

**GAZETTE OF INDIA
EXTRAORDINARY
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**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
NOTIFICATION**

New Delhi, the 27th November, 2019

Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2019.

No. IBBI/2019-20/GN/REG052.- In exercise of the powers conferred by clause (t) of sub-section (1) of section 196 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 further to amend the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, namely: -

1. (1) These regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2019.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as the principal regulations), in regulation 26, sub-regulation (1A) shall be omitted.

3. In the principal regulations, after regulation 25, the following regulation shall be inserted, namely: -

“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 sub-section (3) or sub-section (3A) of section 25A, as the case may be.”.

4. In the principal regulations, in regulation 37, after clause (b), the following clause shall be inserted, namely:-

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

5. In the principal regulations, in regulation 38, for sub-regulation (1), the following shall be substituted, namely:-

“(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.”

6. In the principal regulations, after regulation 40A, the following regulation shall be inserted, namely: -

“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:-

Table

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 Representatives; non-compliances with the provisions of the Code and other laws applicable to the CD; etc.	IRP	Within seven days of making the Public Announcement under section 13.
CIRP 2	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 co-operation 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.	IRP	Within seven days of confirmation/ replacement of IRP under section 22.
CIRP 3	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 co-operation of management (if any); details in IM; non-compliances with the provisions of	RP	Within seven days of issue of IM to members of CoC under regulation 36.

	the Code and other laws applicable to the CD; etc.		
CIRP 4	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.	RP	Within seven days of the issue of RFRP under regulation 36B.
CIRP 5	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.	RP	Within seven days of the approval or rejection of the resolution plan under section 31 or issue of liquidation order under section 33, as the case may be, by the AA.
CIRP 6	Event Specific: This includes: 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, updation or otherwise, shall be accompanied by a fee of five hundred rupees per Form for each calendar month of delay after 1st January, 2020.

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

If filed on	Fee (in Rupees)
29 th January, 2020	0
30 th January, 2020	0
31 st January, 2020	500
Any day in February, 2020	1000
Any day in March, 2020	1500

(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.”.

7. In the principal regulations, in the Schedule, -

(i) in Form B, for serial number 9 and the entries thereto, the following shall be substituted, namely:-

“9.	Details of:	
	<ol style="list-style-type: none"> a. any security held, the value of security and its date, or b. any retention of title arrangement in respect of goods or properties to which the claim refers”; 	

(ii) in Form H, -

(a) for paragraph 7, the following shall be substituted, namely:-

“7. 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) 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 subsection (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				
		(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.”;

(b) in paragraph 9, for entry relating to section 30(2), the following shall be substituted, namely:-

<p>“Section 30(2)</p>	<p>Whether the Resolution Plan-</p> <p>(a) provides for the payment of insolvency resolution process costs?</p> <p>(b) provides for the payment to the operational creditors?</p> <p>(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?</p> <p>(d) provides for the management of the affairs of the corporate debtor?</p> <p>(e) provides for the implementation and supervision of the resolution plan?</p> <p>(f) contravenes any of the provisions of the law for the time being in force?”.</p>		
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Dr. M. S. Sahoo
Chairperson
[ADVT . - _____]

Note: The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 were published *vide* notification No. IBBI/2016-17/GN/REG004, dated 30th November, 2016 in the Gazette of India, Extraordinary, Part III, Section 4, No. 432 on 30th November, 2016 and was subsequently amended by-

1) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2017 published *vide* notification No. IBBI/2017-18/GN/REG013, dated the 16th August, 2017 in the Gazette of India, Extraordinary, Part III, Section 4, No. 318 on 16th August, 2017;

2) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2017 published *vide* notification No. IBBI/2017-18/GN/REG018, dated the 5th October, 2017 in the Gazette of India, Extraordinary, Part III, Section 4, No. 386 on 5th October, 2017;

3) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2017 published *vide* notification No. IBBI/2017-18/GN/REG019 dated the 7th November, 2017 in the Gazette of India, Extraordinary, Part III, Section 4, No. 432 on 7th November, 2017;

4) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2017 published *vide* notification No. IBBI/2017-18/GN/REG22, dated the 31st December, 2017 in the Gazette of India, Extraordinary, Part III, Section 4, No. 01 on 1st January, 2018;

- 5) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2018 published *vide* notification No. IBBI/2017-18/GN/REG024, dated the 6th February, 2018 in the Gazette of India, Extraordinary, Part III, Section 4, No. 49 on 6th February, 2018;
- 6) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2018 published *vide* notification No. IBBI/2017-18/GN/REG030, dated the 27th March, 2018 in the Gazette of India, Extraordinary, Part III, Section 4, No. 124 on 28th March, 2018;
- 7) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2018 published *vide* notification No. IBBI/2018-19/GN/REG031, dated the 3rd July, 2018 in the Gazette of India, Extraordinary, Part III, Section 4, No. 253 on 4th July, 2018;
- 8) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2018 published *vide* notification No. IBBI/2018-19/GN/REG032, dated the 5th October, 2018 in the Gazette of India, Extraordinary, Part III, Section 4, No. 372 on 5th October, 2018;
- 9) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2019 published *vide* notification No. IBBI/2019-20/GN/REG040, dated the 24th January, 2019 in the Gazette of India, Extraordinary, Part III, Section 4, No. 21 on 24th January, 2019; and
- 10) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2019 published *vide* notification No. IBBI/2019-20/GN/REG048, dated the 25th July, 2019 in the Gazette of India, Extraordinary, Part III, Section 4, No. 267 on 25th July, 2019.