

Insolvency and Bankruptcy Board of India

Sub: Draft Insolvency and Bankruptcy Board of India (Annual Report) Rules, 2017.

Section 229 of the Insolvency and Bankruptcy Code, 2016, (Code), which requires the Insolvency and Bankruptcy Board of India (IBBI) to prepare an Annual Report, and submit it to the Central Government, reads as under:

“229. (1) The Board shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.”

2. Correspondingly, clause (zm) of sub-section (2) of section 239 of the Code empowers the Central Government to make rules for *“the form and the time for preparing annual report under sub-section (1) of section 229”*.

3. Mr. A. S. Bhatia, Member had suggested in the meeting of the Governing Board held on 29th May, 2017 that the IBBI may prepare the draft rules for annual report and send the same to the Ministry for its consideration.

4. Annual Report is a standard accountability mechanism that enables an organisation to report to its stakeholders its performance vis-a-vis its mandate and its resources. The burden of reporting is higher if the organisation is endowed with public interest responsibilities, particularly if it exercises quasi-legislative, executive and quasi-judicial powers while it is governed by a non-elected body. The scope of accountability in the context of reporting generally includes: (a) ex-ante accountability such as sharing the proposed actions beforehand, (b) ex-post accountability such as reporting actions already taken, (c) explanatory accountability such as disclosure of the rationale of the actions, (d) procedural accountability such as adhering to standards of procedural fairness and transparency, and (e) performance accountability such as achievement in terms of objectives.

5. Keeping the above in view, the annual report of the IBBI should ideally report such details as would enable the stakeholders to review and appreciate its performance. It should, therefore,

report, both in quantitative and qualitative terms to the extent possible, for the year under report compared to those in the previous years, where relevant:

- (a) a true and full account of policies, programmes and activities of the IBBI in respect of (i) Service Providers, namely, IPs, IPAs, and IUs, and (ii) Transactions, namely, Corporate Insolvency Resolution, Corporate Liquidation, Individual Insolvency Resolution and Individual Bankruptcy;
- (b) a review of the quasi-legislative, executive and quasi-judicial functions of the IBBI;
- (c) an analysis of outcomes in terms transactions and transactional efficiencies;
- (d) summary data - time series or cross section - as may be relevant and available, about the outcomes that may facilitate appreciation of the working of the Code and the IBBI and promote research;
- (e) impact of the Code on credit market, resource recycling, and the economy;
- (f) an assessment of the effectiveness and the efficiency of the IBBI in terms of its objectives and mandate keeping in view its resources, duties and powers;
- (g) an assessment of performance of the Governing Board of the IBBI and its vision, policies and programmes for the following year;
- (h) a summary of financial performance of the IBBI; and
- (i) a statement indicating any statutory obligations that the IBBI has not complied with, and reasons for such non-compliance.

6. The stakeholders should have the annual report soon after the close of the financial year. The Parliament should have the opportunity to consider the annual report immediately on close of the year so that its recommendations, if any, could be factored in the activities and decisions of the IBBI promptly and mid-course correction can be done. Therefore, the annual report should be submitted to Government within 90 days of the close of the financial year. The annual report once laid on the table of the Parliament should be available on the web site of the IBBI so that it is available to the public.

7. Accordingly, the draft IBBI (Annual Report) Rules, 2017 are submitted at Annexure A for the consideration of the Governing Board.

Insolvency and Bankruptcy Board of India (Annual Report) Rules, 2017

In exercise of the powers conferred by clause (zm) of sub-section (2) of section 239 of the Insolvency and Bankruptcy Code, 2016, the Central Government hereby makes the following rules, namely: —

1. Short title and commencement.
 - (1) These rules may be called the Insolvency and Bankruptcy Board of India (Annual Report) Rules, 2017.
 - (2) They shall come into force on the date of their publication in the Official Gazette.
2. Definitions.
 - (1) In these rules, unless the context otherwise requires, —
 - (a) "Annual Report" means the annual report prepared by the Board under sub-section (1) of section 229 of the Code;
 - (b) "Board" means the Insolvency and Bankruptcy Board of India established under sub-section (1) of section 188 of the Code;
 - (c) "Form" means the form of the annual report annexed to these Rules; and
 - (d) "Code" means the Insolvency and Bankruptcy Code, 2016.
 - (2) All other words and expressions used in these rules but not defined, and defined in the Code shall have the same meanings respectively assigned to them in the Code.
3. Form of the Annual Report.
 - (1) The Board shall prepare an annual report in the form.
 - (2) The Board may include in the annual report any other item, not specified in the form, if considered necessary.
 - (3) The annual report shall report such details as would enable the stakeholders to review and appreciate its performance.
4. Time of the Annual Report.
 - (1) The Board shall submit the annual report to the Central Government within ninety days of the end of the financial year for.
 - (2) The Board shall publish the annual report on its website within seven days after it is laid before the Parliament.

Form of the Annual Report

[see rule 3(1)]

- A. Chairperson's statement;
- B. The year in review;
- C. A true and full account of policies, programmes and activities of the Board in respect of (i) Service Providers, namely, Insolvency Professionals, Insolvency Professional Agencies, and Information Utilities, (ii) Transactions, namely, Corporate Insolvency Resolution, Corporate Liquidation, Individual Insolvency Resolution and Individual Bankruptcy, (iii) Advocacy and Awareness, and (iv) Research;

- D. A review of the quasi-legislative, executive and quasi-judicial functions of the Board
- E. An analysis of outcomes in terms transactions and transactional efficiencies;
- F. Summary data - time series or cross section - as may be relevant and available, about the outcomes that may facilitate appreciation of the working of the Code and the Board and promote research;
- G. Impact of the Code on credit market, resource recycling and the economy;
- H. An assessment of the effectiveness and the efficiency of the Board in terms of its objectives and mandate keeping in view its resources, duties and powers;
- I. An assessment of performance of the Governing Board and its vision, policies and programmes for the following year;
- J. A summary of financial performance of the Board;
- K. A statement of non-compliance, if any, with statutory obligations by the Board and the reason for the same; and
- L. Organisational Matters, including Human Resources, Finance and Accounts, Audit Committee, RTI and Transparency.