

Insolvency and Bankruptcy Board of India

Subject: Proposal to amend Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017

The Governing Board in its meeting held on 17th May 2022 vide Board Note No. 26/2022 had approved amendment to Regulation 13 (2) of Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017 (Inspection and Investigation Regulations). The amended Regulation 13(2) of Inspection and Investigation Regulations, which became operational with effect from 14th June 2022, provides as under:

*“The Disciplinary Committee shall endeavour to dispose of the show-cause notice within a period of **thirty-five days of the date of the issuance of the show-cause notice.**”*

2. Prior to the said amendment, Regulation 13(2) of the Inspection and Investigation Regulations was as under:

“The Disciplinary Committee shall dispose of the show-cause notice within a period of 180 days of the issue of the show-cause notice.”

3. The above amendment reduced the timeline for disposal of Show Cause Notice from 180 days to 35 days from the date of issuance of the Show Cause Notice. As per Regulation 12(3) of the Inspection and Investigation Regulations, the Insolvency Professionals (IPs) are given 15 days to make a written submission in response to the Show Cause Notice. Mostly, the IPs take more time to reply to the Show Cause Notice than that prescribed in Regulations. In order to meet the rules of natural justice, additional time is given to them to submit reply to the show cause notice.

4. After the Show Cause Notice along with reply of the IP is referred to the Disciplinary Committee (DC), all such IPs seek opportunities of personal hearing. Then they are given a notice of 14 days for appearance before the Disciplinary Committee. Thus, the timelines of 35 days from the date of the Show Cause Notice is impractical as effectively six days are left for DC to decide the case and pass order, if IPs file replies to SCN within given time and appear for hearing on the scheduled date.

5. Moreover, mostly IPs seek more than one adjournment on one or the other grounds including on health grounds etc. Hence, it becomes impossible to follow the timeline of 35 days from the date of the Show cause Notice.

6. It is, therefore, proposed that the timeline for disposal of Show Cause Notice by the Disciplinary Committee may be amended to sixty days from the due date of receipt of reply to the show-cause notice.

7. As the proposal is only for change of time, hence the requirement of public consultation in terms of IBBI (Mechanism for Issuing Regulations) Regulations, 2018(MIR Regulations) may not be required. The Governing Board is requested to allow exemption from this process for the proposal in this note under regulation 8 of the MIR Regulations.

Economic Analysis, regulatory impact assessment and public interest

8. As far as economic analysis is concerned, proposal is in line with earlier decisions of the Governing Board and it is envisaged to enable the Disciplinary Committee, in pursuance of mandatory procedural requirements of hearing and reasoned order and will not entail any additional cost of compliance of the regulations. The proposal does not entail any additional compliance burden too. There will not be any compromise on the due process of law by the proposed amendment. The proposal also does not contain any provision which could adversely affect public interest.

Proposal

9. In view of the above, it is proposed that the existing Regulation 13(2) of the Inspection and Investigation Regulations may be amended as under:

Regulation 13(2) of Inspection and Investigation Regulations, 2017

“The Disciplinary Committee shall make best endeavour to dispose of the show-cause notice within a period of sixty days from the due date of receipt of reply to the show-cause notice ”.

10. The above proposal is submitted for kind consideration and approval of the Governing Board.

THE GAZETTE OF INDIA
EXTRAORDINARY
PART III, SECTION 4
PUBLISHED BY AUTHORITY
NEW DELHI, _____, 2024

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

NOTIFICATION
New Delhi, the _____, 2024

Insolvency and Bankruptcy Board of India (Inspection and Investigation) (Amendment) Regulations, 2024

No. IBBI/2024-25/GN/REG._____. - In exercise of the powers conferred under sections 196, 217, 218, 219, 220 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following regulations to amend the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017, namely: -

1. (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Inspection and Investigation) (Amendment) Regulations, 2024.

(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017 (hereinafter referred to as 'the principal regulations'), in regulation 13, for the sub-regulations (2), the following sub-regulation shall be substituted namely:-

“(2) The Disciplinary Committee shall make best endeavour to dispose of the show-cause notice within a period of sixty days from the due date of receipt of reply to the show-cause notice.”

Ravi Mital
Chairperson

[ADVT]

Note: The Insolvency and Bankruptcy Board of India (Inspection and Investigation) (Amendment) Regulations, 2022 were published vide Notification No. IBBI/2022-23/GN/REG087, dated 14th June, 2022 in the Gazette of India, Extraordinary, Part III, Section 4, No. 305 dated 14th June, 2022.