

Legal Framework

REGULATIONS

IBBI amends CIRP Regulations to facilitate effective representation of homebuyers and other large number of creditors in CIRP

Insolvency and Bankruptcy Board of India (IBBI) has amended the IBBI (Insolvency Resolution Process for Corporate Persons), Regulations 2016 or CIRP Regulations to facilitate the effective representation of certain classes of creditors which are large in numbers, such as homebuyers, during the CIRP. These amendments will be effective from September 24, 2024.

As per the IBBI (CIRP) (Second Amendment) Regulations, 2024 (Amendment Regulations) notified by the IBBI on September 24, 2024, in the Principal Regulation 16 A, a provision has been inserted under sub-regulation 2. It reads “Provided that till the application for appointment of the authorized representative for a class of creditors is under consideration before the Adjudicating Authority, the insolvency professional selected under sub-regulation (1) shall act as an interim representative for such class of creditors and shall be entitled to attend the meetings of the committee and shall have such rights and duties as that of an authorized representative”. Furthermore, an enabling provision “Provided that the choice of an insolvency professional to act as an authorized representative by a financial creditor in a class in Form CA shall not be considered, if the Form CA is received after the time stipulated in the public announcement” has been substituted under Regulation 16 A (1). This notification also makes changes in Regulation 40 A, in the Table, pertaining to Regulation 12 (2) and Regulation 13 (1).

Source: IBBI Notification No. IBBI/2024-25/GN/REG116 dated September 24, 2024.

Information Utilities (IU) shall verify key details of Corporate Debtor before issuing Record of Default

IBBI through a Notification dated August 13, 2024, has amended IBBI (Information Utilities) Regulations, 2017. The original Regulation 21 A has been renamed 21 B and a new provision 21 A has been inserted. “21A.



Verification of information before issuance of a record of default - (1) An information utility shall verify the key details such as e-mail address of the debtor, document showing proof of debt, latest acknowledgment of debt by the debtor and proof of default before issuance of record of default in Form D of the Schedule under regulation 21.” These amendments shall come into force on October 01, 2024, except Regulations 3 and 5 of these Regulations which shall come into force on December 01, 2024.

Source: IBBI Notification No. IBBI/2024-25/GN/REG114, dated August 13, 2024.

IBBI extends SCN Disposal from 35 days to 60 days

The Insolvency and Bankruptcy Board of India (IBBI) has extended the SCN (Show Cause Notice) disposal from 35 days to 60 days issued under IBBI (Inspection and Investigation) (Amendment) Regulations 2024. For this purpose, the Regulation 13 has been amended. In the IBBI (Inspection and Investigation) Regulations, 2017, in regulation 13, in sub-regulation (2), for the words “thirty-five days of the date of the issuance of the show-cause notice”, the words “sixty days from the due date for receipt of reply to the show-cause notice” shall be substituted, says the Gazette Notification by the IBBI dated August 13, 2024. This amendment has been done by IBBI, in exercise of the powers conferred to it under sections 196, 217, 218, 219, 220 read with section 240 of the Insolvency and Bankruptcy Code, 2016.

Source: IBBI Notification No. IBBI/2024-25/GN/REG115 dated August 13, 2024.

CIRCULAR

IBBI makes VRIN Mandatory for each valuation conducted under the IBC

The Insolvency and Bankruptcy Board of India (IBBI) through a Circular dated August 12, 2024, has introduced Valuation Report Identification Number (VRIN) for each valuation conducted under the Insolvency and Bankruptcy Code, 2016 (IBC). "In order to ensure authenticity and to have a unique reference number of the valuation reports, it has been decided to provide a Valuation Report Identification Number (VRIN) for each valuation conducted under the Code," said IBBI in the Circular. The IBBI has developed an online module and hosted it on its website. "The IPs shall not accept any valuation reports without VRIN in all such cases," said IBBI. The IBBI has also directed the RV/RVEs to generate VRIN and mandatorily mention it on the front page of the valuation report.

Source: No. IBBI/RV/75/2024 dated August 12, 2024.

GUIDELINE

IBBI issued 'Self-Regulatory' Guidelines for Committee of Creditors

The Insolvency and Bankruptcy Board of India (IBBI) has issued guidelines for Committee of Creditors (CoC) on August 06, 2024. According to the IBBI, these guidelines would help in resolution under the IBC in a time bound manner in the interest of maximization of value of the assets of the Corporate Debtor (CD).

"Nevertheless, to foster more effective and time bound decision making by the CoC members, these self-regulating guidelines are being issued, to stem the value erosion, through curtailment of procedural delays and enhancement of transparency and coordinated approach of decision making by the members of the CoC," said IBBI. The three-page Guidelines for the member of the CoC is divided into -- Objectivity and Integrity, Independence and Impartiality, Professional Competence and Participation, Co-operation, Supervision and Timeliness, Confidentiality, Costs, Meeting of the CoC, Sharing of Information, and Feasibility and Viability of Corporate Debtor.

As per the guidelines, the members of the CoC will now be required to disclose to the CoC/ IP the details of any existing or potential conflict of interest arising due to pecuniary, personal or professional relationship with any stakeholder, immediately on becoming aware of it. Besides, the CoC members are expected to ensure at all times complete adherence to the undertaking regarding confidentiality of information. "Expediently decide on all the expenses to be incurred by the IP including the going concern expenses of the CD and his fee," said the Guidelines to CoC members.

Source: IBBI Guidelines for Committee of Creditors dated August 06, 2024.

DISCUSSION PAPER

IBBI's Discussion Paper proposes MSME Registration and Disclosure Framework under CIRP

Through a Discussion Paper dated August 23, 2024, the Insolvency and Bankruptcy Board of India (IBBI) has proposed to make it mandatory for MSMEs to get registered on Udyam Registration Portal and disclose the Certificate during insolvency process. In case, the MSME undergoing the insolvency process is not registered and the available documents with the RP, indicates CD falls within the category of MSME, in that event, he may get the Udyam Registration Certificate generated, on case-to-case basis before making such disclosure in the Information Memorandum (IM).

"The MSME status of a corporate debtor has important implications for the insolvency resolution process, particularly in terms of the eligibility criteria for resolution applicants under Section 240A," said the Discussion Paper. It further added, "there have been instances where the classification of a corporate debtor as an MSME has been contested during the insolvency resolution process". The Reserve Bank of India (Lending to MSMEs) Directions, 2017, mandate the enterprises to register online on the Udyam Registration portal and obtain 'Udyam Registration Certificate'. To ensure mandatory disclosure of the MSMEs' registration, the IBBI has proposed to amend Regulation 36 of the IBBI (CIRP Regulations) Regulations, 2016.

Source: IBBI's Discussion Paper on MSME Registration and Disclosure Framework under CIRP dated August 23, 2024.

PRESS RELEASE

Insolvency and Bankruptcy Board of India celebrates its Eighth Annual Day

The Insolvency and Bankruptcy Board of India (IBBI) celebrated its Eighth Annual Day on October 01, 2024. Chief Justice (Retd.) Shri Ramalingam Sudhakar, Hon'ble President, National Company Law Tribunal (NCLT) graced the occasion as the Chief Guest. Mr. Amitabh Kant, India's G20 Sherpa and Former CEO of NITI Aayog delivered the Annual Day Lecture.

Chief Justice (Retd.) Shri Ramalingam Sudhakar, Hon'ble President, NCLT in his Keynote Address highlighted the transformative impact of the Insolvency and Bankruptcy Code (IBC / Code) on India's corporate insolvency landscape.

Delivering the Annual Day lecture, Sh. Amitabh Kant

applauded IBBI for the noteworthy achievements of the IBC in the short span of 8 years. Citing the Reserve Bank of India's report from June 2024, he highlighted that the Gross NPAs have reached a 12-year low of 2.8%, with Net NPAs at 0.6%. Dr. V. Anantha Nageswaran, Chief Economic Advisor, Ministry of Finance while delivering the special address expressed his gratification regarding the increased pace of resolutions under the IBC.

Addressing the occasion, Sh. Ravi Mital, Chairperson, IBBI reflected on the significant achievements during the eight-year journey of the IBC. He noted that approximately 1,000 resolutions have been passed by the Hon'ble National Company Law Tribunal (NCLT) in this period, with 450 of those occurring in the last two years alone.

On this occasion, IBBI's annual publication, "IBC आठवर्षः शोध एवं विश्लेषण" was also released.


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HIGHLIGHTS

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**CPE:
8 Hours**

Dates- 20th November – 21st November (2024)
Duration: 12 Hours (over 2 days)
Fees: Rs. 3500/- + GST
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Registration closes on: 19th November 2024

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