

Rules and Regulations for Individual Insolvency

- The Governing Board considered the Board Note along with all its annexures. A presentation was made on draft rules and regulations, key issues considered by the working group, a summary of public comments, a summary of comments gathered at roundtables, and recommendations of the Advisory Committee on Individual Insolvency and Bankruptcy.
- After detailed deliberations, the Governing Board decided as under:
 - i. the draft regulations (as put out in public domain for comments) may be modified to incorporate the advice of the Advisory Committee (as contained in the minutes of the meeting).
 - ii. MCA may be provided a copy of the report of the Working Group, 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. It may be requested 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 the following:
 - a. area of a dwelling unit to be excluded may be uniform for rural area and urban area. It may be as proposed for urban area;
 - b. the adjudicating authority may permit withdrawal of an application even after admission if 75% of the claimants by value agree to withdrawal; and
 - c. the debtor may disclose, in his application for initiation of insolvency, his assets and liabilities on affidavit.
 - iii. The Governing Board noted that with promulgation of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017, it is possible to implement individual insolvency in phases. As regards personal guarantors to corporate debtors [section 2(e) of the Code], it may be implemented at the earliest since NCLT is the adjudicating authority. The efforts may be made to implement provisions relating to partnership firms and proprietorship firms [section 2(f) of the Code] by 31st March, 2018. DFS may be requested to strengthen the DRTs to entertain applications under the Code.
 - iv. MCA may be requested to consider amending the Code
 - a. to provide for a lower threshold for debtors and higher threshold for creditors to trigger resolution under section 78 of the Code; and
 - b. a comma (,) may be inserted before and after the words ‘present in person or by proxy’ in section 111 of the Code.