

Insolvency and Bankruptcy Board of India

PRESS RELEASE

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Insolvency and Bankruptcy Board of India invites comments from public on the Regulations notified under the Insolvency and Bankruptcy Code, 2016.

The Insolvency and Bankruptcy Code, 2016 (Code) is a modern economic legislation. Section 240 of the Code empowers the Insolvency and Bankruptcy Board of India (IBBI) to make regulations subject to the conditions that the regulations: (a) carry out the provisions of the Code, (b) are consistent with the Code and the rules made thereunder; (c) are made by a notification published in the Official Gazette; and (d) are laid, as soon as possible, before each House of Parliament for 30 days.

2. The IBBI has evolved a transparent and consultative process to make regulations. It has been the endeavour of the IBBI to effectively engage stakeholders in the regulation making process. The process generally starts with a working group making draft regulations. The IBBI puts these draft regulations out in public domain seeking comments thereon. It holds a few round tables to discuss draft regulations with the stakeholders. It takes the advice of its Advisory Committee. The process culminates with the Governing Board of the IBBI finalising regulations and the IBBI notifies them. This process endeavours to factor in ground reality, secures ownership of regulations and makes regulations robust and precise, relevant to the time and for the purpose.

3. Public consultation enables collective choice and hence plays an important role in evolution of regulatory framework. The participation of the public, particularly the stakeholders and the regulated, in the regulatory process ensures that the regulations are informed by the legitimate needs of those interested in and affected by regulations.

4. Usually, a regulator prepares draft regulations and presents these to the stakeholders to revalidate its understanding of the issues the said regulations seek to address, and the appropriateness of such regulations to address the issues. Based on the inputs from the stakeholders, the regulator finalises the regulations with modifications, as may be warranted. The IBBI has been essentially following this approach and will continue to do so.

5. Despite the best of efforts and intentions, a regulator may not always have the understanding of the ground realities, as much and as early as the stakeholders and the regulated may have, particularly in a dynamic environment. The stakeholders could, therefore, play a more active role in making regulations. They may contemplate, at leisure, the important issues in the extant regulatory framework that hinder transactions and offer alternate solutions to address them, in addition to responding urgently to draft regulations proposed by the regulator. This is akin to crowdsourcing of ideas. This would enable every idea to reach the regulator. Consequently, the

universe of ideas available with the regulator would be much larger and the possibility of a more conducive regulatory framework much higher.

6. Keeping in view the above, the IBBI invites comments from public, including the stakeholders and the regulated, on the regulations already notified under the Code. The comments received between 30th April, 2018 and 31st December, 2018 shall be processed together and following the due process, regulations will be amended to the extent considered necessary. It will be the endeavour of the IBBI to notify modified regulations by 31st March, 2019 and bring them into force on 1st April, 2019. A similar exercise was undertaken in the previous year and consequently several regulations were amended with effect from 1st April, 2018.

7. It is clarified that this is in addition to the extant approach of inviting public comments on draft regulations before notifying them.

8. For providing comments, please follow the process as under:

- I. Visit IBBI website, www.ibbi.gov.in;
- II. Select 'Public Comments';
- III. Provide your Name, and Email ID;
- IV. Select the stakeholder category, namely,-
 - a) Corporate Debtor;
 - b) Creditor to a Corporate Debtor;
 - c) Insolvency Professional;
 - d) Insolvency Professional Agency;
 - e) Insolvency Professional Entity;
 - f) Academics;
 - g) Investor; or
 - h) Others.
- V. Select the regulations, you wish to make a comment upon, from the dropdown menu, as under:
 - a) IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016;
 - b) IBBI (Insolvency Professional Agencies) Regulations, 2016;
 - c) IBBI (Insolvency Professionals) Regulations, 2016;
 - d) IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;
 - e) IBBI (Liquidation Process) Regulations, 2016;
 - f) IBBI (Information Utilities) Regulations, 2017;
 - g) IBBI (Fast Track Corporate Insolvency Resolution Process) Regulations, 2017;
 - h) IBBI (Inspections and Investigations) Regulations, 2017;
 - i) IBBI (Voluntary Liquidation Process) Regulations, 2017; or
 - j) IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017.

Kindly note that the selected regulations can be found by clicking the pdf icon right next to the 'select regulations' option.

- VI. Select the kind of comments you wish to make, namely,
- a) General Comments; or
 - b) Specific Comments.
- VII. If you have selected ‘General Comments’, please select one of the following options:
- a) Inconsistency, if any, between the provisions within the regulations (intra-regulations);
 - b) Inconsistency, if any, between the provisions in different regulations (inter-regulations);
 - c) Inconsistency, if any, between the provisions in the regulations with those in the rules;
 - d) Inconsistency, if any, between the provisions in the regulations with those in the Code;
 - e) Inconsistency, if any, between the provisions in the regulations with those in any other law;
 - f) Any difficulty in implementation of any of the provisions in the regulations;
 - g) Any provision that should have been provided in the regulations, but has not been provided; or
 - h) Any provision that has been provided in the regulations, but should not have been provided.

And then write comments under the selected option.

- VIII. If you have selected ‘Specific Comments’, please select regulation number and then sub regulation number, and write comments under the selected regulation / sub-regulation number.
- IX. You can make comments on more than one regulations, or more than one regulation / sub regulation number, by clicking on more comments and repeating the process outlined above from point 8(V) onwards.
- X. Click ‘Submit’, if you have no more comments to make.

Illustration

9. If you are a creditor to a corporate debtor and wish to make a specific comment on the sub-regulation (1)(a) of regulation 6 relating to Eligibility for appointment of Liquidator as specified in the IBBI (Voluntary Liquidation Process) Regulations, 2017. The steps that you need to follow are:

- i. Visit IBBI website, www.ibbi.gov.in;
- ii. Select “Public Comments”;
- iii. Provide your Name and Email ID.
- iv. Select the stakeholder category, which in this case is “Creditor to a Corporate Debtor”
- v. Select the regulations, which in this case is “Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017;
- vi. Select ‘Specific Comments’;

- vii. Select the regulation / sub-regulation number, which in this case is “Regulation 6” and “Sub Regulation (1)(a)”;
- viii. Write comment in the box “Comments”;
- ix. If you wish to make comment on another regulations, or another regulation number of the same regulations, repeat the process from ‘V.’ onwards by clicking the icon ‘More Comments’;
- x. Click ‘Submit’, after you have made all comments.
