

Insolvency and Bankruptcy Board of India

Subject: Draft Regulations for insolvency resolution process for personal guarantors to corporate debtors.

Background

1. The Governing Board in its meeting held on 21st September, 2017 had considered the report of the Working Group (WG) on Individual Insolvency and directed that public comments be sought on draft (i) the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Individuals and Firms) Rules, 2017, and (ii) the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Individuals and Firms) Regulations, 2017.

2. Accordingly, the IBBI placed the draft rules and regulations on the website seeking public comments. It also participated in ten roundtables of stakeholders in different cities to seek and understand their perspective relating to the draft rules and regulations. The Advisory Committee on Individual Insolvency and Bankruptcy, in its meeting held on 8th November, 2017, considered the report of the WG and also a summary of comments received from the roundtables and public comments received on the website.

3. The Governing Board in its meeting held on 1st December, 2017 considered the summary of comments received from the roundtables and public comments received on the website and also the recommendations of the Advisory Committee. It decided that the draft regulations (as put out in public domain for comments) may be modified to incorporate the advice of the Advisory Committee. As regards the rules, it decided that MCA may be provided a copy of the report of the WG, a summary of public comments received on draft rules, summary of comments received at round tables and a copy of minutes of the meeting of the Advisory Committee with a request to consider and notify the draft rules as put out in public domain for comments), after incorporating the advice of the Advisory Committee (as contained in the minutes of the meeting) subject to certain modifications. Keeping in view the provisions in the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017 promulgated on 23rd November, 2017, it suggested implementation of individual insolvency regime in phases and to start with regime for personal guarantors to corporate debtors [section 2(e) of the Code].

4. Accordingly, the report of WG, along with public comments received on the draft rules and comments received at roundtables and recommendations of the Advisory Committee, was sent to MCA vide letter dated 8th January, 2018, with a request to notify the rules for insolvency resolution of personal guarantors to corporate debtors.

5. Thereafter, the IBBI reconstituted the WG on individual insolvency on 4th May, 2018. The reconstituted WG submitted its first report in October, 2018, along with the draft rules and regulations for insolvency resolution of personal guarantors to corporate debtors. It stated that changes in draft rules and regulations, as compared to the previous draft rules and regulations provided by the earlier Working Group, are not substantive in nature. It noted that it is the intention of Legislature, as evident from the Statement of Objects and Reasons appended to the Insolvency and Bankruptcy Code (Amendment) Bill, 2017 as well as a practical necessity to have a phased approach for implementation of individual insolvency. It held the view that it is necessary to have (a) a phased approach for implementation of individual insolvency, and (b) separate rules and regulations for each of three classes of individuals (personal guarantors to corporate debtors, partnership and proprietorship firms, and other individuals).

6. A copy of the report of the Reconstituted Working Group on Individual Insolvency along with draft rules was forwarded to the Ministry, vide letter dated 26th October, 2018, requesting commencement of the provisions of section 2(e) of the Code relating to insolvency resolution of personal guarantors to corporate debtors. Based on discussions with the Ministry, a draft notification for commencement of section 2(e) was forwarded vide letter dated 12th December, 2018. The IBBI refined the draft Rules from drafting angle and sent the same to the MCA vide letter dated 13th February, 2019 with a request to notify (i) commencement of section 2(e) and (ii) rules for insolvency resolution of personal guarantors to corporate debtors, in consultation with the Legislative Department and to alert the Department of Financial Services that applications for insolvency resolution of personal guarantors to corporate debtors may be filed before the Debt Recovery Tribunals once the provisions are brought into force. The IBBI is following up with the Ministry for the notifications.

Thinking on Individual Insolvency

7. The Bankruptcy Law Reforms Committee (BLRC) in its report had noted the following in the context of individual insolvency:

“The focus of bankruptcy reform so far has been legal entities, i.e. firms registered under the Companies Act, 1956 (and 2013), as well as the Limited Liability Partnership Act, 2008. However, large parts of the credit market consists of loans to individuals, and loans to small and medium enterprises (SMEs) which are in the form of sole proprietorships. These enterprises are a large and important component of the Indian economy. According to reports by the SMB Chamber of Commerce and the Ministry of Micro, Small and Medium Enterprises, India currently has more than 48 million SMEs. These SMEs contribute more than 45% of India’s industrial output, 40% of the country’s total exports and create 1.3 million jobs every year. Indian SMEs employ close to 40% of India’s workforce.”

8. While noting the above, the BLRC was of the opinion that India has a weak record on recovery of loans to individuals and to SMEs, wherein the recovery is either difficult and leads to creditors incurring losses, or recovery takes place through the use of coercive practices which leads to debtors incurring losses. With this background, the BLRC felt it important to have a fresh approach to individual insolvency and bankruptcy. It envisaged the following goals for the process for individual insolvency and bankruptcy presented in the Code:

- Providing a fair and orderly process for dealing with the financial affairs of insolvent individuals.
- Providing effective relief or release from the financial liabilities and obligations of the insolvent.
- Providing mechanisms that enable both debtor and creditor to participate with the least possible delay and expense.
- Providing the correct ex-ante incentives so that individuals are not able to unfairly strategise during the process of bankruptcy.

Proposal

9. As stated earlier, the Governing Board had approved the Regulations in December, 2017. Since considerable time has passed since then, the said regulations have been refined from drafting angle and with minor changes, as suggested by the Working Group and are placed at **Annexure A**.

10. The IBBI notified the Mechanism for Issuing Regulations, 2018 on 22nd October, 2018 laying down the process of making regulations and consulting the public. These Regulations require that for the purpose of making or amending any regulations, the IBBI shall place the draft of the proposed regulations, with the approval of the Governing Board, on its website seeking comments from the public for at least 21 days. Therefore, it is for consideration of the Governing Board if the Regulations for insolvency resolution of personal guarantors to corporate debtors may be approved and notified with or without modifications or the process under the Mechanism for Issuing Regulations, 2018 may be followed.

11. Approval of the Governing Board is sought on the draft of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 as stated above.

**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY
RESOLUTION PROCESS FOR PERSONAL GUARANTORS TO
CORPORATE DEBTORS) REGULATIONS, 2019**

IBBI/2019-20/GN/REG[●]. - In exercise of the powers conferred under clause (t) of sub-section (1) of Section 196, sub-section (1) and clauses (zn), (zo), (zp) and (zq) of sub-section (2) of section 240 read with clause (e) of section 2, section 60 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following regulations, namely -

CHAPTER I

PRELIMINARY

1. Short title and commencement.

(1) These regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Application.- These regulations shall apply to insolvency resolution process for personal guarantors to corporate debtors.

3. Definitions.

In these regulations, unless the context otherwise requires, -

- (a) “Adjudicating Authority” means-
 - (i) for the purpose of section 60, the National Company Law Tribunal constituted under section 408 of the Companies Act, 2013 (18 of 2013); or
 - (ii) in cases other than clause (i), the Debt Recovery Tribunal constituted under sub-section (1A) of section 3 of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993);
- (b) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
- (c) “guarantor” means a personal guarantor to a corporate debtor;
- (d) “electronic form” shall have the meaning assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (e) “form” means a form appended to these regulations;
- (f) “participant” means a person entitled to attend a meeting of creditors and includes creditors, debtor, the resolution professional and any other person authorised through a resolution by creditors to attend such meeting;
- (g) “insolvency resolution process” means the insolvency resolution process of guarantors;
- (h) “insolvency resolution process costs” means the costs specified in regulation 26;
- (i) “insolvency resolution process period” means the period beginning from the date of order admitting application passed under section 100, until one hundred and eighty days, or until the date of order passed under section 114, whichever is earlier;
- (j) “insolvency commencement date” means the date of admission of an application by the Adjudicating Authority for initiating the insolvency resolution process under Chapter III of Part III of the Code;
- (k) “registered valuer” means a person registered as such in accordance with the Companies Act, 2013 (18 of 2013) and rules made thereunder;

(l) “serve” means sending any communication by any means of communication, including registered post, speed post or courier or electronic form, which is capable of producing or generating an acknowledgement of receipt of the communication:

Provided that where a document cannot be served in any of the modes, it shall be affixed at the outer door or some other conspicuous part of the house or building in which the addressee ordinarily resides or carries on business or personally works for gain; and

(m) words and expressions used and not defined in these regulations, but defined in the Code shall have the meanings respectively assigned to them in the Code.

CHAPTER II

GENERAL

4. Eligibility for resolution professional.-

- (1) An insolvency professional shall be eligible to be appointed as a resolution professional for an insolvency resolution process if he, and all partners and directors of the insolvency professional entity of which he is a partner or director-
 - (a) are independent of the guarantor and if the insolvency professional entity of which he is a partner or director is independent of the guarantor;
 - (b) are not subject to any ongoing disciplinary proceedings by the Board or to a restraint order issued by the Board.
- (2) An insolvency professional shall be considered independent of the guarantor under sub-regulation (1), if he-
 - (a) is not an associate of the guarantor;
 - (b) is not a related party of the corporate debtor for whom the guarantor has given a personal guarantee;
 - (c) has not been appointed as an interim resolution professional or resolution professional or liquidator in respect of a corporate debtor for whom the guarantor is a personal guarantor;
 - (d) does not represent any other stakeholder in the same insolvency resolution process.
- (3) Where an insolvency professional is to be appointed as a resolution professional where the application under section 94 or 95 is not filed through a resolution professional, or a resolution professional is replaced by another resolution professional under section 98, he shall provide written consent to the Adjudicating Authority in Form A.

Explanation.- For the purposes of sub-regulation (2), “related party” shall have the meaning assigned to it in sub-section (24) of section 5 of the Code.

5. Debt counselling.

Debt counselling may be provided to a guarantor before and after the commencement of the insolvency resolution process by such entities as may be recognised by the Board or the Central Government, as the case may be.

CHAPTER III
REGISTERING OF CLAIMS BY CREDITORS

6. Submission of claim with proof.

- (1) A creditor shall submit a claim with proof and serve the same to the resolution professional in Form B.
- (2) A creditor who fails to submit claim under sub-regulation (1) within the time stipulated in the public announcement, may submit such claim to the resolution professional till the approval of a repayment plan by the creditors.
- (3) A creditor who submits claim under this regulation shall be entitled to participate in the meetings of creditors, if such creditor is included in the list of creditors after verification of claim under regulation 7.
- (4) The inclusion of a creditor under sub-regulation (3) shall not affect the validity of any decision taken in any meeting of creditors prior to such inclusion.
- (5) The creditor shall bear the costs relating to submission of the claim under these regulations.

7. Verification of claims.

- (1) The resolution professional shall verify each claim as soon as it is received and prepare a list of creditors reflecting their names, amount claimed, amount admitted, and security interest, if any, in respect of such claims, within the time-period stipulated in sub-section (2) of section 104.
- (2) The resolution professional shall file a report certifying the list of creditors prepared under sub-regulation (1) to the Adjudicating Authority.
- (3) The list of creditors filed with the Adjudicating Authority under sub-regulation (2) shall be-
 - (a) available for inspection by the persons who submitted claims with proof;
 - (b) available for inspection by partners and guarantors of the guarantor;
 - (c) updated and displayed on the official website, if any, of the guarantor;
 - (d) sent to the guarantor for information;
 - (e) presented at the first meeting of creditors.

8. Determination of amount of claim.

- (1) Where the amount claimed by a creditor is not precise due to any reason, the resolution professional shall make the best estimate of the amount of the claim based on the information available with him.
- (2) The resolution professional shall revise the amounts of claims admitted, including the estimates of claims made under sub-regulation (1), as soon as may be practicable, when he comes across additional information warranting such revision, till the approval of a repayment plan by the creditors.

9. Preparation of statement of affairs.

(1) A statement of affairs of the guarantor shall be prepared by the resolution professional for the purposes of clause (b) of sub-section (3) of section 107;

(2) A statement of affairs shall include the following information of the guarantor -

- (a) assets and liabilities for the previous three years and current year;
- (b) details of the excluded assets and excluded debts;
- (c) income statement for the previous three years and current year;
- (d) secured and unsecured debts with names of the creditors, and all requisite details of the previous three years;
- (e) particulars of debt owed by guarantor to his associates for the previous three years;
- (f) guarantees given in relation to any of his debts, and whether any of the guarantors is an associate of the debtor;
- (g) details of the financial statements for the business owned by the guarantor, or of the firm in which he is a partner, as the case may be, for the previous three years, if applicable;
- (h) details of the wealth tax statements filed by the guarantor, if any, for the previous five years.

10. Debts in foreign currency.

The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as on the insolvency commencement date.

Explanation.— For the purposes of this regulation, “official exchange rate” means the reference rate published by the Reserve Bank of India or derived from such reference rates.

CHAPTER IV

MEETINGS OF CREDITORS

11. Meetings of creditors.

- (1) A resolution professional may convene a meeting of creditors as and when he considers necessary under clause (c) of sub-section (2) of section 106 and shall convene a meeting on a request by thirty-three percent of voting share of the creditors.
- (2) A meeting of creditors, other than the meeting as specified in sub-regulation (1), shall be called by giving such notice to every participant as decided by creditors, provided that such notice shall be given not be less than forty-eight hours prior to the meeting.
- (3) The notice under sub-regulation (2) shall be served on the participant at the address it has provided to the resolution professional.
- (4) Any decision, other than for approval or modification of the repayment plan, shall require approval of more than fifty percent of voting share of the creditors.

- (5) A notice under this regulation shall comply with the requirements under regulation 13.

12. First meeting of creditors.

- (1) The meeting of creditors referred to in section 106 shall be the first meeting of creditors.
- (2) The notice under section 107 shall be served on the participant at the address it has provided to the resolution professional.
- (3) A notice under this regulation shall comply with the requirements under regulation 13.

13. Contents of the notice for a meeting.

- (1) The notice shall inform the participants of the venue, the time, date and agenda of the meeting, which shall include the following-
 - (a) list of matters to be discussed at the meeting;
 - (b) list of issues to be voted upon at the meeting;
 - (c) relevant documents in relation to the matters to be discussed and issues to be voted upon.
- (2) The notice of the meeting shall provide that a creditor may attend and vote either in person or electronically, or through a proxy in accordance with regulation 18.
- (3) If an option to participate through electronic voting is made available to the creditors, the notice of the meeting shall -
 - (a) state the process and the manner for voting and the time schedule, including the time-period during which the votes may be cast;
 - (b) provide the login ID and the details of a facility for generating password and for keeping security and casting of an electronic vote in a secure manner; and
 - (c) provide contact details of the person who shall address the queries connected with the voting.

14. Quorum.

- (1) Creditors representing at least thirty three percent in voting share shall constitute quorum for the meeting of creditors.
- (2) Where a meeting of creditors could not be held for want of quorum, unless the creditors have previously decided otherwise, the meeting shall automatically stand adjourned to the same time and place on the next day.

15. Conduct of meeting.

- (1) The resolution professional shall preside over the meeting of creditors.
- (2) At the commencement of a meeting, the resolution professional shall take a roll call, when every participant, including those attending through proxy shall state, for the record, the following -
 - (a) his name;
 - (b) the capacity in which he is attending;
 - (c) whether he is representing a creditor; and

- (d) that he has received the agenda and all the relevant material for the meeting.
- (3) After the roll call, the resolution professional shall inform the participants of the names of all persons who are present for the meeting and confirm if the required quorum is complete.
- (4) The resolution professional shall ensure that the required quorum is present throughout the meeting.
- (5) From the commencement of the meeting till its conclusion, no person other than the participants and any other person whose presence is required by the resolution professional shall be allowed access to the place where meeting is held, without the permission of the resolution professional.
- (6) The resolution professional shall ensure that minutes are made in relation to each meeting of the creditors, and are circulated to all participants by electronic means within forty-eight hours of the said meeting.

16. Transfer of debt due to creditors.

- (1) In the event a creditor assigns or transfers the debt due to such creditor to any other person during the insolvency resolution process period, both parties shall provide the resolution professional the terms of such assignment or transfer, and the identity of the assignee or transferee.
- (2) The resolution professional shall notify each participant and the Adjudicating Authority of any resultant change in the list of creditors within two days of such change.

CHAPTER V

VOTING BY CREDITORS

17. Voting by creditors.

- (1) The resolution professional shall, at the meeting, take a vote of the creditors who are participating in the meeting on any item listed for voting, after discussion on the same.
- (2) The voting share of each creditor shall be determined by the resolution professional based on the proportion of debt owed to such creditor.
- (3) The resolution professional may provide each creditor the facility of either vote by electronic form or vote through electronic system in accordance with the provisions of this regulation.
- (4) The resolution professional shall-
 - (a) circulate the minutes of the meeting by electronic form to all participants of the meeting within forty-eight hours of the conclusion of the meeting, which shall include the decision of the creditors on the agenda items along with the names of the creditors who voted for or against the decision, or abstained from voting; and
 - (b) seek a vote on the matters listed for voting in the meeting from the creditors who were not present in the meeting or did not vote at the meeting, by electronic form or through an electronic voting system, where the voting shall be kept open for a minimum

of twenty-four hours from the circulation of the minutes as per clause (a).

- (5) At the end of the voting period, the voting portal shall forthwith be blocked.
- (6) Once a vote on a resolution is cast by a creditor, such creditor shall not be allowed to change it subsequently.
- (7) The circulation of minutes relating to matters under clause (b) of sub-regulation 4 shall be served, to all participants of the meeting within twenty-four hours of the conclusion of the voting.
- (8) In case a meeting of creditors is not summoned, the approval or modification of a repayment plan by creditors shall be an approval or modification in accordance with section 111, and the details of such approval or modification shall be recorded in the report under section 106.
- (9) For the purposes of sub-section (3) of section 109, an unliquidated debt shall mean a debt to which a value cannot be assigned by the resolution professional.

Explanation. - For the purposes of this regulation-

- (a) the expressions “vote by electronic form” and “vote through electronic system” shall mean a secured system-based process of display of electronic ballots, recording of votes of the creditors and the number of votes polled in favour or against, such that the voting exercised by way of electronic means gets registered and counted in an electronic registry in a centralised server with adequate cyber security;
- (b) the expression “secured system” shall mean computer hardware, software, and procedure that –
 - (i) are reasonably secure from unauthorized access and misuse;
 - (ii) provide a reasonable level of reliability and correct operation;
 - (iii) are reasonably suited to perform the intended functions; and
 - (iv) adhere to generally accepted security procedures.

18. Voting by proxy.

- (1) A creditor who is entitled to vote at a meeting of creditors shall be entitled to appoint a person as a proxy to attend and vote on his behalf, who shall not be a creditor or associate of the guarantor.
- (2) The appointment of a proxy shall be in Form C.
- (3) The form for appointment of proxy shall be completed and delivered by the creditor to the resolution professional forty-eight hours prior to the meeting of creditors.
- (4) The proxy shall only be entitled to vote on any resolution on behalf of a creditor.
- (5) A proxy may vote in electronic form or through electronic system on behalf of a creditor by following the procedure set out in regulation 17, provided that the form appointing a proxy has been delivered to the resolution professional as per sub-regulation (3).

CHAPTER VI
REPAYMENT PLAN

19. Contents of repayment plan.

- (1) The repayment plan shall include the following -
 - (a) the duration of the repayment plan;
 - (b) implementation schedule, including the proposed dates of distributions to creditors, with estimates of their amounts;
 - (c) source of funds for the insolvency resolution process costs and their payment in priority to all other payments;
 - (d) a minimum budget for the duration of the repayment plan, to cover the reasonable expenses of the guarantor and his immediate family, provided that at least ten percent of the realisable income of the debtor shall be utilised for repayment of debts;
 - (e) if the guarantor has any business, the manner in which it is proposed to be conducted during the course of the repayment plan, and the role of the resolution professional;
 - (f) the manner in which funds held for the purposes of the repayment plan, invested or otherwise dealt with, pending distribution to creditors;
 - (g) a comprehensive list of all the creditors of the guarantor;
 - (h) the functions which are to be undertaken by the resolution professional, including supervision and implementation of the repayment plan;
 - (i) variation of onerous terms of a contract or transaction involving the guarantor;
 - (j) that excluded assets;
 - (k) financing required for the insolvency resolution process; and
 - (l) terms and conditions for the discharge of the guarantor.
- (2) A repayment plan may provide for the following-
 - (a) transfer or sale of all or part of the assets of the guarantor along with the mode and manner of such sale, including treatment of those excluded assets whose value exceeds the prescribed threshold value for excluded assets;
 - (b) administration or disposal of any funds of the guarantor;
 - (c) satisfaction or modification of any security interest;
 - (d) reduction in the amount payable to creditors;
 - (e) curing or waiving of any breach of a debt due from the guarantor;
 - (f) modification in the terms of payment of any debt due from the guarantor;
 - (g) part of the income of the guarantor to be used in the repayment of the debt, and the manner of calculating the income of the debtor;
 - (h) ratification of insolvency resolution costs which do not require approval of the creditors under regulation 26;
 - (i) the manner in which funds held for the purpose of payment to creditors, and not so paid on the end of the repayment plan, are to be dealt with; and
 - (j) such other matters as may be required by the creditors.

20. Purchase of assets by certain persons.

- (1) The following persons shall not purchase or acquire any interest in the property of guarantor, directly or indirectly, without permission of the Adjudicating Authority –

- (i) the resolution professional or any other professional appointed by the resolution professional for the insolvency resolution process;
 - (ii) any creditor;
 - (iii) any company where the guarantor or creditor is a promoter;
 - (iv) any associate of the guarantor, creditor or resolution professional.
- (2) Any purchase or acquisition made contrary to the provisions of this regulation may be set aside by the Adjudication Authority, and it may make such order as it may deem fit.

21. Non-cooperation by guarantor.

In the event of non-cooperation of the guarantor, the resolution professional shall include a statement to this effect in the report prepared under sub-section (1) of section 112.

22. Procedure following breach of repayment plan by guarantor.

- (1) If in the opinion of the resolution professional, the guarantor is in breach of the repayment plan and such breach has not been rectified, the resolution professional shall, within three days of becoming aware of the breach, issue a notice to the debtor identifying the breach and requiring the guarantor within fifteen days of receipt of the notice to-
- (a) rectify the breach if it is capable of being rectified, or
 - (b) provide an explanation of the breach.
- (2) If, within the period specified under sub-regulation (1), the debtor-
- (a) rectifies the breach of the repayment plan; or
 - (b) provides an explanation for the breach to the satisfaction of the resolution professional,

no further action shall be taken against the guarantor, however, within seven days from the date of rectification or explanation of the breach, the resolution professional shall report the breach to the creditors.

- (3) If the breach is not rectified or an explanation is not provided by the guarantor to the satisfaction of the resolution professional in the time-period specified in the notice of breach under sub-regulation (1), and the resolution professional is of the opinion that such breach will affect the completion of the repayment plan, he may file a report to the Adjudicating Authority in relation to the premature end of the repayment plan as per sub-section (2) of section 118.

23. Filing with the Adjudicating Authority.

- (1) The repayment plan, as approved by the requisite majority of creditors, along with the report mentioned in section 106 or 112, as the case may be, shall be filed with the Adjudicating Authority on or before completion of one hundred and twenty days from the insolvency commencement date.
- (2) The information mentioned in sub-regulation (1) shall be provided to the guarantor and the creditors, within three days from the date of submission to the Adjudicating Authority.

24. Completion of the repayment plan.

- (1) A repayment plan shall be complete when, in the opinion of the resolution professional, the guarantor has complied with all obligations under the repayment plan within the duration of the repayment plan, and a notice to that effect has been issued under clause (a) of sub-section (1) of section 117.
- (2) The resolution professional may issue a notice of completion under clause (a) of sub-section (1) of section 117 if the guarantor has substantially complied with all obligations under the repayment plan.
- (3) The Adjudicating Authority shall consider the notice and the report under sub-section (1) of section 117 in passing the discharge order.

CHAPTER VII

RESOLUTION PROFESSIONAL

25. Duties of resolution professional.

The resolution professional shall perform the following duties, namely:-

- (a) assist the guarantor in preparing the repayment plan;
- (b) collect information relating to the assets and finances of the guarantor, in order to determine the financial position of the guarantor, and prepare his statement of affairs;
- (c) receive and collate all claims submitted by creditors to him, pursuant to the public announcement made under section 102;
- (d) call for such evidence or clarification from a creditor as he deems fit for substantiating the whole or part of its claim;
- (e) file information collected with the information utility, if necessary;
- (f) prepare and submit reports as required under the insolvency resolution process;
- (g) appoint a registered valuer for the valuation of the assets of the guarantor, if required;
- (h) report any suspicious transactions to the Adjudicating Authority which occurred prior to the insolvency commencement date;
- (i) raise finances for the insolvency resolution process, if necessary; and
- (j) conduct meetings of creditors.

CHAPTER VIII

INSOLVENCY RESOLUTION PROCESS COSTS

26. Insolvency resolution process costs.

- (1) "Insolvency resolution process costs" shall include -
 - (a) the fees payable to the resolution professional;
 - (b) the expenses incurred on and by the resolution professional for carrying out the insolvency resolution process, including the cost of engaging professional advisors, if any;
 - (c) finances raised for the insolvency resolution process, and costs incurred in raising such finances;
 - (d) any costs incurred at the expense of the Government to facilitate the insolvency resolution process; and

- (e) such other costs directly relatable to the insolvency resolution process which may be ratified by the creditors.
- (2) The applicant shall fix the costs mentioned in clauses (a) and (b) of sub-regulation (1).
- (3) The creditors shall approve the costs mentioned in clauses (a), (b) and (c) sub-regulation (1).

FORM A

WRITTEN CONSENT TO ACT AS RESOLUTION PROFESSIONAL
(Under regulation 4(3) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019)

[Date]

To
The Adjudicating Authority
[Name of Bench]

From
[Name of the Insolvency Professional]
[Registration number of the Insolvency Professional]
[Address of the Insolvency Professional registered with the Board]

Subject: Written consent to act as resolution professional in the matter of [name of guarantor]

1. I, *[name]*, an insolvency professional enrolled with *[name of insolvency professional agency]* and registered with the Board, note that I have been proposed to be appointed as resolution professional for the insolvency resolution process of *[name of the guarantor]*.

2. In accordance with regulation 3(3) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019, I hereby give consent to the proposed appointment for the insolvency resolution process of *[name of the guarantor]*

3. I declare and affirm as under: -

- (a) I am registered with the Board as an insolvency professional.
- (b) I am not subject to any disciplinary proceedings initiated by the Board or the Insolvency Professional Agency.
- (c) I do not suffer from any disability to act as a resolution professional.
- (d) I am eligible to be appointed as resolution professional of the guarantor under regulation 3 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 and other applicable provisions of the Code and regulations.
- (e) I shall make the disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
- (f) I am having the following processes in hand:

Sl. No.	Role as	No. of Processes on date of Consent
1.	Interim Resolution Professional	
2.	Resolution Professional of: a. Corporate debtors b. Personal guarantors, individuals or partnership firms	
3.	Liquidator of: a. Liquidation Process b. Voluntary Liquidation Process	
4.	Bankruptcy Trustee	
5.	Authorised Representative	
6.	Any other (please state)	

Date:

Place:

(Signature of Insolvency Professional)
Registration No.....

FORM B

CLAIM WITH PROOF BY A CREDITOR

(Under regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019)

[Date]

To

The Resolution Professional

[Name of the Resolution Professional]

[Address as set out in public announcement]

From

[Name and address of the creditor]

Subject: Submission of claim with proof in the matter of [name of guarantor].

Madam/Sir,

[Name of the creditor], hereby submits the claim with proof in respect of the insolvency resolution process of [name of guarantor]. The details for the same are set out below-

PARTICULARS				
1.	Title and full name of creditor			
2.	Identification number of creditor	Aadhaar number	PAN	CIN
				GSTIN
3.	Address	Present	Permanent	Business
4.	Email – (if any)			
5.	Total amount of claim (Including any interest as on the insolvency commencement date)			
6.	Details of documents by reference to which the debt can be substantiated			

PARTICULARS		
7.	Details of any dispute, as well as the record of such dispute with respect to claim (if any)	
8.	Details of how debt was incurred and the date when such debt was incurred	
9.	Details of any mutual credit, mutual debts, or other mutual dealings between the debtor and the creditor, which may be set-off against the claim	
10.	Details of any retention of title arrangements in respect of goods or properties to which the claim refers	
11.	Details of the bank account to which the amount of the claim or any part thereof can be transferred pursuant to a repayment plan (i.e. account number, IFS Code, Branch & Bank name etc.)	
12.	Details of any security held (including value and date when it was given)	
13.	If you are a secured creditor, tick the applicable box in the right column relating to forfeiture of right to enforce security during the period of the repayment plan, which will determine the voting share as per section 110 of the Code	<input type="checkbox"/> I agree to forfeit my right to enforce my security <i>[insert description]</i> during the period of the repayment plan. <input type="checkbox"/> I do not agree to forfeit my right to enforce my security <i>[insert description]</i> during the period of the repayment plan.
14.	List of documents attached to this proof of claim in order to prove the existence and non-payment of claim due to the creditor	
15.	Following information regarding the guarantor (to the extent known)-	
	Assets of the guarantor	
	Business of the guarantor	
	Firms in which guarantor is a partner	
	Bank account details of the guarantor	
	Name, age and address of spouse, children, parents and siblings of the debtor	
Signature of creditor or person authorised to act on his behalf <i>[Please enclose the authorisation document if this form is being submitted on behalf of a creditor]</i>		
Name in block letters		
Address of person signing		

DECLARATION

- I, *[name of creditor]*, currently residing at *[insert address]*, hereby declare and state as follows:-
1. *[Name of guarantor]*, the guarantor was, at the insolvency commencement date, being the *[date]* of *[year]*, indebted to me to the sum of Rs. *[insert amount of claim]*.
 2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below-
[Please list the documents relied on as evidence of claim]
 3. The said documents are true, valid and genuine to the best of my knowledge, information and belief.

4. In respect of the said sum or any part thereof, I have not, nor has any person by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following-
[Please state details of any mutual credit, mutual debts, or other mutual dealings between the debtor and the creditor which may be set-off against the claim.]

Date:

Place:

(Signature of the creditor)

VERIFICATION

I, *[Name of creditor]* the creditor hereinabove, do hereby verify that the contents of this proof of claim are true and correct to the best of my knowledge and belief and that no material facts have been concealed therefrom.

Verified at _____ on this _____ day of ____ 20__

(Signature of the creditor)

FORM C
PROXY FORM

(Under regulation 18(2) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019)

Full name of the debtor-

[Insert matter name / application number for the insolvency resolution process]

Full name of creditor				
Address	Present	Permanent	Business	
Identification number	Aadhaar number	PAN	CIN	GSTIN
E-mail id				

I being *[insert name of creditor]* holding *[insert voting share]* of the debt of the debtor, hereby appoint-

1.	Full name				
	Address	Present	Permanent	Business	
	Identification number	Aadhaar number	PAN	CIN	GSTIN
	E-mail id				
Signature					

or failing him;

2.	Full name				
	Address	Present	Permanent	Business	
	Identification number	Aadhaar number	PAN	CIN	GSTIN
	E-mail id				
Signature					

as my proxy to attend and vote for me and on my behalf at the meeting of creditors to be held on *[insert date and time of meeting]* at *[insert venue of the meeting]*, and at any adjournment thereof in respect of the matters indicated in the notice of the meeting *[provide details of the notice]*, as listed below-

[insert matters as listed in the agenda]

Signed this *[insert date]* day of *[insert month]* *[insert year]*

Signature of creditor:

Signature of proxy holder(s):