

Legal Framework

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

REGULATIONS

IBBI Amended IBBI (CIRP) Regulations to streamline process and expedite Resolution of Corporate Debtors

This amendment IBBI (IRPCP) Regulation (Second Amendment), Regulations, 2023 dated Sept. 18, 2023, is primarily related to the additional information, and documents the creditors will be required to provide along with the CIRP petition, assistance, and cooperation by the personnel of the CD in taking over of assets by the IRP/RP, filing of claims by the creditors, transfer of debt by creditor, audit of the CD.

As per the Regulation 2 D inserted through this amendment, 'While filing an application under Section 7 or 9, the financial creditor or operational creditor, as the case may be, shall also submit along with evidence, chronology of the debt and default including the date when the debt became due, date of default, dates of part payments, if any, date of last acknowledgment of debt and the limitation applicable. Further, the amendments in Regulation 16 A clarify the roles, responsibilities, and remuneration of Authorized Representatives of homebuyers.

The Amended Regulations increase the timelines to file claims up to the date of issue of request for resolution plans under regulation 36B or ninety days from the Insolvency Commencement Date (ICD), whichever is later. Furthermore, the RP has been empowered to give his view on the acceptance of claim for its collation even for claims submitted beyond this time and committee of creditors (CoC) to recommend their acceptance for inclusion in the list of claims and its treatment in the Resolution Plan before the same is adjudicated or condoned by the Adjudicating Authority (AA). These amendments are aimed to facilitate the Adjudicating Authorities, which are burdened with applications for acceptance of delayed claims. Besides, the amendment aligns the timelines concerning various procedural aspects like issuance of information memorandum and request for resolution plans.

Source: Notification No. No. IBBI/2023-24/GN/REG106 dated September 18, 2023.



IBBI (Insolvency Professionals) Regulations amended to simplify the Enrolment and Registration Process for IPs

Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Second Amendment) Regulations, 2023 dated September 18, 2023, has introduced a 'Unified Enrolment and Registration Application Form' to enable submission of Common Application Form for both enrolment and registration processes. The amended Regulations provide a timeline of 60 days for approval of unified application (for enrolment) by the IPA and 30 days for forwarding the unified application (for registration) to the IBBI. Through this amendment, the IBBI has introduced a provision for surrender of certificate of registration by the IP to the IBBI.

Source: Notification No. IBBI/2023-24/GN/REG104 dated September 18, 2023.

CIRCULARS

IBBI issued Clarifications on 'Liquidation Fee'

IBBI, through a Circular dated Sept. 28, 2023, has clarified that the term 'Amount Realized' in Regulation 4(2)(b) of the IBBI (Liquidation Process) Regulations, 2016 'shall mean amount realized from assets other than liquid assets such as cash and bank balance including term deposit, mutual fund, quoted share available on start of the process after exploring compromise and arrangement, if any.' The "other liquidation cost" in regulation 4(2)(b) shall mean liquidation cost paid in priority under section 53(1)(a), after excluding the liquidator's fee. "Amount distributed to stakeholders" shall mean distributions made to the

stakeholders, after deducting CIRP and liquidation cost. The Circular also provides ‘illustrations’ to calculate the Liquidation Cost.

Source: *Circular No. No. IBBI/LIQ/61/2023, September 28, 2023.*

IBBI extends facility of submitting the CIRP Forms to IPEs acting as IPs

The Insolvency Professional Agencies (IPEs) acting as IPs shall access the designated platform with the help of a unique username and password provided by the IBBI and authorize an IP handling the process to upload/ submit the CIRP Forms. Thereafter, the authorized IP shall submit the CIRP Forms along with relevant information and records through his username and password as provided to him in capacity of individual IP.

To facilitate submission of forms for all assignments handled by these IPEs through the facility being introduced now, CIRP forms filed till September 30, 2023, shall not attract any fee as provided under regulation 40B of the CIRP Regulations. Thereafter, it shall attract fee as specified in sub regulation (4) of regulation 40B of the CIRP Regulations. The contents of the aforesaid Circulars shall apply to all the assignments handled by the IPEs acting as IPs.

Source: *Circular No. IBBI/CIRP/60/2023 dated September 01, 2023.*

DISCUSSION PAPER

IBBI issued ‘Discussion Paper’ on three crucial issues about PG to CD

Through this Discussion Paper dated Sept. 27, 2023, the IBBI has proposed amendments in IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Persons) Regulations, 2019, related to (i) Appointment of RP in the Insolvency Resolution Process of PGs to CDs, (ii) Sharing of report prepared by the RP under Section 99 of IBBI with the PG and the creditors; and (iii) Mandating summoning of meeting of the CoC under Section 106 of the IBBI in case of insolvency resolution process of PGs to CDs.

The Discussion Paper proposes to enable the CoC to appoint the IRP/ RP/ Liquidator of the CD as RP in the PG matter for enhanced harmonization of both the processes. Even in the case of replacement of the IRP/ RP/ liquidator of the CD, the CoC in its commercial wisdom may appoint a common IP in both the processes. Further, it is proposed

that RP may in all cases, provide the copy of report under Section 99 to PG and creditors and convening of meeting of the CoC will be mandatory in all PG insolvency matters. Comments can be submitted by Oct. 19, 2023.

Source: *Discussion Paper dated September 27, 2023.*

PRESS RELEASE

IBC has been a game changer legislation: Justice Shri Ashok Bhushan, Chairperson, NCLAT

Addressing the 7th Annual Day celebrations of IBBI on October 01, 2023, as Chief Guest, Justice Shri Ashok Bhushan emphasized the need for continuous innovation in insolvency ecosystem by all stakeholders and for capacity building through proactive advocacy. He congratulated IBBI for being a pro-active regulator constantly learning through interactions with stakeholders.

Delivering the ‘Annual Day Lecture’, Chief Justice (Retd.) Shri Ramalingam Sudhakar appreciated the efforts by the Government and IBBI in conducting the review exercise of the provisions of the IBC. Furthermore, he impressed upon use of AI in proceedings so as to achieve better and speedy outcomes.

Speaking on this occasion, Dr. Manoj Govil, Secretary, Ministry of Corporate Affairs, acknowledged that the highest ever resolutions were witnessed in the year 2022-23 with 186 CDs being resolved. He appreciated IBBI for being at the forefront for engaging effectively with stakeholders on regulatory changes and maintaining transparency in decision making and ensuring information dissemination.

In his Welcome Address, Shri Ravi Mital, Chairperson-IBBI, highlighted that there has been a recovery of three lakh crores through IBC which enables creditors to lend multiple times more in the market. He encouraged IPs to speed up the process to enable NCLTs pass orders for prompt disposal of applications filed for the CDs. On this occasion, IBBI’s annual publication, “IBC: Evolution, Learnings and Innovation” and a research publication, “Navdrishti: Emerging Ideas on IBC” were also released. Shri Sudhakar Shukla, WTM- IBBI proposed the vote of thanks.

Source: *Press Release, No. IBBI/PR/2023/13, October 01, 2023.*