

Insolvency and Bankruptcy Board of India

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Press Release

Insolvency and Bankruptcy Board of India amends the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 and Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019

The Insolvency and Bankruptcy Board of India (IBBI) notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) (Amendment) Regulations, 2024 and Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) (Amendment) Regulations, 2024 on 31st January, 2024.

2. The amendment removes the restrictions on an insolvency professional (IP) to be appointed as resolution professional (RP) or bankruptcy trustee (BT) in the insolvency resolution process or bankruptcy process of personal guarantors (PGs) to corporate debtors (CDs) respectively, if she has acted or is acting as interim resolution professional, RP or liquidator during the corporate insolvency resolution process (CIRP) or liquidation process of the CD. Removal of this restriction will allow the appointment of same IP in both the corporate process as well as the insolvency and bankruptcy proceeding of the PGs to the CDs for better harmonization and effective coordination of both the processes.

3. The PG submits a repayment plan to the RP, who then evaluates its viability and submits a report to the Adjudicating Authority with a recommendation on whether to call a meeting of the creditors. If the RP deems such a meeting unnecessary, he provides reasons for the same. As this provision was initially designed for speedier resolution in less complex cases, there was no mandatory requirement to regularly convene meeting of the creditors. However, the intricacies of PG cases, which often involve elaborate financial interdependencies and multiple creditors, necessitate a more thorough approach. To address complexities and unique challenges inherent in the PG cases, the amendment aims to make the convening of meeting of creditors mandatory. This mandatory involvement of creditors brings a comprehensive and collaborative approach to the resolution process, enhancing the efficacy and fairness of the system. The amendment intends to foster active participation and cooperation among all stakeholders, thereby reinforcing a robust and equitable framework for addressing financial distress in PG cases.

4. The amended regulations are effective from 31st January, 2023 and are available at www.ibbi.gov.in.
