

Legal Framework

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

CIRCULAR

IBBI reiterates to attach record of default by IU along with CIRP Application under Section 7 or Section 9 of IBC

As per the Circular issued by IBBI dated June 16, 2023, creditors filing applications u/s 7 or 9 of the IBC must attach the record of default issued by the IU's. Earlier, IBBI vide Notification No. IBBI/2022- 23/GN/REG085, dated June 14, 2022 inserted sub-regulation (1A) of the Regulation 20 in IBBI (Information Utilities) Regulations, 2017 to mandate the Information Utility to process the financial information and issue the record of default to the creditor(s) so as to facilitate the creditors to attach the same with their insolvency applications under section 7 or 9 of IBC. The present Circular has been issued in pursuance to a recent order of the Hon'ble NCLT dated April 03, 2023, wherein all the applicants filing applications u/s Sections 7 or 9 of the IBC have been advised to comply with the above regulation and to produce the record of default issued by Information Utility for effecting hearing of their cases.

Source: *IBBI Circular No. IBBI/IU/59/2023, dated June 16, 2023.*

NOTIFICATION

MCA provides exemption from moratorium under IBC to Leased petroleum assets

The Notification dated June 14, 2023, reads - In exercise of the powers conferred by clause (a) of sub-section (3) of Section 14 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby notifies that the provisions of sub-section (1) of section 14 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), shall not apply where the corporate debtor has entered into any of the following transactions, arrangements or agreements, namely: - (i) the Production Sharing Contracts, Revenue Sharing Contracts, Exploration Licenses and Mining Leases made under the Oilfields (Regulation and Development) Act, 1948 (53 of 1948) and



rules made thereunder; and (ii) any transactions, arrangements or agreements, including Joint Operating Agreement, connected or ancillary to the transactions, arrangements or agreements referred to in clause (i).

Source: *CG-DL-E-16062023-246598, dated June 15, 2023, F. No. Insol-30/1/2023-Insolvency-MCA*

GUIDELINE

IBBI released the 'Panel of IPs' for July to December 2023

The 'Panel of IPs' has been prepared as per the 'The Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2023 issued on June 12, 2023'. It constitutes the Zone wise common Panel of IPs for appointment as IRP, Liquidator, RP and BT and share the same with the AA (Hon'ble NCLT and Hon'ble DRT). The Panel will have validity of six months i.e., from July 01, 2023, to December 31, 2023.

Source: <https://ibbi.gov.in/uploads/whatsnew/1d72267b24324e3c42c052f23d8b41f8.pdf>

DISCUSSION PAPERS

IBBI Invited Comments on Proposed Amendments for Timely Resolution of Corporate Debtors

IBBI has proposed a number of amendments to the existing insolvency regulations through a Discussion Paper. They include a new system of voting on more than one resolution plan, extending the timeline for submission of claims, introducing audit for insolvency resolution process cost, and increasing fee for the Authorized

Representatives among others.

To ensure that preference of Resolution Plan is captured, and creditors are able to vote freely, it is proposed to use a system of voting with preference, said the IBBI in the Discussion Paper dated June 07, 2023. As per the proposal, if no Resolution Plan achieves the 66 per cent required votes, the proposal with the least first preference votes is eliminated and its first preference is allotted to the second highest voted Resolution Plan. It also seeks to introduce compulsory audit of CIRP cost in the cases where the total assets of the corporate debtor (CD) as per the last available financial statements exceed ₹100 crore.

The proposed regulations also seek to make it compulsory for the resolution professional to provide reasons for the rejection of any claim to ensure transparency of the process and provide clarity to creditors whose claims have been rejected, while allowing creditors to submit claims beyond the 90-day limit without approaching the adjudicating authority. Besides, the proposed amendments also include changes related to facilitating information from promoters and management of the CD, taking over assets of the CD, declaration on limitation, increased responsibilities for Authorized Representatives, and recording relevant minutes of CoC meetings.

Source: <https://ibbi.gov.in/uploads/whatsnew/c4301ca9b10c5c83724a260f4e0fc250.pdf>

IBBI issued 'Discussion Paper' on Simplification of Enrolment and Registration Process for Ease of Entry and Exit in the Insolvency Profession

In this 'Discussion Paper', the IBBI has proposed that Pre-Registration Educational Course (PREC) will be conducted by specialized institution/s, PREC curriculum will have due emphasis on practical training aspects including exit assessment exam, PREC to include a course assessment at the end of the course and registration should be obtained within 12 months from successful completion of PREC. It is also proposed to introduce a straight through approach for both enrolment and registration process to run in one pass. Accordingly, Model Bye-laws Regulations will also be amended.

Source: <https://ibbi.gov.in/uploads/whatsnew/5aba9e309d9cce68abe4f1db73582c4b.pdf>

PRESS RELEASES

IBBI invites public comments on all its Regulations issued till date

The comments can be submitted on IBBI website between 31st May to 31st December 2023. Based on the comments during this period, various Regulations will be modified “to the extent considered necessary”. The IBBI endeavours to notify modified regulations by March 31, 2024, and bring them into force w.e.f. April 01, 2024. “In a dynamic environment, despite the best of efforts and intentions, a regulator in such novel and emerging regulatory regime may not always be able to address the ground realities,” said IBBI. It stated, “Further, the stakeholders may contemplate, at leisure, the important issues in the extant regulatory framework that hinder transactions and offer alternate solutions to address them. This is akin to crowdsourcing of ideas. This enables every idea to reach the regulator”. It further added that due to this exercise, the universe of ideas available with the IBBI would be much larger and the possibility of a more conducive regulatory framework would be much higher.

Source: *Press Release No. IBBI/PR/2023/05 dated May 04, 2023*

IBBI published revised syllabus for Limited Insolvency Examination

IBBI conducts the Limited Insolvency Examination (LIE) in pursuance to Regulation-3 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016, for prospective Insolvency Professionals. The said Regulations inter-alia empower IBBI to determine the syllabus, of LIE which shall be published on the website of the IBBI at least three months before the examination. The IBBI commenced the LIE on December 31, 2016.

The Board reviews the Examination continuously to keep it relevant with respect to dynamics of the market. It has successfully completed seven phases of the LIE. In accordance with the aforementioned regulations, IBBI has published the syllabus of phase 8 of the LIE. The revised syllabus is applicable for the examination to be conducted with effect from July 01, 2023.

Source: *Press Release No. IBBI/PR/2023/04 dated March 31, 2023*