

Legal Framework

CIRCULAR

IBBI issued Circular for clarification on appointment of RP in insolvency cases of PG to CD

As per the Circular dated December 21, 2023, the IBBI has clarified that where the application is filed through an RP, the particulars and declaration by such RP are provided in Part IV of the Form C of the IRP Personal Guarantors to Corporate Debtors (PGCD) Rules. In such cases, the AA, after confirming that there is no pendency in respect of disciplinary proceedings against the RP from the database shared by the IBBI, appoints the proposed RP by an Order under Section 97 (5) of the IBC. In certain cases, the creditor may file the application itself recommending the name of the IP to be appointed as RP. It is hereby clarified that in such cases, the IP proposed to be appointed as RP shall also provide the particulars of and declaration in Part IV of Form C of the IRP PGCD Rules to the creditor for the consideration of the AA.

Source: Circular No. IBBI/II/62/2023, December 21, 2023.

DISCUSSION PAPERS

IBBI issued Discussion Paper on Streamlining Voluntary Liquidation Process

Through this Discussion Paper dated October 05, 2023, IBBI has proposed certain amendments in the IBBI (Voluntary Liquidation Process) Regulations, 2017 related to Disclosures by Corporate Person, Voluntary Liquidation of Financial Service Providers (FSP), Withdrawal from Corporate Voluntary Liquidation Account, Sharing Final Report and Form H, and Order of dissolution. “If the liquidator fails to liquidate the corporate person within stipulated period of 90 days or 270 days as the case may be, he shall hold a meeting of contributories of the corporate person and file within fifteen days after the end of the quarter in which the stipulated period for completion of liquidation has expired, status report to the Board (IBBI) explaining why the liquidation has not been completed and specify, along with reasons, the additional time that shall be required for completing the process,” reads Proposal 2. There is a total of 6 Proposals in the Discussion Paper.

Source: Discussion Paper dated October 05, 2023.



IBBI proposed to restrict number of Assignments for Insolvency Professionals (IPs) and IPEs acting as IPs

Through a 'Discussion Paper' dated October 20, 2023, the Insolvency and Bankruptcy Board of India (IBBI) has proposed some amendments related to (1) Monitoring of IPE acting as IP (2) Related Party Definition for an IPE acting as IP (3) Restriction on Number of Assignments by an IP (4) Minimum Fee Structure of an IPE acting as IP.

“For IP who is an individual - Overall limit of 10 assignments at any point of time, out of which not more than three shall have admitted claims exceeding one thousand crore rupees each. The overall limit includes all the assignments of an IP,” reads a proposal in the Discussion Paper. “For IP which is an entity - Overall limit of 5 assignments per partner or director who are IPs holding AFA, at any point of time (excluding the assignments taken by an IP in his individual capacity). However, the number of assignments for an IPE acting as IP at any point of time shall not be more than 15 assignments having admitted claims exceeding one thousand crore rupees each. The overall limit includes all the assignments of an IPE acting as IP,” it added. Furthermore, it has been proposed that in case of contravention by the IPE, disciplinary proceeding shall be initiated against the IP who is/has been its authorized signatory for respective assignment(s). However, disciplinary proceedings may also be initiated against the IPE on repeated instances of contravention or disciplinary proceedings against multiple partners/ directors.

Source: Discussion Paper dated October 20, 2023.

IBBI Invited Comments on 16 Proposals aimed at Strengthening Liquidation Process

These proposals have been deliberated in a Discussion Paper issued by the IBBI dated October 20, 2023, with an aim to further strengthen the regulatory framework of the liquidation process in terms of certain matters related to sale, accountability of liquidator towards stakeholders. Comments can be submitted electronically by November 10, 2023. The Discussion Paper covers several issues related to the liquidation process such as Sale Related Issues, Reduction in Reserve Prices, Monitoring Private Sale, Listing of all assets on Listing Platform, Circulation of progress reports to stakeholders, Simplification of calculation of liquidator's fee, Consultation with SCC, Form H - Compliance Certificate, Assignment of Not Readily Realisable Assets (NRRRA), Early Dissolution, and Withdrawal from Corporate Liquidation Account.

Source: *Discussion Paper on Strengthening the Liquidation Process dated October 20, 2023.*

IBBI invited comments on 'Discussion Paper' pertaining to CoC and other crucial issues of CIRP Regulations

The 'Discussion Paper' on amendments to IBBI (CIRP) Regulations, 2016 dated November 01, 2013 has solicited comments on various issues related to approval of Committee of Creditors (CoC) for CIRP cost, monthly CoC meetings, discussion of valuation methodology and report with CoC, disclosure of valuation reports, continuation of process activities pending disposal of extension application by the Adjudicating Authority (AA), clarity in minimum entitlement to dissenting financial creditors, and mandatory contents of resolution plan. Comments may be submitted electronically by 22nd Nov. 2023. "It is clarified that the resolution professional shall continue to discharge his responsibilities under the CIRP, for the period when the application seeking extension of the CIRP is filed by the resolution professional till the application for extension is decided by the AA," reads the clarification proposed to be inserted in Regulation 40 of the CIRP Regulations.

Source: *Discussion paper on amendments to IBBI (IRPCP) Regulations, 2016 dated November 01, 2023.*

IBBI issued 'Discussion Paper' on CIRP and Liquidation of Real Estate projects

The discussion paper titled "Real Estate Related Proposals- CIRP & Liquidation" dated November 06, 2023, deals with crucial issues being faced in insolvency processes of real-estate projects – Mandatory registration and extension of projects under Real Estate Regulatory Authority (RERA), Operating a separate bank account for each real estate project, Execution of registration/sublease deeds with approval of committee of the creditors (CoC) during corporate insolvency resolution process (CIRP), CoC to examine and invite separate plans for each project, and Exclusion of property in possession of homebuyers from the liquidation estate. The Discussion Paper is based on recommendations of Shri Amitabh Kant Committee Report on issues related to Legacy Stalled Real Estate Projects.

Source: *Discussion Paper on Real-Estate Related Proposals- CIRP & Liquidation dated November 06, 2023.*

PRESS RELEASES

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

Addressing the 07th 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 Sudhaker Shukla, WTM- IBBI proposed the vote of thanks.


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

Shri Sandip Garg takes charge as Whole Time Member (WTM) of IBBI

Before taking charge as WTM of Insolvency and Bankruptcy Board of India (IBBI) on October 27, 2023,

Shri Garg has served as Executive Director in IBBI wherein he handled a diverse portfolio comprising of Corporate Insolvency, Corporate Liquidation, Individual Insolvency, Individual Bankruptcy and Data Dissemination. In addition, he looked after IT functions of IBBI and had been a member of the Steering Committee for Integrated Information Technology Platform for IBC Ecosystem etc. At IBBI, he played an instrumental role in streamlining the corporate insolvency process and liquidation process through a series of policy and regulatory interventions, including framing regulations, along with technology upgrades. Shri Garg has a multi-disciplinary educational background having degrees in civil engineering, management, law, finance, and taxation and allied laws. He has served the Indian Revenue Service (IRS) for 31 years in various capacities.

Source: Press Release No. IBBI/PR/2023/15 dated October 27, 2023.



Indian Institute of Insolvency Professionals of ICAI
(Company formed by ICAI as per Section 8 of the Companies Act 2013)

<p>Limited Insolvency Examination Preparatory Classroom (Virtual) Program</p>	<p><u>Objective</u></p> <p><u>Good Knowledge about the Code & its process Brief Outline of the Training Program</u></p> <ul style="list-style-type: none"> IBC & REGULATIONS: Introduction IBC & REGULATIONS: CIRP IBC & REGULATIONS: Liquidation & Voluntary Liquidation IBC & REGULATIONS: Resolution and Bankruptcy for IBC & REGULATIONS: Resolution Mechanism for Financial Service Provider (FSP) Important Court & IBBI Orders Indian Contract Act & Other Commercial Laws Limitation Act & Other Securitization laws Companies Act 2013 Corporate Finance & Constitutional Remedies
<p>Duration: 40 Hours</p> <div style="border: 2px solid #ff9800; border-radius: 50%; width: 60px; height: 60px; margin: 20px auto; display: flex; align-items: center; justify-content: center;"> <p style="margin: 0;">Limited Seat</p> </div>	<div style="border: 1px solid #ff9800; background-color: #ff9800; color: white; padding: 5px; width: fit-content; margin: 0 auto;"> <p>Online Study Material Available</p> </div>
<p>Email: ipprogram@icai.in Ph: 8178995141</p>	<p>Website: https://www.iiipicai.in</p>
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