holding more than ten per cent. of its share capital, during the immediately preceding two financial years or during the current financial year;
 - (f) who is not a shareholder of the insolvency professional agency;
 - (g) who is not a member of the Board of Directors of any of the shareholders holding more than ten percent. of the share capital of the insolvency professional agency. When shareholder director has to be individual only, how anyone can be a member of the BOD of any shareholder...??**
- 7) An independent director shall be nominated by the Board from amongst the list of names proposed by the insolvency professional agency.
- 8) An individual may serve as an independent director for a maximum of two terms of three years each or part thereof, or up to the age of **[seventy-five years]**, whichever is earlier.
- 9) The second term referred to in sub-regulation (8) may be subject to a satisfactory performance review of the first term by the Governing Board.
- 10) A cooling off period of three years shall be applicable for an independent director to become a shareholder director in the same or another insolvency professional agency.
- 11) Not more than one fourth of the directors shall be insolvency professionals.
- 12) The directors shall elect an independent director as the Chairperson of the Governing Board.

- 13) A director, who has, **any interest, direct or indirect, pecuniary or otherwise, in any matter** coming up for consideration at a meeting of the Governing Board or any of its Committees, shall as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Governing Board or the Committee, as the case may be, and the director shall not take part in any deliberation or decision of the Governing Board or the Committee with respect to that matter.
- 14) A director shall **disclose any order of any authority that affects his character or reputation**, to the insolvency professional agency, within one week of issue of such order: Provided that a copy of the order shall be placed forthwith on the website of the insolvency professional agency;
Provided further that such director shall forthwith cease to be a director of the insolvency professional agency where the order disqualifies him to be a director of a company.

5A. Managing director.-

- (1) An insolvency professional agency shall, subject to the guidelines issued by the Board from time to time, determine the qualification and experience, manner of appointment, terms and conditions of appointment and other procedural formalities associated with the selection and appointment of the managing director, subject to the condition that-
- (a) an individual shall be selected as managing director through an **open advertisement in all editions of at least one national daily newspaper;**
 - (b) an individual at the time joining as managing director **shall not be above the age of fifty-five years**, which **may be relaxed** by the Governing Board **up to sixty years**, after recording reasons therefor; and
 - (c) an individual **shall not serve** as managing director **after** he attains the age of **sixty-five years**.
- (2) The appointment of an individual as the managing director shall be for a **tenure of not less than three years but not exceeding five years**

- (3) An individual may serve as managing director for a **maximum of two terms.**
- (4) The **process of appointment for the second term of an individual as managing director shall be conducted afresh.**
- (5) **The appointment and remuneration payable to the managing director shall be approved by a compensation committee constituted by the Governing Board.**
- (6) The appointment, renewal of appointment and termination of service of the managing director shall be **subject to prior approval of the Board.**
- (7) The managing director shall be liable for removal or termination of services by the Governing Board, with the prior approval of the Board, for failure to give effect to the directions, guidelines and other orders issued by the Governing Board or the Board, or the rules, the articles of association or bye-laws of the insolvency professional agency or on the ground of misconduct or incapacity to continue in office.
- (8) **The Board may suo motu remove or terminate the services of the managing director, if it deems fit, in the interest of stakeholders of the insolvency resolution process or in the public interest, after giving a reasonable opportunity of being heard.**
- (9) The managing director shall be an **ex-officio member of Membership Committee, Monitoring Committee, Grievance Redressal Committee and Disciplinary Committee.**

5B. Compliance.- Every insolvency professional agency registered as on the date of commencement of the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2018, shall **comply with regulations 5 and 5A within one year from the date of such commencement.**

6. Self-evaluation.

- (1) The Governing Board shall evaluate its performance in a financial year within three months of the closure of the year, in the manner decided by it.**
- (2) The insolvency professional agency shall publish a report on self-evaluation referred to in sub-regulation (1) on its website. **Please visit the website of www.iiipicai.in and find out the copy of the Self Evaluation Report.**

7. Compliance Officer.

- (1) An insolvency professional agency shall designate or appoint a **compliance officer** who shall be responsible for ensuring compliance with the provisions of the Code and regulations, circulars, guidelines, and directions issued thereunder.
- (2) The compliance officer shall, immediately and independently, report to the Board any noncompliance of the provisions referred to in sub-regulation (1).
- (3) The compliance officer shall submit a **compliance certificate to the Board annually**, verifying that the insolvency professional agency has complied with the provisions referred to in sub-regulation (1):

Provided that the **annual compliance certificate shall also be signed by the managing director** of the insolvency professional agency.

- (4) **The Governing Board shall appoint or remove the compliance officer only by means of a resolution passed in its meeting**

SCHEDULE
MODEL BYE-LAWS OF AN INSOLVENCY PROFESSIONAL
AGENCY

[Under Regulation 3 read with Regulation 2(1)(c)]

I. GENERAL

1. The name of the Insolvency Professional Agency is “_____” (hereinafter referred to as the ‘Agency’).
2. The Agency is registered as a company under section 8 of the Companies Act, 2013 with its registered office situated at _____ [provide full address].
3. These bye-laws may not be amended, except in accordance with the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016.

II. DEFINITIONS

4. (1) In these bye-laws, unless the context otherwise requires –
 - (a) “assignment” means any assignment of an insolvency professional as interim resolution professional, resolution professional, liquidator, bankruptcy trustee, authorised representative or in any other role under the Code;
 - (aa) “authorisation for assignment” **AFA** means an authorisation to undertake an assignment, issued by an insolvency professional agency to an insolvency professional, who is its professional member, in accordance with its bye-laws;
 - (ab) “certificate of membership” means the certificate of membership of the Agency granted under bye-law 10;
 - (b) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

- (c) “Governing Board” means the Board of Directors of the Agency as defined under section 2(10) of Companies Act, 2013 (18 of 2013);
- (d) “professional member” means an insolvency professional who has been enrolled as such, in accordance with Part VI of these bye-laws;
- (e) “relative” shall have the same meaning as assigned to it in section 2(77) of the Companies Act, 2013.

(2) Unless the context otherwise requires, words and expressions used and not defined in these bye-laws shall have the meanings assigned to them in the Code.

III. OBJECTIVES

- 5. (1) The Agency shall carry on the functions of the insolvency professional agency under the Code, and functions incidental thereto.
- (2) The Agency shall not carry on any function other than those specified in sub-clause (1), or which is inconsistent with the discharge of its functions as an insolvency professional agency.

IV. DUTIES OF THE AGENCY

- 6. (1) The Agency shall maintain high ethical and professional standards in the regulation of its professional members.
- (2) The Agency shall –
 - (a) ensure compliance with the Code and rules, regulations and guidelines issued thereunder governing the conduct of insolvency professional agencies and insolvency professionals;
 - (b) employ fair, reasonable, just, and non-discriminatory practices for the enrolment and regulation of its professional members;
 - (c) be accountable to the Board in relation to all bye-laws and directions issued to its professional members;

- (d) develop the profession of insolvency professionals;
- (e) promote continuous professional development of its professional members;
- (f) continuously improve upon its internal regulations and guidelines to ensure that high standards of professional and ethical conduct are maintained by its professional members; and
- (g) provide information about its activities to the Board.

V. COMMITTEES OF THE AGENCY: Advisory Committee of Professional Members

7. (1) The Governing Board may form an Advisory Committee of professional members of the Agency to advise it on any matters pertaining to-
- (h) the development of the profession;
 - (i) standards of professional and ethical conduct; and
 - (j) best practices in respect of insolvency resolution, liquidation and bankruptcy.
- (2) The Advisory Committee may meet at such places and times as the Governing Board may provide.

Other Committees of the Agency.

8. (1) The Governing Board shall constitute-
- (a) one or more Membership Committee(s) consisting of such members as it deems fit;
 - (b) a Monitoring Committee consisting of such members as it deems fit;
 - (c) one or more Grievance Redressal Committee(s), with not less than three members, at least one of whom shall be a professional member of the Agency;
 - (d) one or more Disciplinary Committee(s) consisting of at least one member nominated by the Board.
- (2) The Chairperson of each of these Committees shall be an independent director of the Agency.

VI. PROFESSIONAL MEMBERSHIP: Eligibility for Enrolment.

9. No individual shall be enrolled as a professional member if he is not eligible to be registered as an insolvency professional with the Board:

Provided that the Governing Board may provide additional eligibility requirements for enrolment:

Provided further that such additional requirements shall not discriminate on the grounds of religion, race, caste, gender, place of birth or professional affiliation.

Process of Enrolment as Professional Member.

10. (1) An individual may apply for enrolment as a professional member by submitting an application in such form, in such manner and with such fees as may be specified by the Agency.

(2) The Agency shall examine the application in accordance with the applicable provisions of the Code, and rules, regulations and guidelines thereunder.

(3) On examination of the application, the Agency shall give an opportunity to the applicant to remove the deficiencies, if any, in the application.

(4) The Agency may require an applicant to submit additional documents, information or clarification that it deems fit, within reasonable time.

(5) The Agency may reject an application if the applicant does not satisfy the criteria for enrolment or does not remove the deficiencies or submit additional documents or information to its satisfaction, for reasons recorded in writing.

(6) The **rejection of the application shall be communicated to the applicant stating the reasons for such rejection, within thirty days of the receipt of the application**, excluding the time given for removing the deficiencies or presenting additional documents or clarification by the Agency, as the case may be.

(7) The acceptance of the application shall be communicated to the applicant, along with a certificate of membership in Form A of the Annexure to these bye-laws.

(8) **An applicant aggrieved of a decision rejecting his application may appeal to the Membership Committee of the Agency within thirty days from the receipt of such decision.**

(9) **The Membership Committee shall pass an order disposing of the appeal in the manner it deems expedient, within thirty days of the receipt of the appeal.**

Professional Membership Fee.

11. The Agency may require the professional members to pay a fixed sum of money as its annual membership fee.

Register of Professional Members.

12. (1) The Agency shall maintain a register of its professional members, containing their-

- (a) name;
- (b) proof of identity;
- (c) contact details;
- (d) address;
- (e) date of enrolment and professional membership number;

- (f) date of registration with the Board and registration number;
 - (fa) date of issue, renewal, suspension, revocation of suspension, cancellation and acceptance of surrender of authorisation for assignment and authorisation number;**
- (g) details of grievances pending against him with the Agency;
- (h) details of disciplinary proceedings pending against him with the Agency; and
- (i) details of orders passed against him by the Board or Disciplinary Committee of the Agency.

(2) The records relating to a professional member shall be made available for inspection to-

- (a) the Board,
- (b) the Adjudicating Authority,
- (c) the committee of creditors in a corporate insolvency resolution process where the professional member has been appointed as an interim resolution professional, or
- (d) any other person who has obtained the consent of the member for such inspection.

12A. Authorisation for Assignment.

- (1) The Agency, on an application by its professional member, may issue or renew an authorisation for assignment.
- (2) A professional member shall be eligible to obtain an authorisation for assignment, if he-
 - (a) is registered with the Board as an insolvency professional;
 - (b) is a fit and proper person in terms of the Explanation to clause (g) of regulation 4 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
 - (c) is not in employment;
 - (d) is not debarred by any direction or order of the Agency or the Board;

- (e) **has not attained the age of seventy years;**
- (f) has no disciplinary proceeding pending against him before the Agency or the Board;
- (g) complies with requirements, as on the date of application, with respect to-
 - (i) payment of fee to the Agency and the Board;
 - (ii) filings and disclosures to the Agency and the Board;
 - (iii) continuous professional education; and
 - (iv) other requirements, as stipulated under the Code, regulations, circulars, directions or guidelines issued by the Agency and the Board, from time to time.

(3) An application for issue or renewal of an authorisation for assignment, shall be in such form, manner and with such fee, as may be provided by the Agency:

Provided that an application for renewal of an authorisation for assignment shall be made any time before the date of expiry of the authorisation, but not earlier than forty-five days before the date of expiry of the authorisation.

(4) The Agency shall consider the application in accordance with the bye-laws and either issue or renew, as the case may be, an authorisation for assignment to the professional member in Form B or reject the application with a reasoned order.

(5) If the authorisation for assignment is not issued, renewed or rejected by the Agency within fifteen days of the date of receipt of application, the authorisation shall be **deemed to have been issued or renewed**, as the case may be, by the Agency.

Provided that, for an application received on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Model Bye- Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2020 and **ending on the 30th September 2020**, if the authorisation for assignment is not issued, renewed or rejected by the Agency **within thirty days of the date of receipt of application**, the authorisation shall be deemed to have been issued or renewed, as the case may be, by the Agency.

(6) An authorisation for assignment issued or renewed by the Agency shall be valid for a period of one year from the date of its issuance or renewal, as the case may be, or till the date on which the professional member attains the age of seventy years, whichever is earlier.

(7) An applicant aggrieved of an order of rejection of his application by the Agency may appeal to the Membership Committee **within fifteen days** from the date of receipt of the order . **Related to AFA**

Provided that, where an application for issue of authorisation for assignment has been rejected by an insolvency professional agency, on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Model Bye- Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2020 and ending on the 30th September, 2020, the applicant aggrieved of an order of rejection may appeal to the Membership Committee within thirty days from the date of receipt of order.

(8) The Membership Committee shall pass an order disposing of the appeal by a reasoned order, **within fifteen days of the date of receipt of the appeal;**

VII. DUTIES OF MEMBERS

13. (1) In the performance of his functions, a professional member shall-
- (a) act in good faith in discharge of his duties as an insolvency professional;
 - (b) endeavour to maximize the value of assets of the debtor;
 - (c) discharge his functions with utmost integrity and objectivity;
 - (d) be independent and impartial;
 - (e) discharge his functions with the highest standards of professional competence and professional ethics;
 - (f) continuously upgrade his professional expertise;
 - (g) perform duties as quickly and efficiently as reasonable, subject to the timelines under the Code;
 - (h) comply with applicable laws in the performance of his functions; and
 - (i) maintain confidentiality of information obtained in the course of his professional activities unless required to disclose such information by law.

14. The Agency shall have a Code of Conduct that shall be consistent with, and that shall provide for all matters in the Code of Conduct as specified in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

VIII. MONITORING OF MEMBERS

15. The Agency shall have a Monitoring Policy to monitor the professional activities and conduct of professional members for their adherence to the provisions of the Code, rules, regulations and guidelines issued thereunder, these bye-laws, the Code of Conduct and directions given by the Governing Board.

16. A professional member shall submit information, including records of ongoing and concluded engagements as an insolvency professional, in the manner and format specified by the Agency, at least twice a year.

17. The Monitoring Committee shall review the information and records submitted by the professional members in accordance with the Monitoring Policy.

18. The Monitoring Policy shall provide for the following –

- (a) the frequency of monitoring;
- (b) the manner and format of submission or collection of information and records of the professional members, including by way of inspection;
- (c) the obligations of professional members to comply with the Monitoring Policy;
- (d) the use, analysis and storage of information and records;
- (e) evaluation of performance of members; and
- (f) any other matters that may be specified by the Governing Board.

19. The Monitoring Policy shall –

- (a) have due regard for the privacy of members,
- (b) provide for confidentiality of information received, except when disclosure of information is required by the Board or by law, and
- (c) be non-discriminatory.

20. The Agency shall submit a report to the Board in the manner specified by the Board with information collected during monitoring, including information pertaining to –

- (a) the details of the appointments made under the Code,
- (b) the transactions conducted with stakeholders during the period of his appointment;
- (c) the transactions conducted with third parties during the period of his appointment; and
- (d) the outcome of each appointment.

IX. GRIEVANCE REDRESSAL MECHANISM

21. (1) The Agency shall have a Grievance Redressal Policy providing the procedure for receiving, processing, redressing and disclosing grievances against the Agency or any professional member of the Agency by-

- (a) any professional member of the Agency;
- (b) any person who has engaged the services of the concerned professional members of the Agency; or
- (c) any other person or class of persons as may be provided by the Governing Board.

(2) The Grievance Redressal Committee, after examining the grievance, may-

- (a) dismiss the grievance if it is devoid of merit; or
- (b) initiate a mediation between parties for redressal of grievance.

(3) The Grievance Redressal Committee shall refer the matter to the Disciplinary Committee, wherever the grievance warrants disciplinary action.

22. The Grievance Redressal Policy shall provide for-

- (a) the format and manner for filing grievances;
- (b) maximum time and format for acknowledging receipt of a grievance;
- (c) maximum time for the disposal of the grievance by way of dismissal, reference to the Disciplinary Committee or the initiation of mediation;
- (d) details of the mediation mechanism
- (e) provision of a report of the grievance and mediation proceedings to the parties to the grievance upon dismissal or resolution of the grievance;
- (f) action to be taken in case of malicious or false complaints;
- (g) maintenance of a register of grievances made and resolutions arrived at; and
- (h) periodic review of the Grievance Redressal Mechanism.

X. DISCIPLINARY PROCEEDINGS

23. The Agency may initiate disciplinary proceedings by issuing a show-cause notice against professional members-

- (a) based on a reference made by the Grievances Redressal Committee;
- (b) based on monitoring of professional members;
- (c) following the directions given by the Board or any court of law; or
- (d) suo moto, based on any information received by it.

23A. The authorisation for assignment shall stand suspended upon initiation of disciplinary proceedings by the Agency or by the Board, as the case may be.

24. (1) The Agency shall have a Disciplinary Policy, which shall provide for the following-

- (a) the manner in which the Disciplinary Committee may ascertain facts;
- (b) the issue of show-cause notice based on the facts;
- (c) disposal of show-cause notice by a reasoned order, following principles of natural justice;
- (d) timelines for different stages of disposal of show cause notice; and
- (e) rights and obligations of the parties to the proceedings.

(2) The orders that may be passed by the Disciplinary Committee shall include-

- (a) expulsion of the professional member;
- (b) suspension of the professional member for a certain period of time;
 - (ba) cancellation of authorisation for assignment;
- (c) admonishment of the professional member;
- (d) imposition of monetary penalty;

- (e) reference of the matter to the Board, which may include, in appropriate cases, recommendation of the amount of restitution or compensation that may be enforced by the Board; and
- (f) directions relating to costs.

(3) The Disciplinary Committee may pass an order for expulsion of a professional member if it has found that the professional member has committed-

- (a) an offence under any law for the time being in force, punishable with imprisonment for a term exceeding six months, or an offence involving moral turpitude;
- (b) a gross violation of the Code, rules, regulations and guidelines issued thereunder, bye-laws or directions given by the Governing Board which renders him not a fit and proper person to continue acting as an insolvency professional.

Explanation: The violations referred to in sub-clause (b) include-

- (i) making a false representation or indulging in fraud for the purpose of obtaining creditors' approval under sections 28, 31, 111 or 153 of the Code;
- (ii) contravening provisions of the Code in a manner which is actionable in accordance with sections 70(2) or 185 of the Code;
- (iii) knowingly or wilfully committing or authorizing or permitting contravention of sections 14, 96, 101 or 124 of the Code;
- (iv) contravening provisions of the Code inviting action in accordance with sections 71 or 187 of the Code;
- (v) aiding or abetting any activity which is actionable in accordance with Chapter VII of Part II or Chapter VII of Part III of the Code,
- (vi) providing unequal or differential treatment to the disadvantage of a party which cannot be justified with reference to the interests of the insolvency resolution, liquidation or bankruptcy process; or
- (vii) in any other case it deems fit.

(4) Any order passed by the Disciplinary Committee shall be placed on the website of the Agency within seven days from passing of the said order, and a copy of the order shall be provided to each of the parties to the proceeding.

(5) Monetary penalty received by the Agency under the orders of the Disciplinary Committee shall be credited to the Insolvency and Bankruptcy Fund constituted under section 224 of the Code.

25. (1) The Governing Board shall constitute an Appellate Panel consisting of one independent director of the Agency, one member from amongst the persons of eminence having experience in the field of law, and one member nominated by the Board.

(2) Any person aggrieved of an order of the Disciplinary Committee may prefer an appeal before the Appellate Panel within thirty days from the receipt of a copy of the final order.

(3) The Appellate Panel shall dispose of the appeal in the manner it deems expedient, within thirty days of the receipt of the appeal.

XI. SURRENDER OF PROFESSIONAL MEMBERSHIP AND EXPULSION FROM PROFESSIONAL MEMBERSHIP

Surrender of Authorisation for Assignment.

26. (1) A professional member shall make an application to surrender his authorisation for assignment to the Agency at least thirty days before he-

(a) becomes a person resident outside India:

(c) starts any business, except as specifically permitted under the Code of Conduct, and upon acceptance of such surrender, the same shall be intimated to the Board by the Agency within one working day of acceptance of surrender.

(2) No application for surrender of authorisation for assignments shall be accepted by the Agency, if –

(a) the authorisation for assignment has been suspended;

(b) an assignment is continuing; or

(c) name of the professional member is included in any panel prepared by the Board for undertaking assignment.

27. Surrender of Professional Membership

(1) A professional member who wishes to surrender his membership of the Agency may do so by submitting an application for surrender of his membership.

(2) Upon acceptance of such surrender of his membership, and completion of thirty days from the date of such acceptance, the name of the professional member shall be struck from the registers of the Agency, and the same shall be intimated to the Board.

28. Any fee that is due to the Agency from a professional member surrendering his membership shall be cleared prior to his name being struck from the registers of the Agency.

29. The Agency may refuse to accept the surrender of membership by any professional member if-

(a) there is any grievance or disciplinary proceeding pending against the professional member before the Agency or the Board; or

(b) the professional member has been appointed as a resolution professional, liquidator or bankruptcy trustee for a process under the Code, and the appointment of another insolvency professional may be

Expulsion from Professional Membership.

30. A professional member shall be expelled by the Agency –

- (a) if he becomes ineligible to be enrolled under bye-law9;
- (b) on expiry of thirty days from the order of the Disciplinary Committee, unless set aside or stayed by the Appellate Panel;
- (c) upon non-payment of professional membership fee despite at least two notices served in writing;
- (d) upon the cancellation of his certificate of registration by the Board;
- (e) upon the order of any court of law.

**ANNEXURE
FORM A
CERTIFICATE OF PROFESSIONAL MEMBERSHIP
(Under bye-law 10of the Agency's bye-laws)**

No.

1. This is to certify that [insert name] residing at [insert address] is enrolled as a professional member of [insert name of insolvency professional agency]with professional membership no. [insert number].
2. This certificate shall be valid from [insert date].

Sd/-

For and on behalf of [name of insolvency professional agency]

Place:

Date:

FORM B
AUTHORISATION FOR ASSIGNMENT
(Under bye-law 12A of the Agency's Bye-laws)

No.

Date

This authorisation for assignment is issued to [insert name], who is enrolled as a professional member of the [insert name of insolvency professional agency] with professional membership no. [insert number] and registered with the Insolvency and Bankruptcy Board of India as an insolvency professional with registration no. [insert number] under the Insolvency and Bankruptcy Code, 2016.

2. This authorisation is valid from [insert date] to [insert date]. / This authorisation is renewed on [insert date] and is valid till [insert date]. (Strike off if not applicable).

Sd/-
For and on behalf of [name of insolvency professional agency]

Place:.....

Date:.....]

Dr. M. S. Sahoo
Chairperson
Insolvency and Bankruptcy Board of India

MINISTRY OF CORPORATE
AFFAIRS
PART II—SECTION 3—
SUB-SECTION (I)
NOTIFICATION

G.S.R. 854(E).—In exercise of the powers conferred by sub-section (1), clauses (g), (h), (i), (m), (n) and (o) of sub-section (2) of section 239 read with clause (e) of section 2 and sub-section (2), clauses (c) and (e) of sub-section (14) and clause (e) of sub-section (15) of section 79 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.-

- (1) These rules may be called the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019.
- (2) They shall come into force from the 1st day of December, 2019.

2. Application.— These rules shall apply to insolvency resolution process for personal guarantors to corporate debtors.

3. Definitions. —

- (1) In these rules, unless the context otherwise requires, -
 - (a) “Adjudicating Authority” means-
 - (i) for the purpose of section 60, the National Company Law Tribunal constituted under section 408 of the Companies Act, 2013 (18 of 2013); or
 - (ii) in cases other than sub-clause (i), the Debt Recovery Tribunal established under sub-section (1A) of section 3 of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993);
 - (b) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

(b) the value of unencumbered single dwelling unit owned by the debtor under clause (e) of the said sub-section shall not exceed,-

- (i) in the case of dwelling unit in an urban area, twenty lakh rupees;
- (ii) in the case of dwelling unit in rural area, ten lakh rupees.

Explanation.— For the purposes of this rule,-

- (a) “rural area” shall have the same meaning as assigned to it in clause (o) of section 2 of the National Rural Employment Guarantee Act, 2005 (42 of 2005);
- (b) “urban area” means any area other than rural area.

6. Application by guarantor.—

- (1) The application under sub-section (1) of section 94 shall be submitted in Form A, along with an application fee of two thousand rupees.
- (2) The guarantor shall serve forthwith a copy of the application referred to in sub-rule (1) to every financial creditor and the corporate debtor for whom the guarantor is a personal guarantor.

7. Application by creditor.—

- (1) A demand notice under clause (b) of sub-section (4) of section 95 shall be served on the guarantor demanding payment of the amount of default, in Form B.
- (2) The application under sub-section (1) of section 95 shall be submitted in Form C, along with a fee of two thousand rupees.

FORM A

[See rule 6(1)]

APPLICATION BY GUARANTOR TO INITIATE INSOLVENCY RESOLUTION PROCESS

[Under rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

[Date]

To

The Adjudicating Authority

[Address]

From

[Name and address of the guarantor]

In the matter of [name of the guarantor]

Subject: Application to initiate insolvency resolution process in respect of [name of the guarantor].

Madam/Sir,

I/We hereby submit this application to initiate an insolvency resolution process in respect of [name of guarantor]. The details for the purpose of this application are set out below

Part-I**PARTICULARS OF THE GUARANTOR**

1.	Title and full name				
2.	Date of birth and e-mail address				
3.	Any other name, if any, by which the guarantor is or has been known				
4.	Address: (i) Present (ii) Permanent (iii) Business				
5.	Occupation/ Business/ Profession				
6.	Annual income in the preceding financial year (in Rs.)				
7.	List of associates of the guarantor, including relatives, who are its creditors	Name	Age	Address	
8.	Bank account details (Joint and Several)	Account number	IFSC code	Name of Bank and Branch address	
9.	Identification number	Aadhaar number	Passport number	PAN	GSTIN
10.	Contact No.(s)	Home	Mobile	Business	

11.	List of assets of guarantor and immediate family as on the application date. Note: This will include all assets of guarantor, irrespective of them being excluded assets. Please mention which assets may be excluded assets.	Immovable	Description	Estimated value	Excluded asset or not
		Movable	Description	Estimated value	Excluded asset or not
		Vehicles			
		Shares in listed companies			
		Shares in other companies			
		Life insurance policy			
		Jewellery			
		Pension policy			
		Investment in mutual funds			
		Investment in other funds			
		Investment in partnerships and other business concerns			
		Any other movable property			

12.	Number of directorships held in the last three preceding years (along with name of company in which directorship is held) and CIN of such companies	
13.	Marital status (single, married, divorced, widowed, co-habiting, separated, or specify if any other)	
14.	Details regarding guarantee(s) given by guarantor (in addition to information in serial numbers 1-13 of this part)-	
	Name of corporate debtor for which guarantee is given	
	Any current or past position held in the corporate debtor	
	Identification number of corporate debtor	
	Whether corporate debtor is an associate	
	Any securities held in corporate debtor for whom guarantee is given	
	Whether the guarantee has been invoked and proof thereof.	
15.	Where the guarantor is not a resident in India, the name and address of the person authorised to accept the service of process on guarantor's behalf, along with the authority letter.	

Part – II

[Please complete this part if you have been self-employed, or a partner in a firm. If not, go to part III]

BUSINESS PARTICULARS OF GUARANTOR

1.	Name of business and form of business	
2.	Details of registration, if any	
3.	Description of business	
4.	Business address	
5.	Annual income of guarantor	
6.	If business organisation is a firm, mention the details below.	
(i)	Date of joining firm	
(ii)	Capital subscription as per latest balance sheet	
(iii)	Profit sharing as per latest balance sheet	
(iv)	Name, address and authority of person submitting application on behalf of the firm	

Part – III

PARTICULARS OF DEBT [CREDITOR WISE, AS APPLICABLE]			
1.	Name(s) of creditor(s)		
2.	Address	Present	Permanent Business
3.	Total debt (including any interest or penalties)		
4.	Amount of debt in default		
5.	Interest or penalties, if any		
6.	Date when the debt was due		
7.	Date when the default occurred		
8.	Nature of the debt		
9.	Name, address and other particulars of corporate debtor		
10.	Secured debt including particulars of security held, the date of its creation, estimated value of security as per the creditor and details of security		
11.	Unsecured debt		
12.	Details of retention of title arrangements (if any) in respect of goods to which the debt refers		
13.	Record of default with the information utility, if any		
14.	List of documents attached to this application in order to prove the existence of debt and the amount in default		

15. Statement by guarantor in respect of excluded debts

I [*guarantor*] hereby state that the debt(s) for which the insolvency resolution process application is filed does not include any-

(i) liability to pay fine imposed by a court or tribunal;

(ii) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation;

(iii) liability to pay maintenance to any person under any law for the time being in force;

(iv) liability in relation to a student loan;

(v) any other debt prescribed under section 79(15)(e) of the Code.

Part – IV

PARTICULARS OF & DECLARATION BY RESOLUTION PROFESSIONAL (IF APPLICATION FILED THROUGH RESOLUTION PROFESSIONAL)				
1.	Title and full name			
2.	Address	Present	Permanent	Business
3.	E-mail address(es)			
4.	Contact number	Home	Mobile	Business
5.	Declaration by resolution professional	<p>I, [<i>name of insolvency professional</i>], an insolvency professional enrolled with [<i>name of insolvency professional agency</i>] having registration number [<i>registration number</i>] have been proposed as the resolution professional by [<i>name of applicant guarantor</i>] in connection with the proposed insolvency resolution process of [<i>name of the guarantor</i>].</p> <p>I hereby:</p> <p>(i) agree to accept appointment as the resolution professional if an order of appointment is passed by the Adjudicating Authority;</p>		

(ii) state that the registration number allotted to me by the Board is [*insert registration number*] and that I am currently qualified to practice as an insolvency professional;

(iii) disclose that I am currently serving as an insolvency professional / resolution professional / liquidator/ bankruptcy trustee in [*insert number and details of the proceedings*];

(iv) certify that there are no disciplinary proceedings pending against me with the Board or [*name of the insolvency professional agency he is a member of*];

(v) affirm that I am eligible to be appointed as a resolution professional in respect of the guarantor in accordance with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019;

(vi) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 [*insert disclosures, if any*].

(Signature of the insolvency professional)

(Name in block letters)

[Name of the guarantor] has paid the requisite fee for this application through [state means of payment] on [date].

Yours sincerely,

DECLARATION

Signature of guarantor / person authorised to act on behalf of the guarantor [*Please enclose the authorisation document if this application is being submitted on behalf of the guarantor*]

Name in block letters

Address of person signing

I, [Name of applicant], currently residing at [insert address], hereby declare and state as follows:--

1. In respect of this application for insolvency resolution process, I have relied on the documents specified below: [Please list the documents relied on].
2. The contents of the said application along with the said documents are true, valid and genuine to the best of my knowledge, information and belief and nothing material facts have been concealed therefrom.

Date:

Place:

(Signature of the applicant)

VERIFICATION

I, [name of applicant], do hereby verify that the contents of this application are true and correct to my knowledge and belief. Nothing is false and no material has been concealed therefrom.

Verified at _____ on this _____ day of _____ 201__

(Signature of the Applicant)

ATTACHMENTS: List of documents to be appended to the application:

1. All documents mentioned in serial number 14 of Part III of this form.
2. Copy of the income tax returns with detailed computation of the income of the guarantor, or the firm, as the case may be, for the previous three years.
3. Copy of the personal guarantee contract.
4. Copies of entries in a bankers' book in accordance with the Bankers Books Evidence Act, 1891 (18 of 1891)
5. The latest and complete copy of the financial contract reflecting all amendments and waivers to date.
6. Copies of relevant ownership and title documents for all assets
7. Copy of the authorisation, wherever required under this form.
8. Proof that the application fee has been paid.
9. Documentary evidence of all information sought in each entry for each Part of the form.
10. A statement of affairs of the guarantor made up to a date not earlier than seven days from the date of the application including the following information and supporting documents, namely:-
 - (i) guarantor's assets (inclusive of assets which may be excluded assets) and liabilities for the previous three years;
 - (ii) secured and unsecured debts (inclusive of excluded debts mentioned in serial number 15 of Part III of the form) with names of the creditors, and all requisite details for the previous three years;
 - (iii) particulars of debt owed by guarantor to associates of the corporate debtor for the previous three years;
 - (iv) guarantees given in relation to any of the debts of the corporate debtor, and if any of the guarantors is an associate of the corporate debtor;
 - (v) financial statements with all annexures and schedules for the business owned by the guarantor,

- (vi) wealth tax statements, if any, filed by the guarantor, for the previous five years;
- (vii) income statement of the guarantor, for the previous three years;
- (viii) payment of indirect taxes including GST for the previous three years.

FORM B

[See rule 7(1)]

FORM OF DEMAND NOTICE

[Under rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019]

[Date]

To

[Name and address of the guarantor]

[Address]

From

[Name and address of the creditor]

Subject: Demand notice in respect of unpaid debt in default due from [corporate debtor] under the Code.

Madam/Sir,

1. This letter is a demand notice of unpaid debt in default due from [name of corporate debtor].
2. Please find particulars of the unpaid debt in default below:

PARTICULARS OF DEBT

1.	Total outstanding debt (including any interest or penalties)	
2.	Amount of debt in default	
3.	Date when the debt was due	
4.	Date when the default occurred	
5.	Nature of the debt	
6.	Secured debt including particulars of security held, the date of its creation, its estimated value as per the creditor (as applicable), and details of securities	
7.	Unsecured debt (as applicable)	
8.	Details of retention of title arrangements (if any) in respect of goods to which the debt refers (attach a copy)	
9.	Particulars of an order of a court, tribunal or arbitral panel adjudicating on the default, if any (attach a copy of the order)	
10.	Record of default with the information utility, if any (attach a copy)	
11.	Details of succession certificate, or probate of a WILL, or letter of administration, or court decree (as may be applicable), under the Indian Succession Act, 1925 (10 of 1925) (attach a copy)	
12.	Provision of law, contract or other document under which debt has become due (attach a copy)	

PARTICULARS OF DEBT

13.	A statement of bank account where deposits are made or credits received normally by the creditor in respect of the debt of the corporate debtor, from the date on which the debt was incurred	
14.	List of documents attached to this notice in order to prove the existence of debt and the amount in default	

3. If you believe that the debt has been repaid before the receipt of this notice, please demonstrate such repayment by sending to us, within fourteen days of receipt of this notice, the following:--

- (a) an attested copy of the record of electronic transfer of the unpaid amount from the bank account of the guarantor; or
- (b) evidence of encashment of cheque for the unpaid amount issued by the guarantor; or
- (c) an attested copy of any record that [name of the creditor] has received the payment.

4. The undersigned request you to unconditionally pay the unpaid debt in default in full within fourteen days from the receipt of this letter failing which insolvency resolution process, under the Code, shall be initiated against you

Signature of creditor/person authorised to act on behalf of the creditor [Please enclose the authorisation document if this notice is being issued on behalf of the creditor]	Yours sincerely,
---	------------------

Name in block letters

Address of person signing

Instructions

1. Please serve a copy of this notice on the guarantor, fourteen days in advance of filing an application under section 95 of the Code.
2. Please attach a copy of such served notice with the application made by the creditor to the Adjudicating Authority.

FORM C

[See rule 7(2)]

APPLICATION BY CREDITOR TO INITIATE INSOLVENCY RESOLUTION PROCESS

[Under rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

[Date]

To
The Adjudicating Authority
[Address]

From
[Name and address of the creditor]

Subject: Application to initiate insolvency resolution process in respect of [name of the guarantor] under the Code.

Madam/Sir,

[Name of the creditor], hereby submits this application to initiate an insolvency resolution process in the case of [name of guarantor].

The details for the purpose of this application are set out below:

Part - I

PARTICULARS OF APPLICANT					
1.	Title and full name				
2.	Date of birth and e-mail address				
3.	Contact number(s)	Home	Mobile	Business	
4.	Identification number	Aadhaar number	CIN	PAN	GSTIN
5.	Address	Present	Permanent	Business	
6.	Bank Account details (Joint and Several)	Account number	IFSC Code	Name of the Bank and Branch Address	

Part – II

PARTICULARS OF THE GUARANTOR				
1.	Title and full name			
2.	Date of birth and e-mail address (to the extent known)			
3.	Any other name by which the guarantor is or has been known (as applicable) (to the extent known)			
4.	Address	Present	Permanent	Business
5.	Occupation/ Business/ Profession			
6.	Annual income (to the extent known)			
7.	List of associates of the guarantor, including relatives, who may be creditors (to the extent known)	Name	Age	Address

8.	Bank account details (Joint and Several)	Account number	IFSC Code	Name of the bank and Branch address	
9.	Identification number	Aadhaar number	Passport number	PAN	GSTIN
10.	Contact number(s)	Home	Mobile	Business	
11.	List of assets of guarantor as on the application date (to the extent known) Note: this will include all assets of guarantor, irrespective of them being excluded assets.	Immovable	Description	Estimated value	Excluded asset or not
		Movable	Description	Estimated value	Excluded asset or not
		Vehicles			
		Shares in listed			

		companies			
		Shares in other companies			
		Life insurance policy			
		Jewellery			
		Pension policy			
		Investment in mutual funds			
		Investment in other funds			
		Investment in partnerships and other business concerns			
12.	Number of directorships held in the preceding three years (along with name of company in which directorship is held) and CIN of such companies				
13.	Marital status (single, married, divorced, widowed, co-habiting, separated, or specify any other) (to the extent known)				

14.	Details regarding personal guarantor (in addition to information in serial numbers 1-13 of this part) -	
	Name of corporate debtor for which guarantee is given	
	Any current or past position held in the corporate debtor (to the extent known)	
	Identification number of the corporate debtor	
	Whether corporate debtor is an associate (to the extent known)	
	Any securities held in corporate debtor for whom guarantee is given	
15.	Where the guarantor is not resident in India, the name and address of person resident in India authorised to accept the service of process on guarantor's behalf	

Part-III

PARTICULARS OF DEBT

PARTICULARS OF DEBT		
1.	Total debt (including any interest or penalties)	
2.	Amount in default	
3.	Date on which debt was due	
4.	Date on which default occurred	
5.	Nature of the debt	
6.	Secured debt including particulars of security held, the date of its creation, its estimated value as per the creditor (as applicable)	
7.	Unsecured debt (as applicable)	
8.	Details of retention of title arrangements (if any) in respect of goods to which the debt refers (attach a copy)	
9.	Details of any mutual credit, mutual debts, or other mutual dealings between the guarantor and the creditor, which may be set-off against the claim (attach proof)	
10.	Particulars of an order of a court, tribunal or arbitral panel adjudicating on the default, if any (attach a copy of the order)	

16.	Statement by creditor in respect of excluded debts	<p>I [<i>creditor</i>] hereby state that the debt(s) for which the insolvency resolution process application is filed does not include any-</p> <ul style="list-style-type: none"> (i) liability to pay fine imposed by a court or tribunal; (ii) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation; (iii) liability to pay maintenance to any person under any law for the time being in force; (iv) liability in relation to a student loan;
		<ul style="list-style-type: none"> (v) any other debt prescribed under section 79(15)(e) of the Code.
17.	If you are a secured creditor, tick the applicable box in the right column relating to forfeiture of right to enforce security during the period of the repayment plan, which will determine the voting share as per section 110 of the Code	<ul style="list-style-type: none"> <input type="checkbox"/> I agree to forfeit my right to enforce my security [<i>insert description</i>] during the period of the repayment plan. <input type="checkbox"/> I do not agree to forfeit my right to enforce my security [<i>insert description</i>] during the period of the repayment plan.

Part-IV

1.	Title and full name			
2.	Address	Present	Permanent	Business
3.	E-mail address(es)			
4.	Contact number	Home	Mobile	Business
5.	Declaration by insolvency professional	<p>I, [<i>name of insolvency professional</i>], an insolvency professional enrolled with [<i>name of insolvency professional agency</i>] having registration number [<i>registration number.</i>] have been proposed as the resolution professional by [<i>name of applicant guarantor</i>] in connection with the proposed insolvency resolution process of [<i>name of the guarantor</i>].</p> <p>I hereby:</p> <p>(i) agree to accept appointment as the resolution professional if an order of appointment is passed by the Adjudicating Authority;</p> <p>(ii) state that the registration number allotted to me by the Board is [<i>insert registration number</i>] and that I am currently qualified to practice as an insolvency professional;</p> <p>(iii) disclose that I am currently serving as an interim resolution professional / resolution professional / authorized representative / liquidator/ bankruptcy trustee in [<i>insert number and details of the proceedings</i>];</p>		

	<p>(iv) certify that there are no disciplinary proceedings pending against me with the Board or [<i>name of the insolvency professional agency he is a member of</i>];</p> <p>(v) affirm that I am eligible to be appointed as a resolution professional in respect of the guarantor in accordance with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019;</p> <p>(vi) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 [<i>insert disclosures, if any</i>].</p> <p>(Signature of the insolvency professional)</p>
--	--

[*Name of the creditor*] has paid the requisite fee for this application through [*state means of payment*] on [*date*].

Yours sincerely,

Signature of creditor/ person authorised to act on behalf of the creditor [<i>Please enclose the authorisation document if this application is being submitted on behalf of the creditor</i>]

Name in block letters

Address of person signing

MINISTRY OF CORPORATE
AFFAIRS
PART II—SECTION 3—
SUB-SECTION (I)
NOTIFICATION

G.S.R. 553(E).— In exercise of the powers conferred by clause (zd) of sub-section (2) of section 239 read with sub-section (5) of section 189 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) and in supersession of the Insolvency and Bankruptcy Board of India (Medical Facility to Chairperson and Whole - time Members) Scheme, 2019, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely: —

1. Short title and commencement.-

- (1) These rules may be called the Insolvency and Bankruptcy Board of India (Medical Facility to Chairperson and Whole -time Members) Scheme Rules, 2019.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.- In these rules, unless the context otherwise requires,-

- (a) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016) ;
- (b) family mean,-
 - (i) self;
 - (ii) spouse;
 - (iii) parents(female employee can have either her parents or her parents- in-law as dependents);
 - (iv) sisters, widowed sisters, widowed daughters, minor brothers and minor sisters;
 - (v) children and step-children normally residing with the employee (son up to the age of twenty-five years or till his marriage, whichever is earlier, and daughter till she gets married);
 - (vi) divorced or separated daughters (including their minor children) and step-mother;

Explanation.- For the purposes of this clause, it is hereby clarified that, except for spouse, the family members must be dependent on the employee;

(c) “Group Mediclaim Policy” means health insurance policy as being purchased by the Insolvency and Bankruptcy Board of India for their employees.

(d) words and expressions used in these rules but not defined, and defined in the Code shall have the meanings respectively assigned to them in the Code.

3. Outdoor treatment.- The Chairperson and the whole-time members shall be entitled to reimbursement of expenses incurred on outdoor medical treatment, including medicines, tests, procedures, dentures and spectacles, for self and family members, as per actuals subject to maximum expenditure upto sixty-five thousand rupees annually if claim is supported by prescription of a registered medical practitioner or Government hospital or private hospital registered under the law.

4. Indoor treatment.-

(1) The Chairperson and the whole-time members shall be covered under a Group Mediclaim Policy with an annual cover up to fifteen lakh rupees for self and family subject to the condition that treatment has been taken as per the terms and conditions of the Group Mediclaim Policy.

(2) The Insolvency and Bankruptcy Board of India will bear the expenditure towards premium for coverage under a family floater Group Mediclaim Policy.

5. Monthly subscriptions.-

- (1) The monthly subscription payable by the Chairperson and the whole-time members shall be at the rate of one thousand rupees per month.
- (2) The subscription once paid shall not be refundable.
- (3) The monthly subscription so received shall be utilised for payment towards purchase of Group Mediclaim Policy, referred to in rule 4, for the Chairperson and the whole-time members and other related expenses on treatment.

6. Exercise of option by beneficiary.- In case the beneficiary of the scheme under these rules is also the beneficiary of the Central Government Health Scheme or other health scheme, the beneficiary shall have to exercise option for availing of any one Scheme.

THE GAZETTE OF INDIA :
EXTRAORDINARY
[PART II—SEC. 3 (I)]
NOTIFICATION

G.S.R. 423(E).—In exercise of the powers conferred by clause (zh) of sub-section (2) of section 239 read with sub-section (1) of section 223 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.-

- (1) These rules may be called the Insolvency and Bankruptcy Board of India (Form of Annual Statement of Accounts) Rules, 2018.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions:-

- (1) In these rules, unless the context otherwise requires;-
 - (a) 'Code' means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
 - (b) 'Fund' means the Fund of the Board constituted under sub-section (1) of section 222 of the Code;
 - (c) 'Form' means form annexed to these rules;
 - (d) 'Schedule' means the Schedule annexed to these rules;
 - (e) 'year' means a financial year beginning on 1st April and ending on 31st March of the immediately following year.
- (2) Words and expressions used and not defined in these rules, but defined in the Code shall have the meanings respectively assigned to them in the Code.

3. Maintenance of accounts and records:-

- (1) The Board shall maintain its accounts and records in the Form of financial statements annexed to these rules.
- (2) The Board Shall follow the general directions of the Central Government given in consultation with the Comptroller and Auditor General of India in maintaining the financial statements.

4. Preparation and submission of annual statement of accounts of the Board:-

- (1) The Board shall prepare its annual statement of accounts and balance sheet showing the financial results and significant accounting policies in Form `A', Form `B' and Form `C' and the Schedules.
- (2) The annual statement of accounts and balance sheet of the Board, duly authenticated by the whole-time members in-charge of Finance Accounts Department of the Board, Chairperson of the Audit Committee of the Board and Chairperson and approved by the Board shall be forwarded to the Comptroller and Auditor General of India, for the purposes of audit, within three months of the end of the financial year.
- (3) The duly audited annual statement of accounts and balance sheet of the Board as certified by the Comptroller and Auditor General of India together with the audit report thereon shall be forwarded by the Chairperson for every financial year to the Central Government of laying before each House of Parliament.

FORM OF FINANCIAL STATEMENTS

[see sub rule (1) of rule 3]

Form –‘A’(see sub-rule (1) of rule 4

Insolvency and Bankruptcy Board of India

Balance Sheet as at _____

(Amount in Rs.)

FUND AND LIABILITIES	Schedule	Current Year	Previous Year
Fund	I		
Reserves and Surplus	II		
Earmarked/Endowment Funds	III		
Secured Loans and Borrowings	IV		
Unsecured Loans and Borrowings	V		
Deferred Credit Liabilities	VI		
Current Liabilities and Provisions	VII		
TOTAL			
ASSETS			
Fixed Assets	VIII		
Investments - From Earmarked/Endowment Funds	IX		
Investments - Others	X		

FUND AND LIABILITIES	Schedule	Current Year	Previous Year
Current Assets, Loans and Advances	XI		
Miscellaneous Expenditure (to the extent not written of or adjusted)			
TOTAL			
Significant Accounting Policies	XXII		
Contingent Liabilities and Notes on Accounts	XXIII		

**INSOLVENCY AND BANKRUPTCY BOARD OF
INDIA**

**Whole Time
Member
(In charge of
Finance
And Accounts) IBBI
Place: Delhi
Date:**

**Chairperson
Audit Committee,
IBBI**

**Chairperson
IBBI**

Amount in Rs.

RECEIPTS	Current Year	Previous Year	PAYMENTS	Current Year	Previous Year
V. Other Income (Specify)			V. Refund of surplus money/loans		
			a) To the Government of India		
			b) To other providers of funds		
VI. Amount Borrowed			Vi. Finance Charges (Interest)		
VII. Any other receipts (give details)			VII. Other Payments (Specify)		
			VIII. Closing Balances		
			a) Cash in Hand		
			b) Bank Balances		
			(i) In current Accounts		
			(ii) In Deposit Accounts		
			(iii) Savings Accounts		

**INSOLVENCY AND BANKRUPTCY BOARD OF
INDIA**

**Whole Time
Member
(In charge of
Finance
And Accounts) IBBI
Place: Delhi
Date:**

**Chairperson
Audit Committee,
IBBI**

**Chairperson
IBBI**

Form 'B'

INCOME AND EXPENDITURE ACCOUNT FOR THE PERIOD/YEAR ENDED __

[see sub rule (1) of rule 4]

INCOME	Schedule	Current Year	Previous Year
Grants/Subsidies	XII		
Fees/Subscriptions	XIII		
Income from Investments (Income on investment, from earmarked/endowment funds transferred to funds)	XIV		
Income from Royalty, Publications etc.	XV		
Interest Earned	XVI		
Other Income	XVII		
Total (A)			
EXPENDITURE	Schedule	Current Year	Previous Year
Establishment Expenses	XVIII		
Other Administrative Expenses etc.	XIX		
Expenditure on Grants, subsidies etc.	XX		
Interest	XXI		

	Current Year		Previous Year	
3.Special Reserves (As per last Account)				
Addition during the year				
Less: Deductions during the year				
4.General Reserve (As per last Account)				
Addition during the year				
Less: Deductions during the year				
TOTAL				

SCHEDULE – III
[See sub-rule (1) of rule 4]
EARMARKED/ENDOWMENT FUNDS

	Fund Wise Break up				Totals	
	Fund WW	Fund XX	Fund YY	Fund ZZ	Current Year	Previous Year
(a) Opening balance of the funds						
(b) Additions to the Funds:						
(i) Donations/grants						
(ii) Income from investments made on account of funds						

	Fund Wise Break up				Totals	
	Fund WW	Fund XX	Fund YY	Fund ZZ	Current Year	Previous Year
(iii) Other additions (specify nature)						
Total (a + b)						
(c) Utilisation/Expenditure towards objectives of funds						
(i) Capital Expenditure						
- Fixed Assets						
- Others						
Total						
(ii) Revenue Expenditure						
- Salaries, Wages and allowances etc.						
- Rent						
- Other Administrative Expenses						
Total						
Total (c)						
NET BALANCE AS AT THE YEAR END (a + b - c)						

SCHEDULE – V
[See sub-rule (1) of rule 4]
UNSECURED LOANS AND BORROWINGS

(Amount in Rs.)

	Current Year		Previous Year	
1. Central Government				
2. Financial Institutions				
3. Banks				
(a) Term Loans				
(b) Other Loans (specify)				
4. Other Institutions and Agencies				
5. Debentures and bonds				
6. Fixed Deposits				
7. Others (Specify)				
TOTAL				
Note: Amounts due within one year				

SCHEDULE – VI
[See sub-rule (1) of rule 4]
DEFERRED CREDIT LIABILITIES

(Amount in Rs.)

	Current Year	Previous Year
1. Acceptances secured by hypothecation of capital equipment and other assets		
2. Others		
TOTAL		
Note: Amounts due within one year		

SCHEDULE – VII
[See sub-rule (1) of rule 4]
CURRENT LIABILITIES AND PROVISIONS

(Amount in Rs.)

	Current Year		Previous Year	
A. CURRENT LIABILITIES				
1. Acceptances				
2. Sundry creditors:-				
(a). For Goods				
(b). Others				
3. Advances Received				
4. Interest accrued but not due on:				
(a) Secured Loans/borrowings				
(b) Unsecured Loans/borrowings				
5. Statutory Liabilities:				
(a) Overdue				
(b) Others				
6. Other Current Liabilities				
TOTAL (A)				

	Current Year		Previous Year	
B. PROVISIONS				
1. For Taxation				
2. Gratuity				
3. Superannuation/Pension				
4. Accumulated Leave Encashment				
5. Trade Warranties/Claims				
6. Others (Specify)				
TOTAL (B)				
TOTAL (A +B)				

Cost of assets on hire purchase basis included above

MINISTRY OF CORPORATE
AFFAIRS
NOTIFICATION

1. Short title and Commencement.-

- (1) These rules may be called the Insolvency and Bankruptcy Board of India (Salary, Allowances and other Terms and Conditions of Service of Chairperson and members) Rules, 2016.
- (2) They shall come into force on the date of publication of this notification in the Official Gazette.

2. Definitions.-

- (1) In these rules, unless the context otherwise requires-
 - (a) “Code” means the Insolvency and Bankruptcy Code, 2016;
 - (b) “Board” means the Insolvency and Bankruptcy Board of India established under sub-section (1) of section 3 of the Code;
 - (c) “Chairperson” means the Chairperson of the Board appointed under clause (a) of sub-section (1) of section 189 of the Code;
 - (d) “whole-time member” means the member of the Board appointed under clause (d) of sub-section (1) of section 189 of the Code;
- (2) Words and expressions used in these rules and not defined, but defined in the Code shall have the meanings respectively assigned to them in the Code.

3. Terms and conditions of service of Chairperson and members.-

- (1) The Chairperson and the whole-time member shall be a person who shall not have any financial or other interests as are likely to affect prejudicially his functions as such Chairperson or member.

(2) The Chairperson and whole-time member appointed to fill-up a causal vacancy shall hold office for the remainder period of the term of the Chairperson or, as the case may be, whole-time member in whose place he is appointed.

(3) The Chairperson and whole-time member shall not accept any employment before the expiry of a period of one year from the date of demitting the office in the Board, except with the previous sanction of the Central Government.

4. Pay. –

(1) The Chairperson shall have an option to receive pay as admissible to a Secretary to the Government of India or a consolidated salary of Rs 4,50,000 per month.

(2) Every whole-time member shall have an option to receive pay as admissible to an Additional Secretary to the Government of India or a **consolidated salary of Rs.4,00,,000 per month.**

(3) In the case of an appointment of a person as the Chairperson or a whole-time member shall have an option to receive pay as admissible to a Secretary or Additional Secretary to the Government of India respectively, who has retired from service under the Central Government or the State Government and who is in receipt of, or has received, or has become entitled to receive any retirement benefits by way of pension, gratuity, employer's contribution to the Contributory Provident Fund or other Funds or retirement benefits, the pay and allowances of such Chairperson or member, as the case may be, shall be reduced by gross amount of pension and pension equivalent of gratuity or employer's contribution to the Contributory Provident Fund or any other form of retirement benefits, if any, drawn or to be drawn by him.

(3) Nothing in this rule shall apply to the Chairperson and a whole-time member who has opted a consolidated salary of Rs. 4,50,000/-per month or 3,75,000/-respectively.

14. Bonus.– The Chairperson and a whole-time member shall not be entitled to any bonus.

15. Sitting Fees and Board’s Meetings.– The Chairperson and a whole time member shall not be entitled to any sitting fees for attending meetings of the Board.

16. Encashment of Leave.– The Chairperson or a whole time member shall be entitled to the encashment of leave in accordance with the rules applicable to Group ‘A’ officers of the Central Government, subject to a maximum encashment of three hundred days, including the leave encashed before superannuation.

17. Facilities for medical treatment.– The Chairperson and a whole-time member shall be covered under the Health Scheme as may be prescribed by the Central Government.

18. Residuary Provisions.– Matters relating to the conditions of service of the Chairperson and a whole-time member with respect to which no express provision has been made in these rules shall be referred in each case, to the Central Government for its decision and the decision of the Central Government thereon shall be final.

19. Terms and Conditions of Services of Part-time Members.–

(1) A part-time member shall be a person who shall not have any such financial or other interest as is likely to affect prejudicially his functions as a part-time member.

(2) Every part -time member shall hold office for such period, not exceeding three years, as may be specified in the order of his appointment, but shall be eligible for reappointment.

(3) A part-time member appointed to fill up a casual vacancy, shall hold office for the reminder period of the term of whole-time or part-time member in whose place he is appointed.

20. Fee and Allowances of Part-time Members.-

(1) A part-time member shall be entitled to receive remuneration by way of a fee of rupees one thousand only for each meeting of the Board attended by him.

(2) A part-time member while on tour (including the journey undertaken to attend a meeting of the Board) shall also be entitled to travelling allowance and daily allowances at the same rates and scale as are applicable to an Additional Secretary to the Government of India.

21. Power to Relax.- The Central Government shall have power to relax the provisions of any of these rules with respect to any class or category of person.

In exercise of the powers conferred by clause (zm) of sub-section (2) of section 239 read with subsection (1) of section 229 of the Insolvency and Bankruptcy Code, 2016 (No. 31 of 2016), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.-

- (1) These rules may be called the Insolvency and Bankruptcy Board of India (Annual Report) Rules, 2018.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions:

- (I) In these rules, unless the context otherwise requires, —
 - (a) "Code" means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
 - (b) words and expressions used in these rules but not defined, and defined in the Code shall have the meanings respectively assigned to them in the Code.

3. Form of Annual Report.- The Board shall prepare its annual report, giving a true and full accounts of its activities, policies and programmes, during the previous financial year in the Form annexed to these rules.

4. Time Schedule for submission of annual report.- The dates for submission of the annual report referred to in rule 3 of annual accounts for audit leading to the issue of Audit Certificate by the Comptroller and Auditor General of India and for submission to the Ministry of Corporate Affairs for timely submission to the Parliament are listed below:-

- (i) approved and authenticated annual accounts to be made available by the Insolvency and Bankruptcy Board of India to the concerned Audit Office and commencement of audit of annual accounts - 30th June;

(ii) issue of the final Separate Audit Report (SAR) in English with Audit Certificate to Insolvency and Bankruptcy Board of India - 31st October;

(iii) submission of the annual report and audited accounts to the Ministry of Corporate Affairs for it to be laid on the Table of the Parliament - 31st December.

Form of the Annual Report

[see rule 3]

(A) Chairperson's statement:

(B) The year in review:

(C) A true and full account of policies, programmes and activities of the Board in respect of-

(i) Service Providers, namely, Insolvency Professionals, Insolvency Professional Agencies, and Information Utilities:

(ii) Transactions, namely, Corporate Insolvency Resolution, Corporate Liquidation, Individual Insolvency Resolution and Individual Bankruptcy:

(iii) Advocacy and Awareness:

(iv) Research:

- (D) A review of the quasi-legislative, executive and quasi-judicial functions of the Board:
- (E) An analysis of outcomes in terms of transactions and transactional efficiencies:
- (F) Summary data - time series or cross section - as may be relevant and available, about the outcomes that may facilitate appreciation of the working of the Code and the Board and promote research:
- (G) Impact of the Code on credit market, resource recycling and the economy:
- (H) An assessment of the effectiveness and the efficiency of the Board in terms of its objectives and mandate keeping in view its resources, duties and powers:
- (I) An assessment of performance of the Governing Board and its vision, policies and programmes for the following year;
- (J) A summary of financial performance of the Board;
- (K) A statement of non-compliance, if any, with statutory obligations by the Board and the reason for the same;
- (L) Organisational Matters, including Human Resources, Finance and Accounts, Audit Committee, Right to Information and Transparency:
- (M) Such other details as would enable the stakeholders to review and appreciate the performance of the Board:

THE INSOLVENCY AND
BANKRUPTCY
(APPLICATION TO
ADJUDICATING AUTHORITY)
RULES, 2016

In exercise of the powers conferred by clauses (c), (d), (e) and (f) of sub-section (1) of section 239 read with sections 7, 8, 9 and 10 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby makes the following Rules, namely;

1. Short title and commencement.—

- (1) These rules may be called the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
- (2) They shall come into force from the 1st day of December, 2016.

2. Application.—These Rules shall apply to matters relating to the corporate insolvency resolution process.

3. Definitions.— (1) In these Rules, unless the context otherwise requires,-

- a) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
- b) “corporate insolvency resolution process” means the insolvency resolution process for corporate persons under Chapter II of Part II of the Code;
- c) “credit information company” shall have the meaning as assigned to it under the Credit Information Companies (Regulation) Act, 2005 (30 of 2005);
- d) “financial contract” means a contract between a corporate debtor and a financial creditor setting out the terms of the financial debt, including the tenure of the debt, interest payable and date of repayment;
- e) “Form” means a Form appended to these rules;
- f) “identification number” means the limited liability partnership identification number or the corporate identity number, as the case may be, of the corporate person;
- g) “Schedule” means the Schedule appended to these rules.

Form 1

(See sub-rule (1) of rule 4)

**[APPLICATION BY FINANCIAL CREDITOR(S) TO INITIATE CORPORATE INSOLVENCY
RESOLUTION PROCESS *UNDER CHAPTER II OF PART II/UNDER CHAPTER IV OF PART II OF THE
CODE.**

[*strike out whichever is not applicable]]

**(Under section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and
Bankruptcy (Application to Adjudicating Authority) Rules, 2016)**

[Date]

To,
The National Company Law Tribunal
[Address]

From,
[Names and addresses of the registered offices of the financial creditors]

In the matter of [name of the corporate debtor]

Subject: Application to initiate corporate insolvency resolution process in the matter of [name of the corporate debtor] under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

[Names of the financial creditor(s)], hereby submit this application to initiate a corporate insolvency resolution process in the matter of [name of corporate debtor]. The details for the purpose of this application are set out below:

Part-I

PARTICULARS OF APPLICANT (PLEASE PROVIDE FOR EACH FINANCIAL CREDITOR MAKING THE APPLICATION)	
1.	NAME OF FINANCIAL CREDITOR
2.	DATE OF INCORPORATION OF FINANCIAL CREDITOR
3.	IDENTIFICATION NUMBER OF FINANCIAL CREDITOR
4.	ADDRESS OF THE REGISTERED OFFICE OF THE FINANCIAL CREDITOR
5.	NAME AND ADDRESS OF THE PERSON AUTHORISED TO SUBMIT APPLICATION ON ITS BEHALF (ENCLOSE AUTHORISATION)
6.	NAME AND ADDRESS OF PERSON RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON ITS BEHALF (ENCLOSE AUTHORISATION)

Part-II

PARTICULARS OF THE CORPORATE DEBTOR		
1.	NAME OF THE CORPORATE DEBTOR	
2.	IDENTIFICATION NUMBER OF CORPORATE DEBTOR	
3.	DATE OF INCORPORATION OF CORPORATE DEBTOR	
4.	NOMINAL SHARE CAPITAL AND THE PAIDUP SHARE CAPITAL OF THE CORPORATE DEBTOR AND/OR DETAILS OF GUARANTEE CLAUSE AS PER MEMORANDUM OF ASSOCIATION (AS APPLICABLE)	
5.	ADDRESS OF THE REGISTERED OFFICE OF THE CORPORATE DEBTOR	
6.	DETAILS OF THE CORPORATE DEBTOR AS PER THE NOTIFICATION UNDER SECTION 55 (2) OF THE CODE– (i) ASSETS AND INCOME (ii) CLASS OF CREDITORS OR AMOUNT OF DEBT (iii) CATEGORY OF CORPORATE PERSON (WHERE APPLICATION IS UNDER CHAPTER IV OF PART II OF THE CODE)]	

I, hereby certify that, to the best of my knowledge, [name of proposed insolvency professional], is fully qualified and permitted to act as an insolvency professional in accordance with the Insolvency and Bankruptcy Code, 2016 and the associated rules and regulations.

[Name of the financial creditor] has paid the requisite fee for this application through [state means of payment] on [date] and served a copy of this application by registered post/speed post/by hand/electronic means to the registered office of the corporate debtor and to the Board.]

Yours sincerely,

Signature of person authorised to act on behalf of the financial creditor
Name in block letters
Position with or in relation to the financial creditor
Address of person signing

Instructions

Please attach the following to this application:

Annex I Copies of all documents referred to in this application.

Annex II Written communication by the proposed interim resolution professional as set out in Form 2.

Annex III Proof that the specified application fee has been paid.

Annex IV Where the application is made jointly, the particulars specified in this form shall be furnished in respect of all the joint applicants along with a copy of authorisation to the financial creditor to file and act on this application on behalf of all the applicants.

Annex V Proofs of serving a copy of the application (a) to the corporate debtor, and (b) to the Board.

3	Liquidator (including voluntary liquidations)		1			
			2			
			3			
4	Authorised Representative		1			
			2			
			3			
Individual Processes						
5	Resolution Professional					
6	Bankruptcy Trustee					
7	Any other.					

(iv) certify that there are no disciplinary proceedings pending against me with the Board or [name of the insolvency professional agency he is a member of];

(v) affirm that I am eligible to be appointed as a resolution professional in respect of the corporate debtor in accordance with the provisions of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;

(vi) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;

(Signature of the insolvency professional)

(Name in block letters)

(Name of insolvency professional entity, if applicable)

[Optional certification, if required by the applicant making an application under these Rules]

I, hereby, certify that the facts averred by the applicant in the present application are true, accurate and complete and a default has occurred in respect of the relevant corporate debtor. I have reached this conclusion based on the following facts and/or opinion:-

[Please give details].

(Signature of the insolvency professional)

(Name in block letters)

(Name of insolvency professional entity, if applicable)

Form 3

(See sub-rule (1) of rule 5)

**FORM OF DEMAND NOTICE / INVOICE DEMANDING PAYMENT UNDER THE INSOLVENCY AND
BANKRUPTCY CODE, 2016**

(Under rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

[Date]

To,

[Name and address of the registered office of the corporate debtor]

From,

[Name and address of the registered office of the operational creditor]

Subject: Demand notice/invoice demanding payment in respect of unpaid operational debt due from [corporate debtor] under the Code.

Madam/Sir,

1. This letter is a demand notice/invoice demanding payment of an unpaid operational debt due from [name of corporate debtor].
2. Please find particulars of the unpaid operational debt below:

PARTICULARS OF OPERATIONAL DEBT

1.	TOTAL AMOUNT OF DEBT, DETAILS OF TRANSACTIONS ON ACCOUNT OF WHICH DEBT FELL DUE, AND THE DATE FROM WHICH SUCH DEBT FELL DUE	
2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF DEFAULT IN TABULAR FORM)	
3.	PARTICULARS OF SECURITY HELD, IF ANY, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR. ATTACH A COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES (IF THE CORPORATE DEBTOR IS A COMPANY)	
4.	DETAILS OF RETENTION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS	
5.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY (IF ANY)	
6.	PROVISION OF LAW, CONTRACT OR OTHER DOCUMENT UNDER WHICH DEBT HAS BECOME DUE	

3. If you dispute the existence or amount of unpaid operational debt (in default) please provide the undersigned, within ten days of the receipt of this letter, of the pendency of the suit or arbitration proceedings in relation to such dispute filed before the receipt of this letter/notice.

4. If you believe that the debt has been repaid before the receipt of this letter, please demonstrate such repayment by sending to us, within ten days of receipt of this letter, the following:

- (a) an attested copy of the record of electronic transfer of the unpaid amount from the bank account of the corporate debtor; or
- (b) an attested copy of any record that [name of the operational creditor] has received the payment.

5. The undersigned, hereby, attaches a certificate from an information utility confirming that no record of a dispute raised in relation to the relevant operational debt has been filed by any person at any information utility. (if applicable)

6. The undersigned request you to unconditionally repay the unpaid operational debt (in default) in full within ten days from the receipt of this letter failing which we shall initiate a corporate insolvency resolution process in respect of [name of corporate debtor].

Signature of person authorised to act on behalf of the operational creditor	Yours sincerely,
Name in block letters	
Position with or in relation to the operational creditor	
Address of person signing	

Instructions

1. Please serve a copy of this form on the corporate debtor, ten days in advance of filing an application under section 9 of the Code.
2. Please append a copy of such served notice to the application made by the operational creditor to the Adjudicating Authority.

Form 4

(See clause (b) of sub-rule (1) of rule 5)

**FORM OF NOTICE WITH WHICH INVOICE DEMANDING PAYMENT IS TO BE ATTACHED
(Under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)**

To,

[Name and address of registered office of the corporate debtor]

[Date]

From,

[Name and address of the operational creditor]

Subject: Notice attached to invoice demanding payment

Madam/Sir,

[Name of operational creditor], hereby provides notice for repayment of the unpaid amount of INR [insert amount] that is in default as reflected in the invoice attached to this notice.

In the event you do not repay the debt due to us within ten days of receipt of this notice, we may file an application before the Adjudicating Authority for initiating a corporate insolvency resolution process under section 9 of the Code.

Yours sincerely,

Signature of person authorised to act on behalf of the operational creditor

Name in block letters

Position with or in relation to the operational creditor

Address of person signing

Form 5

(See sub-rule (1) of rule 6)

**[APPLICATION BY OPERATIONAL CREDITOR (S) TO INITIATE CORPORATE INSOLVENCY
RESOLUTION PROCESS *UNDER CHAPTER II OF PART II/ UNDER CHAPTER IV OF PART II OF THE
CODE**

[*strike out whichever is not applicable]

(Under rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016) [Date]

To,

The National Company Law Tribunal [Address]

From,

[Name and address for correspondence of the operational creditor]

In the matter of [name of the corporate debtor]

Subject: Application to initiate corporate insolvency resolution process in respect of [name of the corporate debtor] under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

[Name of the operational creditor], hereby submits this application to initiate a corporate insolvency resolution process in the case of [name of corporate debtor]. The details for the purpose of this application are set out below:

Part-I

PARTICULARS OF APPLICANT

1.	NAME OF OPERATIONAL CREDITOR	
2.	IDENTIFICATION NUMBER OF OPERATIONAL CREDITOR (IF ANY)	
3.	ADDRESS FOR CORRESPONDENCE OF THE OPERATIONAL CREDITOR	

Part-II

PARTICULARS OF CORPORATE DEBTOR

1.	NAME OF THE CORPORATE DEBTOR	
2.	IDENTIFICATION NUMBER OF CORPORATE DEBTOR	
3.	DATE OF INCORPORATION OF CORPORATE DEBTOR	
4.	NOMINAL SHARE CAPITAL AND THE PAIDUP SHARE CAPITAL OF THE CORPORATE DEBTOR AND/OR DETAILS OF GUARANTEE CLAUSE AS PER MEMORANDUM OF ASSOCIATION (AS APPLICABLE)	
5.	ADDRESS OF THE REGISTERED OFFICE OF THE CORPORATE DEBTOR	
6.	NAME, ADDRESS AND AUTHORITY OF PERSON SUBMITTING APPLICATION ON BEHALE OF OPERATIONAL CREDITOR	

7.	NAME AND ADDRESS OF PERSON RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON ITS BEHALF (ENCLOSE AUTHORISATION)	
8.	DETAILS OF THE CORPORATE DEBTOR AS PER THE NOTIFICATION UNDER SECTION 55 (2) OF THE CODE – (i) ASSETS AND INCOME (ii) CLASS OF CREDITORS OR AMOUNT OF DEBT (iii) CATEGORY OF CORPORATE PERSON (WHERE APPLICATION IS UNDER CHAPTER IV OF PART II OF THE CODE)]	

Part-III

PARTICULARS OF THE PROPOSED INTERIM RESOLUTION PROFESSIONAL [IF PROPOSED]		
1.	NAME, ADDRESS, EMAIL ADDRESS AND THE REGISTRATION NUMBER OF THE PROPOSED INSOLVENCY PROFESSIONAL	

Part-IV

PARTICULARS OF OPERATIONAL DEBT

1.	TOTAL AMOUNT OF DEBT, DETAILS OF TRANSACTIONS ON ACCOUNT OF WHICH DEBT FELL DUE, AND THE DATE FROM WHICH SUCH DEBT FELL DUE	
2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DATES OF DEFAULT IN TABULAR FORM)	

Part-IV

PARTICULARS OF OPERATIONAL DEBT [DOCUMENTS, RECORDS AND EVIDENCE OF DEFAULT]

1.	PARTICULARS OF SECURITY HELD, IF ANY, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR. ATTACH A COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES (IF THE CORPORATE DEBTOR IS A COMPANY)
2.	DETAILS OF RESERVATION / RETENTION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS
3.	PARTICULARS OF AN ORDER OF A COURT, TRIBUNAL OR ARBITRAL PANEL ADJUDICATING ON THE DEFAULT, IF ANY (ATTACH A COPY OF THE ORDER)
4.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY, IF ANY (ATTACH A COPY OF SUCH

5. DETAILS OF SUCCESSION CERTIFICATE, OR PROBATE OF A WILL, OR LETTER OF ADMINISTRATION, OR COURT DECREE (AS MAY BE APPLICABLE), UNDER THE INDIAN SUCCESSION ACT, 1925 (10 OF 1925) (ATTACH A COPY)
6. PROVISION OF LAW, CONTRACT OR OTHER DOCUMENT UNDER WHICH OPERATIONAL DEBT HAS BECOME DUE
7. A STATEMENT OF BANK ACCOUNT WHERE DEPOSITS ARE MADE OR CREDITS RECEIVED NORMALLY BY THE OPERATIONAL CREDITOR IN RESPECT OF THE DEBT OF THE CORPORATE DEBTOR (ATTACH A COPY)
8. ~~[Name of the operational creditor / person authorised to act on behalf of the operational creditor] hereby certify that, to the best of my knowledge [name of proposed insolvency professional], is fully qualified and permitted to act as an insolvency professional in accordance with the Code and the rules and regulations made thereunder. [WHERE APPLICABLE]~~
LIST OF OTHER DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF OPERATIONAL DEBT AND THE AMOUNT IN DEFAULT

[Name of the operational creditor] has paid the requisite fee for this application through [state means of payment] on [date] and a copy of this application has been served by registered post/speed post/by hand/electronic means to the registered office of the corporate debtor and to the Board.]

Yours sincerely,

Signature of person authorised to act on behalf of the operational creditor
Name in block letters
Position with or in relation to the operational creditor
Address of person signing

Instructions

Please attach the following to this application:

Annex I Copy of the invoice / demand notice as in Form 3 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 served on the corporate debtor.

Annex II Copies of all documents referred to in this application.

Annex III Form 5A, if available, from the banks/financial institutions that maintains relevant accounts of the operational creditor.

Annex IV Affidavit in support of the application in accordance with the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

Annex V Written communication by the proposed interim resolution professional as set out in Form 2 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. [WHEREAPPLICABLE]

Annex VI Proof that the specified application fee has been paid.

Annex VII Proofs of serving a copy of the application (a) to the corporate debtor, and (b) to the Board.

Note: Where workmen/employees are operational creditors, the application may be made either in an individual capacity or in a joint capacity by one of them who is duly authorised for the purpose.

Form 5A
(Under section 9(3)(c) of the Code)
(To be issued on the letter head of the Bank / Financial Institution)
To whomsoever it may concern

Based on a request of.....(name and address of person), having an account(s) bearing No..... at branch of bank/financial institution, it is certified that the following amounts have been credited in the last three years to this account on behalf of corporate debtor (name and address of the corporate debtor from whom the amount is supposed to be credited).

Date of credit	Amount of credit (Rs.)

(Signature and Name of issuing authority)

Date :
Place :]

Form 6

(See sub-rule (1) of rule 7)

**APPLICATION BY CORPORATE APPLICANT TO INITIATE CORPORATE INSOLVENCY RESOLUTION
PROCESS *UNDER CHAPTER II OF PART II/ UNDER CHAPTER IV OF PART II OF THE CODE
[*strike out whichever is not applicable]
(Under rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)**

[Date]

To,
The National Company Law Tribunal [Address]

From,
[Name and address for correspondence of the corporate applicant]

In the matter of [name of the corporate debtor]

Subject: Application to initiate corporate insolvency resolution process in respect of [name of the corporate debtor] under the Code.

Madam/Sir,

We, hereby submit this application to initiate a corporate insolvency resolution process in respect of [name of corporate debtor]. The details for the purpose of this application are set out below:

Part-I

PARTICULARS OF THE CORPORATE APPLICANT

1.	NAME ADDRESS, EMAIL ADDRESS, IDENTIFICATION NUMBER AND ADDRESS FOR COMMUNICATION OF THE CORPORATE APPLICANT	
2.	NAME ADDRESS, EMAIL ADDRESS, IDENTIFICATION NUMBER AND ADDRESS OF THE REGISTERED OFFICE OF CORPORATE DEBTOR	
3.	NAMES AND ADDRESSES OF ALL DIRECTORS, PROMOTERS, DESIGNATED PARTNERS OF THE CORPORATE DEBTOR (AS APPLICABLE)	
4.	DATE OF INCORPORATION OF CORPORATE DEBTOR	
5.	NOMINAL SHARE CAPITAL AND THE PAID-UP SHARE CAPITAL OF THE CORPORATE DEBTOR AND/OR DETAILS OF GUARANTEE CLAUSE AS PER MEMORANDUM OF ASSOCIATION (AS APPLICABLE)	
6.	NAME, ADDRESS AND AUTHORITY OF PERSON SUBMITTING APPLICATION ON BEHALF OF CORPORATE APPLICANT (ENCLOSE AUTHORISATION)	
7.	NAME AND ADDRESS OF PERSON RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON ITS BEHALF (ENCLOSE AUTHORISATION)	
8.	DOCUMENTATION TO SHOW THAT THE CORPORATE APPLICANT IS	

9.	<p>DETAILS OF THE CORPORATE DEBTOR AS PER THE NOTIFICATION UNDER SECTION 55 (2) OF THE CODE –</p> <p>(i) ASSETS AND INCOME</p> <p>(ii) CLASS OF CREDITORS OR AMOUNT OF DEBT</p> <p>(iii) CATEGORY OF CORPORATE PERSON</p> <p>(WHERE APPLICATION IS UNDER CHAPTER IV OF PART II OF THE CODE)</p>	
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Part-II

PARTICULARS OF PROPOSED INTERIM RESOLUTION PROFESSIONAL		
1.	NAME, ADDRESS, EMAIL ADDRESS AND THE REGISTRATION NUMBER OF THE PROPOSED INTERIM RESOLUTION PROFESSIONAL	

Part-III

PARTICULARS OF FINANCIAL / OPERATIONAL DEBT [CREDITOR WISE, AS APPLICABLE]		
1.	NAME(S) OF FINANCIAL / OPERATIONAL CREDITOR(S)	
2.	ADDRESS OF CORRESPONDENCE OF THE FINANCIAL / OPERATIONAL CREDITOR(S)	
3.	TOTAL DEBT RAISED AND AMOUNT IN DEFAULT	
4.	DATE WHEN THE FINANCIAL/ OPERATIONAL DEBT WAS INCURRED	

5.	PARTICULARS OF SECURITY HELD, IF ANY, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR. ATTACH A COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES (IF THE CORPORATE DEBTOR IS A COMPANY)	
6.	DETAILS OF RETENTION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS	
7.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY, IF ANY	
8.	LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF FINANCIAL/ OPERATIONAL DEBT AND THE AMOUNT IN DEFAULT	

I, certify that, to the best of my knowledge, [name of proposed insolvency professional], is fully qualified and permitted to act as an insolvency professional in accordance with the Code and the associated rules and regulations.

[Name of the corporate applicant] has paid the requisite fee for this application through [state means of payment] on [date] and a copy of this application has been served by registered post/speed post/by hand/electronic means to the Board.

Yours sincerely,

Signature of person authorised to act on behalf of the operational creditor
Name in block letters
Position with or in relation to the operational creditor
Address of person signing

Instructions

Please attach the following to this application:

Annex I: In case of financial debt, record of default obtained through the information utility or all documents listed in serial number 8 of part –III of this application.

Annex II: In case of operational debt, (i) copy of invoice / demand notice served by an operational creditor on the corporate debtor and (ii) record of default obtained through the information utility or all documents listed in serial number 8 of part-III of this application.

Annex III: Written communication by the proposed interim resolution professional as set out in Form 2 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

Annex IV: Copy of the relevant books of accounts of the corporate debtor evidencing the default to creditors.

Annex V: Copies of audited financial statements of the corporate debtor for the last two financial years and the provisional financial statements for the current financial year made upto a date not earlier than fourteen days from the date of the application.

Annex VI: A statement of affairs made up to a date not earlier than fourteen days from the date of application including the following document, namely:-

- (a) a list of the corporate debtor's assets and liabilities, divided into such categories as are appropriate for easy identification, with estimated values assigned to each category;
- (b) in the case of any property on which a claim against the corporate debtor is wholly or partly secured, particulars of the claim and its amount, and of how and when the security was created;
- (c) the names and addresses of the financial creditors and operational creditors of the corporate debtor, with the amounts due to each of them;
- (d) particulars of any debts owed by or to the corporate debtor to or by persons connected with it;
- (e) whether any, and if so what, guarantees have been given in relation to the debts of the corporate debtor by other persons, specifying which, if any, of the guarantors is a related party to the corporate debtor and the corporate applicant; and
- (f) the names and addresses of the members and partners of the corporate debtor, as the case may be, with details of their respective shareholdings.

Annex VII: A copy of:

- (a) relevant extract of any constitutional document or shareholders' agreement that records the authority of the corporate applicant to make this application, where the corporate applicant is a member or partner of the corporate debtor; or
- (b) relevant extract of an employment agreement, constitutional document or filings made to the Registrar of Companies confirming the authority of the corporate applicant to make this application, where the corporate applicant is an individual in charge of managing the operations and resources of the corporate debtor or has control and supervision over the financial affairs of the corporate debtor.

Annex VIII: Affidavit in support of the application in accordance with the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

Annex IX: Proof that the specified application fee has been paid.

Annex X: Proof that a copy of the application has been served to the Board.

SCHEDULE
[See sub-rule (3) of rule 10]

S. No.	Applicant	Fee payable (in ₹)
1.	Application by financial creditor (whether solely or jointly)	25000
2.	Application by operational creditor	2000
3.	Application by corporate debtor	25000

**INSOLVENCY AND
BANKRUPTCY BOARD OF
INDIA (INSOLVENCY
PROFESSIONAL AGENCIES)
REGULATIONS, 2016**

[AMENDED UPTO 23-07-2019]

CHAPTER II REGISTRATION

3. Eligibility for registration. –

- (1) No person shall be eligible for registration as an insolvency professional agency unless it is a company registered under section 8 of the Companies Act, 2013, and –
- (a) its sole object is to carry on the functions of an insolvency professional agency under the Code;
 - (b) it has bye-laws and governance structure in accordance with the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016;
 - (c) it has a minimum net worth of ten crore rupees;
 - (d) it has a paid-up share capital of five crore rupees;
 - (e) it is not under the control of any person resident outside India;
 - (f) not more than forty-nine per cent. of its share capital is held, directly or indirectly, by persons resident outside India;
 - (g) it is not a subsidiary of a body corporate through more than one layer; and
 - (h) the applicant, its promoters, its directors and its shareholders are fit and proper persons.

Explanation 1.- For the purposes of clause (g), “layer” in relation to a body corporate means its subsidiary.

Explanation 2.- For determining whether a person is fit and proper under clause (h), the Board may take into account any consideration as it deems fit, including but not limited to the following criteria, namely: -

- (i) integrity, reputation and character,
- (ii) absence of conviction and restraint orders,
- (iii) competence including financial solvency and net worth.

4. Application for registration or renewal thereof.

- (1) A company eligible for registration as an insolvency professional agency, may make an application to the Board in Form A of the Schedule to these Regulations, along with a **non-refundable application** fee of ten lakh rupees.
- (2) An insolvency professional agency who has been granted registration under Regulation 5, may six months before the expiry of such registration, make an application for renewal in Form A of the Schedule to these Regulations, along with a non-refundable application fee of five lakh rupees.
- (3) The Board shall acknowledge an application made under this Regulation within seven days of its receipt.
- (4) The Board shall examine the application, and give an opportunity to the applicant to remove the deficiencies, if any, in the application.
- (5) The Board may require the applicant to submit, within reasonable time, additional documents, information or clarification that it deems fit.
- (6) The Board may require the applicant to appear, within reasonable time, before the Board in person, or through its authorised representative for clarifications required for processing the application.

5. Grant of certificate of registration.

- (1) If the Board is satisfied, after such inspection or inquiry as it deems necessary and having regard to the principles specified in section 200 of the Code, that the applicant-
 - (a) is eligible under Regulation 3;
 - (b) has adequate infrastructure to perform its functions under the Code;
 - (c) **has in its employment, persons having adequate professional and other relevant experience**, to enable it to perform its functions under the Code; and
 - (d) has complied with the conditions of the certificate of registration, if he has submitted an application for renewal under Regulation 4(2)

it may grant or renew a certificate of registration to the applicant carry on the activities of an insolvency professional agency in Form B of the Schedule to these Regulations, within sixty days of receipt of the application, excluding the time given by the Board for removing the deficiencies, or presenting additional documents, information or clarification, or appearing in person, as the case may be.

- (2) The registration shall be subject to the conditions that the insolvency professional agency shall –
- (a) abide by the Code, rules, regulations, and guidelines thereunder and its bye-laws;
 - (b) at all times after the grant of the certificate continue to satisfy the requirements under sub-regulation (1);
 - (c) pay an annual fee of five lakh rupees to the Board, within fifteen days from the date of commencement of the financial year:

Provided that no annual fee shall be payable in the financial year in which an insolvency professional agency is granted registration or renewal, as the case may be:

Provided further that without prejudice to any other action which the Board may take as permissible under the Code, any delay in payment of fee by an insolvency professional agency shall attract simple interest at the rate of twelve percent per annum until paid.

Illustration (a) Where an insolvency professional agency is registered on 1st December, 2016 upon receipt of an application fee of ten lakh rupees along with the application for registration, no further fee is required to be paid for the financial year 2016- 17. The annual fee of five lakh rupees becomes due on 1st April, 2017 and shall be paid by 15th April, 2017 for the financial year 2017-18. It becomes similarly due on 1st April, 2018 to be paid by 15th April, 2018, on 1st April, 2019 to be paid by 15th April, 2019, on 1st April, 2020 to be paid by 15th April, 2020 and on 1st April, 2021 to be paid by 15th April, 2021. Thereafter, the insolvency professional agency may apply for renewal of registration along with an application fee of five lakh rupees. If renewal is granted, there will be no annual fee for 2021-22.

Illustration (b) Where the annual fee is paid on 20th April, 2017, interest at the rate of twelve percent per annum shall be paid for the delay of five days.

- (d) seek approval of the Board when a person, other than a statutory body, seeks to hold more than ten per cent, directly or indirectly, of the share capital of the insolvency professional agency;
 - (e) take adequate steps for redressal of grievances; and
 - (f) abide by such other conditions as may be specified.
- (3) The certificate of registration shall be valid for a period of five years from the date of issue.

6. Procedure for rejecting application.

- (1) If, after considering an application made under Regulation 4, the Board is of the prima facie opinion the registration ought not be granted or renewed, or be granted or renewed with additional conditions, it shall communicate the reasons for forming such an opinion and give the applicant an opportunity to explain why its application should be accepted, within fifteen days of the receipt of the communication from the Board, to enable it to form a final opinion.
- (2) The communication under sub-regulation (1) shall be made to the applicant within forty five days of receipt of the application, excluding the time given by the Board for removing the deficiencies, presenting additional documents, information or clarifications, or appearing in person, as the case may be.
- (3) After considering the explanation, if any, given by the applicant under sub-regulation (1), the Board shall communicate its decision to-
 - (a) accept the application, along with the certificate of registration, or
 - (b) reject the application by an order, giving reasons thereof within thirty days of receipt of explanation

(4) The order rejecting an application for renewal of registration shall require the insolvency professional agency to-

- (a) discharge pending obligations;
- (b) continue its functions till such time as may be specified, to enable the enrolment of its members with another insolvency professional agency; and
- (c) comply with any other directions as considered appropriate.

CHAPTER III

SURRENDER OR CANCELLATION OF REGISTRATION

7. Surrender of registration.

- (1) An insolvency professional agency may submit an application for surrender of a certificate of registration to the Board, providing –
 - (a) the reasons for such surrender;
 - (b) the details of all the pending or on-going engagements under the Code of the insolvency professionals enrolled with it;
 - (c) details of its pending or on-going activities; and
 - (d) the manner in which it seeks to wind-up its affairs as an insolvency professional agency.
- (2) The Board shall within seven days of receipt of the application, publish a notice of receipt of such application on its website and invite objections to the surrender of registration, to be submitted within fourteen days of the publication of the notice.
- (3) After considering the application and the objections submitted under sub-regulation (2), if any, the Board may within thirty days from the last date of submission of objections, approve the application for surrender of registration subject to such conditions as it deems fit.

- (4) The approval under sub-regulation (3) may require the insolvency professional agency to-
- (a) discharge any pending obligations; or
 - (b) continue its functions till such time as may be specified, to enable the enrolment of its members with another insolvency professional agency.
- (5) The Board, after being satisfied that the requirements of sub-regulation (4) have been complied with, shall publish a notice on its website stating that the surrender of registration by the insolvency professional agency has taken effect.

8. Disciplinary proceedings.

- (1) Based on the findings of an inspection or investigation, or on material otherwise available on record, if the Board is of the prima facie opinion that sufficient cause exists to take actions permissible under section 220, it shall issue a show-cause notice to the insolvency professional agency.
- (2) The show-cause notice shall be in writing, and shall state-
- (a) the provisions of the Code under which it has been issued;
 - (b) the details of the alleged facts;
 - (c) the details of the evidence in support of the alleged facts;
 - (d) the provisions of the Code, rules, regulations or guidelines thereunder allegedly violated, or the manner in which the public interest is allegedly affected;
 - (e) the actions or directions that the Board proposes to take or issue if the allegations are established;
 - (f) the manner in which the insolvency professional agency is required to respond to the show-cause notice;
 - (g) consequences of failure to respond to the show-cause notice; and
 - (h) procedure to be followed for disposal of the show-cause notice.

- (3) The show- cause notice shall enclose copies of relevant documents and extracts of relevant portions from the report of investigation or inspection, or other records.
- (4) A show-cause notice issued shall be served on the insolvency professional agency in the following manner-
 - (a) by sending it to the insolvency professional agency at its the registered office, by registered post with acknowledgement due; or
 - (b) by an appropriate electronic means to the email address provided by the insolvency professional agency to the Board.
- (5) The Board shall constitute a Disciplinary Committee for disposal of the show- cause notice.
- (6) The Disciplinary Committee shall dispose of the show-cause notice assigned under (5) by a reasoned order in adherence to principles of natural justice.
- (7) The Disciplinary Committee shall endeavour to dispose of the show-cause notice within a period of six months of the assignment.
- (8) The Disciplinary Committee shall consider the submissions, if any, made by the insolvency professional agency.
- (9) After considering the relevant material facts and circumstances and material on record, the Disciplinary Committee shall dispose of the show-cause notice by a reasoned order.
- (10) The order in disposal of as show-cause notice may provide for-
 - (a) no action;
 - (b) warning;
 - (c) any of the actions under section 220(2) to (4); or
 - (d) a reference to the Board to take any action under section 220(5).
- (11) The order passed under sub-regulation (10) shall not become effective until thirty days have elapsed from the date of issue of the order unless the Disciplinary Committee states otherwise in the order along with the reason for the same

(12) The order passed under sub-regulation (10) shall be issued to the insolvency professional agency immediately, and published on the website of the Board.

(13) If the order passed under sub-regulation (10) suspends or cancels the registration of the insolvency professional agency, the Disciplinary Committee shall require the insolvency professional agency to-

(a) discharge pending obligations;

(b) continue its functions till such time as may be specified, to enable the enrolment of its members with another insolvency professional agency; and

(c) comply with any other directions as considered appropriate.

9. Appeal.

An appeal may be preferred under section 202 of the Code, within a period of thirty days of receipt the impugned order in the manner prescribed in Part III of the National Company Law Tribunal Rules, 2016.

CHAPTER IV
IN-PRINCIPLE APPROVAL

10. Grant of in-principle approval.

- (1) Any person who seeks to establish an insolvency professional agency may make an application for an in-principle approval, demonstrating that the conditions in sub-regulation (2) are satisfied, along with a non-refundable application fee of ten lakh rupees.
- (2) If the Board is satisfied, after such inspection or inquiry as it deems necessary, that –
 - (a) the applicant is a fit and proper person; and
 - (b) the proposed or existing company which may receive registration would be able to meet the requirements for grant of registration under Regulation 5(1),it may grant in-principle approval which shall be valid for a period not exceeding one year and be subject to such conditions as it deems fit.
- (3) During the validity of in-principle approval, the company referred to sub-regulation 2(b) may make an application for a certificate of registration as an insolvency professional agency to the Board in accordance with Regulation 4(1), but shall not be required to pay the application fees for registration.

SCHEDULE

FORM A

APPLICATION FOR CERTIFICATE OF REGISTRATION

(Under Regulation 4 of the Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016)

To

The Chairperson

The Insolvency and Bankruptcy Board of India

From

[Name and address]

Subject: Application for grant or renewal of certificate of registration as insolvency professional agency

Madam/Sir,

1. I, being duly authorized for the purpose, hereby apply on behalf of [name and address of the applicant] for
 - (a) grant of certificate of registration as insolvency professional agency, or
 - (b) renewal of certificate of registration as insolvency professional agency,and enclose a copy of the board resolution authorizing me to make this application and correspond with the Board in this respect.
2. Copies of the memorandum of association, articles of association and the bye-laws, as applicable, of the applicant are enclosed.
3. I, on behalf of [insert name], affirm that the applicant is eligible to be registered as an insolvency professional

PART II

MEMORANDUM OF ASSOCIATION, ARTICLES OF ASSOCIATION AND BYE LAWS

6. Please state if the memorandum of association, articles of association and bye-laws provide for all matters as required in, and are consistent with the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016, and the Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016.
(Yes/ No)
7. Please specify the clause number of the provisions of the bye-laws which are in addition to the provisions of the model bye-laws specified in the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 (if any).

PART III

SHAREHOLDING AND FINANCIAL STRENGTH

8. Please provide details of the persons holding more than 4 [5%], directly or indirectly, of the share capital of the applicant

Sl. No.	Name and address of the shareholder	PAN / Passport No and country of issue/ company registration number	Percentage of shareholding in the applicant company and/ or holding company

9. Do persons resident outside India in aggregate hold more than 49% of the share capital of the applicant?
Please provide details.
10. Who exercises control over the applicant? Please provide details.
11. Do persons resident outside India exercise control over the management or policy decisions of the applicant? If so, please provide details.
12. Please provide audited financial statements of:
 - (a) a company holding more than 10% of the share capital of the applicant (if any),
 - (b) a company who is in control of the applicant (if any),
 - (c) promoter company (if any),
 - (d) the applicant,
 of the last three years or from the date of incorporation of the company, whichever is less.
13. Please provide any other information to demonstrate that the persons holding more than 5% of the share capital of the company, and the promoters of the company are fit and proper persons.

PART IV
DIRECTORS AND EMPLOYEES

14. Please state the details of the applicant's Board of Directors:

Sl. No.	Name and address of the director	DIN and PAN	Details of any pending or concluded criminal proceedings against the directors

15. Please provide any other information to demonstrate that the directors are fit and proper persons.
16. Please provide number of employees, category-wise.

PART V INFRASTRUCTURE

17. Please state the infrastructure the applicant currently has and proposes to have to enable it to discharge its functions as an insolvency professional agency, including:
 - (a) the number and locations of offices,
 - (b) infrastructure in respect of enrolment, monitoring, grievance redressal and disciplinary proceedings,
 - (c) IT and other computer facilities, and
 - (d) library and training facilities.

**PART VI
COMPLIANCE**

[For applications for renewal of registration]

18. Please provide details of the insolvency professional agency's compliance with the conditions of its certificate of registration.
19. Please provide details of the insolvency professional agency's compliance with the Board's requirements in respect of reporting.
20. Please provide details of any grievance redressal proceedings instituted against the insolvency professional agency or by it under its bye-laws, any regulations of the Board or the Code.

Please provide any other details you consider relevant in support of the application.

**Sd/-
Authorized Signatory
(Name)
(Designation)**

Date :

Place :

**SCHEDULE
FORM B
THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**

CERTIFICATE OF REGISTRATION NO. _

The Insolvency and Bankruptcy Board of India hereby grants/ renews this certificate of registration to/of____[insert name and address] to act as an insolvency professional agency in accordance with the Insolvency and Bankruptcy Code, 2016.

The certificate of registration shall be valid from [insert start date]to [insert end date]and may be renewed.

Sd/-

(Name and Designation)

(For and on behalf of Insolvency and Bankruptcy Board of India)

Date :

Place :

**Dr. M. S. Sahoo
Chairperson**

Insolvency and Bankruptcy Board of India

Section 3(7)- Corporate Person means a company, a LLP or any other person incorporated with limited liability **but shall not include any financial service provider**

Section 3 (14) Financial Institution means

(a) A Scheduled Bank

(b) Financial Institution defined u/s 45(1) of RBI Act

(c) Public Financial Institution as per 2(72) of Co's Act { LIC, IDFC, UTI and Institution notified by Govt.

(d) Other Institution notified by C. Govt.

where 51% holding is
with C/G

-

Section 3 (16) Financial Services – Includes following **services**

(a) Accepting Deposits

(b) Administration of assets (Financial products) belonging to another person
Securities, insurance, deposit, loan & advance by Banks, Currency Contracts

(c) Effecting Contracts of Insurance

(d) Offering / managing financial product belonging to another person

(e) rendering advice or soliciting (For Consideration)

- Buying, Selling financial product

- Availing financial **services**

- **Exercising associated rights with financial product/services.**

(f) Establishing or operating an investment scheme

(g) Maintaining, transferring record of ownership of financial product

(h) Underwriting the issuance of financial product

(i) Selling, providing- payment instrument or payment sources

3(17)-financial service provider means a person engaged in the business of providing financial services in terms of authorization issued or registration granted by a financial sector regulator

3(18)-financial sector regulator includes- RBI,SEBI,IRDA,PFDR and such other regulatory bodies as notified.

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 18th November, 2019

S.O. 4139(E).—In exercise of the powers conferred by section 227 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government in consultation with the Reserve Bank of India hereby notifies as under:

The insolvency resolution and liquidation proceedings of the following categories of financial service providers shall be undertaken in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 read with the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019 (in this notification referred to as the 'Rules') and the applicable Regulations:

Sl. No.	Category of Financial Service Provider (rule 2 of the Rules)	Appropriate Regulator [clause (a) of sub-rule (1) of rule 3 of the Rules]	Dealing with third-party assets (rule 10 of the Rules)
(1)	(2)	(3)	(5)
1	Non-banking finance companies (which include housing finance companies) with asset size of Rs.500 crore or more, as per last audited balance sheet.	Reserve Bank of India	To be notified separately

[F. No. 30/4/2017—Insolvency Section]

GYANESHWAR KUMAR SINGH, Jt. Secy.

**(MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION**

New Delhi, the 30th January, 2020

S.O. 464(E).— In exercise of the powers conferred by section 227 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) and in pursuance of rule 10 of the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019, the Central Government, in consultation with the Reserve Bank of India, hereby notifies the manner of dealing with the third party assets in custody or possession of such financial service providers, as referred to in the notification vide No. S.O. 4139(E), dated 18th November, 2019, by the Administrator appointed under clause (a) of rule 5 of the said rules, as under:

1. Receivables for Third Parties:-

Where a financial service provider is contractually obliged, as on the insolvency commencement date, to act as a servicing or collection agent on behalf of third parties in respect of a transaction such as securitisation or lending arrangement, the Administrator shall-

(a) prepare a statement of such transactions and respective agency contract;

- (b) continue to discharge the obligations of the financial service provider as a servicing or collection agent;
- (c) ensure that the receivables, in respect of such transactions, collected are deposited and maintained in a separate account and are not merged with the funds or other assets of such financial service provider;
- (d) oversee the operation of the account referred to in item (c);
- (e) transfer such receivables collected and deposited in the account referred to in item (c) in accordance with the terms and conditions of such contract:

Explanation.- For the purpose of this item, any fee received by the financial service provider as a servicing or collection agent shall not be transferred to the account referred to in item (c) and it shall be dealt with by the Administrator as forming part of the assets of such financial service provider.

2. Assets of Third Parties

Where the financial service provider has, as on the insolvency commencement date, in its custody or possession assets owned by its customers or counterparties or by counterparties of its customers under a contract, and is under an obligation to return or transfer such assets in accordance with the terms and conditions of such contract, the Administrator shall-

- (a) prepare a statement of such assets and the respective contracts;
- (b) ensure that such assets are maintained in a separate and distinct manner, capable of identifying them contract-wise, and are not merged with those of financial service provider;
- (c) return or transfer such assets to the person entitled to receive it in accordance with the terms and conditions of such contract:—

Provided that when such assets shall not be returned by the Administrator, due to breach of the terms of the contract, the financial service provider has become entitled to retain such assets for itself or

MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, the 15th November, 2019

G.S.R. 852(E).—In exercise of the powers conferred under section 227 read with clause (zk) of sub-section (2) of section 239 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.-

(1) These rules may be called the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019.

(2) These rules shall come into force on the date of their publication in the Official Gazette.

2. Application.— These rules shall apply to such financial service providers or categories of financial service providers, as may be notified by the Central Government under section 227, from time to time, for the purpose of their insolvency and liquidation proceedings under these rules.

3. Definitions.— (1) In these rules, unless the context otherwise requires,-

- (a) “Administrator” means an individual appointed by the Adjudicating Authority under sub-clause (iii) of clause (a) of rule 5, to exercise the powers and functions of the insolvency professional, interim resolution professional, resolution professional or the liquidator for the purpose of insolvency and liquidation proceedings of a financial service provider;
- (b) “Advisory Committee” means the Committee constituted by the appropriate regulator in accordance with clause (c) of rule 5 of these rules;
- (c) “appropriate regulator” means the financial sector regulator, as may be notified by the Central Government under section 227, for a category of financial service providers;
- (d) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
- (e) “Form” means a Form appended to these rules; and
- (f) “identification number” means the corporate identity number or the limited liability partnership identification number, as the case may be, of a financial service provider.

(2) The words and expressions used and not defined in these rules but defined in the Code shall have the meanings respectively assigned to them in the Code.

4. General modifications. - For the purposes of these rules, in all the provisions relating to insolvency and liquidation proceedings under the Code,-

- (i) for the expression “corporate debtor” wherever they occur, shall mean “financial service provider”; and
- (ii) for the expressions “insolvency professional”, “interim resolution professional”, “resolution professional” or “liquidator”, wherever they occur, shall mean “administrator”.

5. Corporate Insolvency Resolution Process of financial service providers.— The provisions of the Code relating to the Corporate Insolvency Resolution Process of the corporate debtor shall, *mutatis mutandis* apply, to the insolvency resolution process of a financial service provider subject to the following modifications, namely:—

(a) Initiation of Corporate Insolvency Resolution Process.-

(i) no corporate insolvency resolution process shall be initiated against a financial service provider which has committed a default under section 4, except upon an application made by the appropriate regulator in accordance with rule 6;

(ii) the application under sub-clause (i) shall be dealt with in the same manner as an application by a financial creditor under section 7, subject to clause (iii); and

(iii) on the admission of the application, the Adjudicating Authority shall appoint the individual proposed by the appropriate regulator in the application filed under sub-clause (i) of clause (a) of rule 5, as the Administrator.

(b) Moratorium.- Save as provided in section 14,-

(i) an interim moratorium shall commence on and from the date of filing of the application under clause (a) till its admission or rejection; and

(ii) the license or registration which authorises the financial service provider to engage in the business of providing financial services shall not be suspended or cancelled during the interim-moratorium and the corporate insolvency resolution process.

Explanation.- For the purposes of this clause, “interim moratorium” shall have the effect of the provisions of sub-sections (1), (2) and (3) of section 14.

(c) Advisory Committee.-

(i) the appropriate regulator may, where deemed necessary, constitute an Advisory Committee, within 45 days of the insolvency commencement date, to advise the Administrator in the operations of the financial service provider during the corporate insolvency resolution process;

(ii) the Advisory Committee shall consist of three or more Members, who shall be persons of ability, integrity and standing, and who have expertise or experience in finance, economics, accountancy, law, public policy or any other profession in the area of financial services or risk management, administration, supervision or resolution of a financial service provider;

(iii) the terms and conditions of the Members of the Advisory Committee and the manner of conducting meetings and observance of rules of procedure shall be such as may be determined by the appropriate regulator;

(iv) the compensation paid to the Members of the Advisory Committee shall be part of the insolvency resolution process costs;

(v) the Administrator shall chair the meetings of the Advisory Committee.

(d) Resolution plan.-

(i) the resolution plan shall include a statement explaining how the resolution applicant satisfies or intends to satisfy the requirements of engaging in the business of the financial service provider, as per laws for the time being in force;

(ii) upon approval of the resolution plan by the committee of creditors under sub-section (4) of section 30, the Administrator shall seek ‘no objection’ of the appropriate regulator to the effect that it has no objection to the persons, who would be in control or management of the financial service provider after approval of the resolution plan under section 31;

(iii) the appropriate regulator shall without prejudice to the provisions contained in section 29A, issue ‘no objection’ on the basis of the ‘fit and proper’ criteria applicable to the business of the financial service provider;

(iv) where an appropriate regulator does not refuse ‘no objection’ on an application made under clause (ii) within forty-five working days of receipt of such application, it shall be deemed that ‘no objection’ has been granted.

6. Filing of application and application fee.—

(1) Till such time the rules of procedure for conduct of proceedings under the Code are notified, the application made under clause (a) of rule 5 shall be filed before the Adjudicating Authority in accordance with rules 20, 21, 22, 23, 24 and 26 of Part III of the National Company Law Tribunal Rules, 2016 made under the provisions of the Companies Act, 2013.

(2) An applicant under these rules shall immediately after becoming aware, notify the Adjudicating Authority of any winding-up petition presented against the financial service provider.

(3) The application under sub-clause (i) of clause (a) of rule 5 shall be made in Form 1 and accompanied by-

(a) a fee of twenty-five thousand rupees;

(b) a written consent and declaration in accordance with Form 2 from the proposed Administrator; and

(c) other documents and records as specified in Form 1.

(4) The application and accompanying documents shall be filed in electronic form, as and when such facility is made available by the Adjudicating Authority;

Provided that till such facility is made available, the applicant may submit the accompanying documents, and wherever they are bulky, in electronic form, in scanned, legible portable document format in a data storage device such as a compact disc or a USB flash drive acceptable to the Adjudicating Authority.

(5)The applicant shall dispatch forthwith, a copy of the application filed with the Adjudicating Authority, by registered post or speed post to the registered office of the financial service provider.

(6)The Adjudicating Authority may permit withdrawal of an application filed under sub-clause (i) of clause (a) of rule 5 before its admission on a request made by the applicant.

7.Liquidation Process.— The provisions of the Code relating to the liquidation process of the corporate debtor shall, *mutatis mutandis* apply, to the liquidation process of a financial service provider subject to the following modifications, namely:—

- (a) the license or registration that authorises the financial service provider to engage in the business of providing financial services shall not be suspended or cancelled during the liquidation process, unless an opportunity of being heard has been provided to the liquidator;
- (b) the Adjudicating Authority shall provide the appropriate regulator an opportunity of being heard before passing an order for —
 - (i) liquidation of the financial service provider under section 33, and
 - (ii) dissolution of the financial service provider under section 54.

8.Voluntary Liquidation Process.— The provisions of the Code relating to voluntary liquidation process of the corporate debtor shall, *mutatis mutandis* apply, to the voluntary liquidation process of a financial service provider subject to the following modifications, namely :-

- (a) the financial service provider shall obtain prior permission of the appropriate regulator for initiating voluntary liquidation proceedings under section 59 of the Code;
- (b) the affidavit referred to in clause (a) of sub-section (3) of section 59 shall include a declaration that the permission under clause (a) has been obtained;
- (c) the Adjudicating Authority shall provide the appropriate regulator an opportunity of being heard before passing an order for dissolution of the financial service provider under section 59.

9.Insolvency Professional.— (1) For the purpose of these rules, only an Administrator proposed by the appropriate regulator and appointed as such by the Adjudicating Authority shall act as an insolvency professional, interim resolution professional, resolution professional or liquidator, as the case may be.

(2)An Administrator shall have the same duties, functions, obligations, responsibilities, rights, and powers of an insolvency professional, interim resolution professional, resolution professional or liquidator, as the case may be, while acting as such in an insolvency resolution and liquidation proceeding of a financial service provider.

(3)The appointment or replacement of the Administrator may be made by the Adjudicating Authority on an application made by the appropriate regulator in this behalf.

10. Assets of third parties, etc.— (1) For removal of doubts, it is clarified that the provisions of clause (b) of rule 5 and section 14 shall not apply to any third-party assets or properties in custody or possession of the financial service provider, including any funds, securities and other assets required to be held in trust for the benefit of third parties.

(2) The Administrator shall take control and custody of third-party assets or properties in custody or possession of the financial service provider, including any funds, securities and other assets required to be held in trust for the benefit of third parties only for the purpose of dealing with them in the manner, as may be notified by the Central Government under section 227.

Form 1

(See sub-clause (i) of clause (a) of Rule 5)

APPLICATION BY APPROPRIATE REGULATOR TO INITIATE INSOLVENCY RESOLUTION PROCESS UNDER THE CODE.

(Under Rule 5 of the Insolvency and Bankruptcy (Insolvency Resolution and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019)

[Date]

To

The National Company Law Tribunal

[Address]

From

[Names and addresses of the registered office of the appropriate regulator]

In the matter of [name of the financial service provider]

Subject: Application to initiate corporate insolvency resolution process [name of the financial service provider] under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

[Name of appropriate regulator], hereby submit this application to initiate a corporate insolvency resolution process [name of financial service provider]. The details for the purpose of this application are set out below:

Part I

PARTICULARS OF APPLICANT

1	Name of appropriate regulator	
2	Address of the appropriate regulator	
3	Name and address of the person authorised to submit application on its behalf (enclose authorisation)	
4	Name and address of person authorised to accept the service of process on its behalf (enclose authorisation)	

Part II

PARTICULARS OF THE FINANCIAL SERVICE PROVIDER

1	Name of the financial service provider	
2	Identification number of financial service provider	
3	Date of incorporation of financial service provider	
4	Nominal share capital and the paid-up share capital of the financial service provider and/or details of guarantee clause as per memorandum of association (as applicable)	
5	Address of the registered office of the financial service provider	

Part III

PARTICULARS OF THE PROPOSED ADMINISTRATOR

1.	Name, address and email address of the Administrator	
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Part IV

PARTICULARS OF DEFAULT

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Yours sincerely,

Signature of person authorised to act on behalf of the financial creditor
Name in block letters
Position with or in relation to the financial creditor
Address of person signing

Instructions

Please attach the following to this application:

Annex I Copies of all documents referred to in this application.

Annex II Written communication by the proposed Administrator to act as the interim resolution professional as set out in Form 2.

Annex III Proof that the specified application fee has been paid.

FORM 2

(See clause (b) of sub-rule (3) of Rule 6)

WRITTEN COMMUNICATION BY THE ADMINISTRATOR

(Under Rule 6 of the Insolvency and Bankruptcy (Insolvency Resolution and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019)

[Date]

To

The National Company Law Tribunal [Address]

From

[Name and address of the registered office of the Administrator]

In the matter of [name of the financial service provider]

Subject: Written communication in connection with an application to initiate corporate insolvency resolution process in respect of [name of the financial service provider]

Madam/Sir,

In accordance with Rule 6 of the Insolvency and Bankruptcy (Insolvency Resolution and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019, I [name of the Administrator], hereby:

- (i) agree to appointment as Administrator if an order admitting the present application is passed;
- (ii) disclose that I am currently serving as an interim resolution professional/ resolution professional / liquidator in [insert number of proceedings] proceedings;
- (iii) certify that there are no disciplinary proceedings pending against me with the Board or [insert the name of appropriate regulator];
- (iv) affirm that I do not have any conflict of interest in this matter / I have the following interests in the matter:

(Signature of the Administrator)

(Name in block letters)

[F. No. 30/4/2017—Insolvency Section]

GYANESHWAR KUMAR SINGH, Jt. Secy.