

22nd April, 2019

To

The Editor
The New Indian Express
Express Gardens
29, Second Main Road
Ambattur Industrial Estate
Chennai – 600058.

Dear Editor,

This has reference to the article titled “**Centre mulls plugging gaps in bankruptcy law**” in The New Indian Express dated 22nd April, 2019.

2. The said article inter alia carries the following statements:

(i) “Another reason cited by the IBBI is also the recent Supreme Court order, which scrapped the February 12 circular of the RBI. The RBI circular had made it mandatory for banks to initiate insolvency proceedings against companies having stressed assets of Rs 2,000 crore or above.”

(ii) “*Recent developments like the Supreme Court striking down the RBI circular last year on banks resolving their massive non-performing assets (NPAs) has also made a case for review of certain criteria in the overarching laws of IBC.*” The IBBI notice said.”

3. The above statements have been attributed to the IBBI (Board) by referring to the Board’s press release / notice dated 20th April, 2019 inviting public comments on the Regulations notified under the Insolvency and Bankruptcy Code, 2016. The said press release is available at Annexure for ready reference.

4. As may be seen from the said press release, the statements attributed to the Board, as at Para 2 above, do not flow from the said press release. The Board has also not made either of these statements anywhere else.

5. In view of the above, we request you to kindly publish this letter prominently in “The New Indian Express” to enable the readers to have a correct perspective.

Yours faithfully,

(K. R. Saji Kumar)
Executive Director

Encl: As above.

PRESS RELEASE

No. IBBI/PR/2019/10

20th April, 2019

Insolvency and Bankruptcy Board of India invites comments from public on the Regulations notified under the Insolvency and Bankruptcy Code, 2016.

The Insolvency and Bankruptcy Code, 2016 (Code) is a modern economic legislation. Section 240 of the Code empowers the Insolvency and Bankruptcy Board of India (IBBI) to make regulations subject to the conditions that the regulations: (a) carry out the provisions of the Code, (b) are consistent with the Code and the rules made thereunder; (c) are made by a notification published in the official gazette; and (d) are laid, as soon as possible, before each House of Parliament for 30 days.

2. The IBBI has evolved a transparent and consultative process to make regulations. It has been endeavour of the IBBI to effectively engage stakeholders in the regulation making process. The process generally starts with a working group making draft regulations. The IBBI puts these draft regulations out in public domain seeking comments thereon. It holds a few round tables to discuss draft regulations with the stakeholders. It takes advice of its Advisory Committee. The process culminates with the Governing Board of the IBBI finalising regulations and the IBBI notifies them. This process endeavours to factor in ground reality, secures ownership of regulations and makes regulations robust and precise, relevant to the time and for the purpose.

3. Public consultation enables collective choice and hence plays an important role in evolution of regulatory framework. The participation of the public, particularly the stakeholders and the regulated, in the regulatory process ensures that the regulations are informed by the legitimate needs of those interested in and affected by regulations.

4. Usually, a regulator prepares draft regulations and presents these to the stakeholders to revalidate its understanding of the issue the said regulations seek to address, and the appropriateness of such regulations to address the issue. Based on the inputs from the stakeholders, the regulator finalises the regulations with modifications, as may be warranted. The IBBI has been essentially following this approach and will continue to do so.

5. Despite the best of efforts and intentions, a regulator may not always have the understanding of the ground realities, as much and as early as the stakeholders and the regulated may have, particularly in a dynamic environment. The stakeholders could, therefore, play a more active role in making regulations. They may contemplate, at leisure, the important issues in the extant regulatory framework that hinder transactions and offer alternate solutions to address them, in addition to responding urgently to draft regulations proposed by the regulator. This is akin to

crowdsourcing of ideas. This would enable every idea to reach the regulator. Consequently, the universe of ideas available with the regulator would be much larger and the possibility of a more conducive regulatory framework much higher.

6. Keeping in view the above, the IBBI invites comments from public, including the stakeholders and the regulated, on the regulations already notified under the Code. The comments received between 20th April, 2019 and 31st December, 2019 shall be processed together and following the due process, regulations will be modified to the extent considered necessary. It will be the endeavour of the IBBI to notify modified regulations by 31st March, 2020 and bring them into force on 1st April, 2020. Similar exercises were undertaken in the previous years too.

7. It is clarified that this is in addition to the extant approach of inviting public comments on draft regulations before notifying them.

8. For providing comments, please follow the process as under:

- (i) Visit IBBI website, www.ibbi.gov.in;
- (ii) Select 'Public Comments' and then 'Comments on Regulations';
- (iii) Provide your Name, and Email ID;
- (iv) Select the stakeholder category, namely,-
 - a) Corporate Debtor;
 - b) Creditor to a Corporate Debtor;
 - c) Insolvency Professional;
 - d) Insolvency Professional Agency;
 - e) Insolvency Professional Entity;
 - f) Academics;
 - g) Investor; or
 - h) Others.
- (v) Select the regulations, you wish to make a comment upon, from the dropdown menu, as under:
 - a) IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016;
 - b) IBBI (Insolvency Professional Agencies) Regulations, 2016;
 - c) IBBI (Insolvency Professionals) Regulations, 2016;
 - d) IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;
 - e) IBBI (Liquidation Process) Regulations, 2016;
 - f) IBBI (Information Utilities) Regulations, 2017;
 - g) IBBI (Fast Track Corporate Insolvency Resolution Process) Regulations, 2017;

- h) IBBI (Inspections and Investigations) Regulations, 2017;
- i) IBBI (Voluntary Liquidation Process) Regulations, 2017; or
- j) IBBI (Mechanism for Issuing Regulations) Regulations, 2018.

Kindly note that the selected regulations can be found by clicking the pdf icon right next to the 'select regulations' option.

(vi) Select the kind of comments you wish to make, namely,

- a) General Comments; or
- b) Specific Comments.

(vii) If you have selected 'General Comments', please select one of the following options:

- a) Inconsistency, if any, between the provisions within the regulations (intra regulations);
- b) Inconsistency, if any, between the provisions in different regulations (inter regulations);
- c) Inconsistency, if any, between the provisions in the regulations with those in the rules;
- d) Inconsistency, if any, between the provisions in the regulations with those in the Code;
- e) Inconsistency, if any, between the provisions in the regulations with those in any other law;
- f) Any difficulty in implementation of any of the provisions in the regulations; and
- g) Any provision that should have been provided in the regulations, but has not been provided; or
- h) Any provision that has been provided in the regulations, but should not have been provided.

And then write comments under the selected option.

(viii) If you have selected 'Specific Comments', please select regulation number and then sub regulation number, and write comments under the selected regulation / sub-regulation number.

(ix) You can make comments on more than one regulations, or more than one regulation / sub regulation number, by clicking on more comments and repeating the process outlined above from point 8 (v) onwards.

(x) Click 'Submit', if you have no more comments to make.

Illustration

9. If you are a creditor to a corporate debtor and wish to make a specific comment on the sub-regulation 1 of regulation 6 relating to Eligibility for appointment of Liquidator as specified in the IBBI (Voluntary Liquidation Process) Regulations, 2017. The steps that you need to follow are:

- i. Visit IBBI website, www.ibbi.gov.in;
- ii. Select 'Public Comments' and then 'Comments on Regulations';
- iii. Provide your Name and Email ID;
- iv. Select the stakeholder category, which in this case is 'Creditor to a Corporate Debtor';
- v. Select the regulations, which in this case is 'Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017';
- vi. Select 'Specific Comments';
- vii. Select the regulation / sub-regulation number, which in this case is 'Regulation 6' and '6 (1)';
- viii. Write comment in the box 'Comments';
- ix. If you wish to make comment on another regulations, or another regulation number of the same regulations, repeat the process from '(v)' onwards by clicking the icon 'More Comments';
- x. Click 'Submit', after you have made all comments.
