

Legal Framework

Here are some important amendments, rules, regulations, circulars, notifications, and press releases related to the IBC Ecosystem in India.

REGULATIONS

IBBI Notified IBBI (Insolvency Professionals) (Amendment) Regulations, 2022

IBBI through a notification on July 04, 2022, has amended various clauses of IBBI (IP) Regulations, 2022. These amendments are related discipline and disclosure related issues. The amendments have been made in Clause 8A by inserting Clause 8B, 8C, 8D, 15 A, 25 B, 25 C, 27 B and 27 C, etc.

Source: Notification No. IBBI/2022-23/GN/REG088, dated July 04, 2022.

IBBI Amends IBBI (Insolvency Professional Agencies) (Amendment) Regulations, 2022

IBBI through a notification has amended Regulation 8 of the above-mentioned Regulation as “The disciplinary proceedings shall be conducted in accordance with the provisions of the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017.”

Source: Notification F. No. IBBI/2022-23/GN/REG089 dated July 04, 2022.

IBBI Regulations Amended for Expedious Redressal of Grievances Filed against IPs

The Insolvency and Bankruptcy Board of India (IBBI) has amended the IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017, and the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017, to redress grievances filed against insolvency professionals. These amendments are aimed to bring forth a streamlined and swift complaint handling procedure and to avoid undue burden on the service providers. The new rules are expected to curtail delays and ensure swift and result-oriented enforcement mechanism and provide for revisions in timelines related to enforcement process to address issues related to delay in the current mechanism.

Source: IBBI Notification No. IBBI/2022-23/GN/REG087, dated June 14, 2022.

IBBI notified IBBI (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2016 (CIRP Regulations)

Insolvency and Bankruptcy Board of India (IBBI) through IBBI (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2016 (CIRP Regulations) dated June 14, 2022, has made it mandatory for Operational Creditors to furnish extracts of Form GSTR-1, Form GSTR-3B and e-way bills etc. “These documents will also to be submitted as part of the claims submitted to the Resolution Professional to help collation of claims,” said IBBI. The amendment also requires corporate debtors and creditors to provide additional information and documents. Besides, it includes a definition of significant difference in valuations during CIRP and enables the committee of creditors to make a request to the Resolution Professional regarding the appointment of a third valuer.

Source: IBBI Notification No. IBBI/2022-23/GN/REG084, dated June 14, 2022.

IBBI notified IBBI (Information Utilities) (Amendment) Regulation 2022

In the IBBI (Information Utilities) Regulations, 2017, regulation 2, sub-regulation (1), after clause (l), the clause “(la) “record of default” means the status of authentication of default issued in Form D of the Schedule” has been inserted. Besides, amendments had been made in Regulation 20, 21, 41 and Form C etc.

Source: IBBI Notification No. IBBI/2022-23/GN/REG085 dated June 14, 2022

IBBI amends IBBI (Liquidation Process) Regulations 2016

IBBI issued IBBI (Liquidation Process) (Amendment) Regulations, 2022 on April 28, 2022. Through this amendment, explanations have been added in the Regulation 2 A, 21A, 31A, and Regulation 44. The 'Explanation' inserted in the first three Regulations reads “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 IBBI (Liquidation Process) (Amendment) Regulations, 2019.”

Source: *The Gazette of India, CG-DL-E-28042022-235410, IBBI Notification No. No. IBBI/2022-23/GN/REG082 dated April 28, 2022.*

CIRCULARS

Application under Rule 4, 6 or 7 of Insolvency and Bankruptcy (Application to Adjudication Authority) Rules, 2016

It has been decided that, the IBBI will forward the application for initiating insolvency received by it in terms of rule 4, 6 or 7 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rules, 2016, to the Information Utility (IU) and on receipt of the said application, the IU shall: (a) inform other creditors of the Corporate Debtor by sharing the application; (b) issue notice to the applicant, requiring it to file 'information of default' in the specified format under Insolvency and Bankruptcy Board of India (Information Utility) Regulations, 2017 (IU Regulations); and (c) process the 'information of default' for the purpose of issuing ROD as per the IU Regulations.

Source: *Circular No. IBBI/IU/51/2022, dated June 15, 2022.*

IBBI allows 6 attempts in 12 months for applicant to pass Limited Insolvency Examination (LIE) and Valuation Examination

Regulation 3 of the IBBI (Insolvency Professionals) Regulations, 2016 empowers IBBI to conduct the Limited Insolvency Examination (LIE). The said Regulations inter-alia empowers IBBI to determine the syllabus, format and frequency of the examination, to be published at least three months before the examination. IBBI also conducts Valuation Examinations in terms of rule 5 of the Companies (Registered Valuers and Valuation) Rules, 2017 (Valuation Rules). The said rule inter-alia empowers IBBI to determine the syllabus, format, and frequency of the examination, to be published at least three months before the examination.

In order to bring in objectivity and improvements in the scheme of above examinations, frequency of attempt in an LIE or valuation examination for every candidate, shall be determined after taking into account a cooling off period of 2- months between each consecutive attempts of such

candidate, thereby making a total of 6 attempts in a period of 12 months.

Source: *Circular No. EXAM-13016/1/2022-IBBI, dated June 06, 2022*

IBBI rescinds seven Circulars issued between 2018 to 2021

IBBI through a circular on May 23, 2022, has pronounced its decision to rescind seven Circulars it had issued in line to the IBBI (Mechanism for Issuing Regulations) Regulations, 2018 and under Section 196 of the IBC, 2016. “It was observed that certain circulars are no longer required on account of being already provided in IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 or IBBI (Insolvency Professionals) Regulations, 2016.

Source: *Circular No. IBBI/CIRP/3/2022 dated May 23, 2022.*

Withdrawal of Circular issued on August 26, 2019, regarding applicability of the IBBI (Liquidation Process) (Amendment) Regulations, 2019 (notified on July 25, 2019)

The Board had earlier issued a Circular on August 26, 2019, clarifying that the provisions of the IBBI (Liquidation Process) (Amendment) Regulations, 2019 (Amendment Regulations 2019) were applicable only to liquidation processes, which commenced on or after July 25, 2019. The Board had notified that the IBBI (Liquidation Process) (Amendment) Regulations, 2022 to clarify that provisions of regulations 2A, 21A, 31A and 44 as amended / inserted by the Amendment Regulations 2019 apply only to the liquidation processes commencing on or after July 25, 2019. Above mentioned Circular dated August 26, 2019, has been withdrawn.

Source: *Circular No. IBBI/LIQ/2/2022 dated May 06, 2022.*

GUIDELINES

IBBI released Final Panel of IPs for second half of 2022

In pursuance to the Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2022, IBBI has released the Final Panel of Insolvency Professionals (IPs) for appointment of Interim Resolution Professionals (IRPs),

RPs, Liquidators and Bankruptcy Trustees on June 30. This panel will be valid for the period from July 01, 2022, to December 31, 2022. The lists of eligible IPs have been prepared according to 15 Zones viz. New Delhi, Ahmedabad, Allahabad, Amravati, Bengaluru, Chandigarh, Cuttack, Chennai, Guwahati, Hyderabad, Indore, Jaipur, Kochi, Kolkata, and Mumbai. IBBI prepares and releases such panels for two times in a year.

Source: <https://www.ibbi.gov.in/uploads/whatsnew/5404bf25b85905cd52691c09abf8b402.pdf>

PRESS RELEASES

Smt. Anita Shah Akella appointed ex-officio Member of IBBI

In exercise of the powers conferred by clause (b) of sub-section (1) of Section 189 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government has appointed Smt. Anita Shah Akella, Joint Secretary, Ministry of Corporate Affairs as ex-officio member in the Insolvency and Bankruptcy Board of India (IBBI) to represent the MCA in IBBI Board.

Source: S.O. 3069(E), [F. No. 30/03/2016-Insolvency Section] dated July 05, 2022.

Shri Jayanti Prasad takes charge as Whole-time Member of Insolvency and Bankruptcy Board of India

Shri Jayanti Prasad took charge as Whole-time Member of Insolvency and Bankruptcy Board of India in New Delhi, on July 05, 2022.

Shri Jayanti Prasad, a 1986 batch Indian Audit and Accounts Service officer, superannuated as Deputy Comptroller & Auditor General (Human Resources and International Relations). Before joining IBBI, he had accomplished thirty-five years of experience in the civil services, national and international assignments, having held key positions within the Office of Comptroller and Auditor General of India and in the United Nations (UN). He was the Chief Auditor at the UN for six years, serving at diverse locations like Somalia, Kenya, Geneva, Angola, Iraq, New York etc. He also served as the Custodian under The Special Court (TORTS) Act, 1992 in the Department of Financial Services, Ministry of Finance, Government of India.

Shri Jayanti Prasad holds a Master of Science degree in the subject of Physics from the University of Lucknow. He has been awarded numerous awards for academic excellence

including award of Gold Medals from the Governor of Uttar Pradesh and the Hon'ble Prime Minister of India for topping at Graduate and Post Graduate levels. He has also been awarded by the UN in recognition of contributions as Chief Auditor for the Oil for Food Program resulting in significant impact and cost savings to the UN. In addition to being an officer of the Indian Audit and Accounts Service, he holds membership of Institute of Public Auditors of India.

Source: Press Release No. IBBI/PR/2022/30, dated July 05, 2022.

IBBI celebrates 'Azadi Ka Amrit Mahotsav'

Azadi Ka Amrit Mahotsav (AKAM) is an initiative of the Government of India to celebrate and commemorate 75 years of progressive India and the glorious history of its people, culture and achievements. Since the beginning of AKAM celebrations, which started on March 12, 2021 by the Hon'ble Prime Minister Shri Narendra Modi, IBBI organized several activities and events as part of the Utsav, including: (a) Awareness Programmes in 75 districts of the country, (b) International Research Conference on Insolvency and Bankruptcy, (c) National Online Quiz on IBC, 2016, (d) Publication - "Insolvency - Now and Beyond", (e) Technical Session on "5 Years of IBC - Achievements and Way Forward", and (f) Conference on "Entrepreneurship Liberty: Freedom of Entry, Competition and Exit" and IP Conclave.

Source: Press Releases No. IBBI/PR/2022/24, dated June 03, 2022.

IBBI invites comments from the public on the Regulations notified under the IBC, 2016 by December 31, 2022

Keeping in view the importance of public comments, IBBI invites comments from the public, including the stakeholders, on the regulations already notified under the Code till date. The comments received between May 06, 2022, and December 31, 2022, shall be processed together and following the due process, regulations will be modified to the extent considered necessary. It will be the endeavor of the IBBI to notify modified regulations by March 31, 2023 and bring them into force on April 01, 2023.

Source: Press Releases No. IBBI/PR/2022/21, dated May 06, 2022.