

---

# **Amendments in IBBI (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2016**

\*This presentation is indicative and created for the sole purpose of creating awareness and educating the stakeholders. A stakeholder must refer to the Code and Rules/Regulations made thereunder or seek professional advice if he intends to take any action or decision in any matter under the Code

Improved information availability

# Changes in CIRP timelines

- **5 categories of activities - Nonlinear and parallel**

Claims, Assets, Identifying PRAs, Avoidance and those requiring all information

- EoI can be done earlier - Requires minimum information, gives more time to find PRAs
- Limited time for preparation of IM - inadequate information on CD for PRAs
- Filing avoidance application coincides with timeline for submission of resolution plan – No occasion to provide information regarding avoidance transactions to PRAs

<i>Amendment</i>			
Regulation 35A	RP to form an opinion on preferential and other transactions	Within 75 days of the commencement	T+75
	RP to make determination on preferential and other transactions	Within 115 days of commencement	T+115
	RP to file applications to AA for appropriate relief	Within 130 days of commencement	<b>T+130</b>
Reg 36 (1)	Submission of IM to CoC	Within 95 days of commencement	<b>T+95</b>
Regulation 36A	Publish Form G	Within 60 days of commencement	<b>T+60</b>
	Invitation of EoI		
	Submission of EoI	At least 15 days from issue of EoI (Assume 15 days)	<b>T+75</b>
	Provisional List of RAs by RP	Within 10 days from the last day of receipt of EoI	<b>T+85</b>
	Submission of objections to provisional list	For 5 days from the date of provisional list	<b>T+90</b>
	Final List of RAs by RP	Within 10 days of the receipt of objections	<b>T+100</b>

# Improved Information Memorandum

- Information available through the IM is limited and does not reflect true value of CD
- IM acts as basic document for PRAs → Needs to be comprehensive

## Amendment

IP shall include in the IM –

- Operations of CD
  - Financial statements
  - Geographical coordinates of fixed assets
  - Company overview
- 
- Details of business evolution for CDs with asset size of more than one hundred crore rupees.
  - Timeline for preparation of IM shifted to T+95

# Modified Form G/ Invitation of EOI (IEOI)

- Form G published – the first communication to market about CD
- Form- G/EOI should include the basic details of the CD to attract more prospective resolution applicants (PRAs)
- Exclude irrelevant details about the future processes for optimising publication cost

## Amendment

- To provide for basic details of the CD
- Basic details include no. of employees/workmen, capacity of products, place where majority assets are situated etc.

# Provide copy of avoidance application to PRAs

- New timeline proposed (T+130) presents an opportunity to share the information with PRAs
- Enables PRAs to account for such information in the resolution plan
- Clarified that this additional information does not entitle them for any extension for submission of the resolution plan

## Amendment

- To provide copy of avoidance application to prospective resolution applicant to account for such information in the resolution plan
- Reduction in timeline to T+130

---

Value maximization

# Marketing of assets by the RP

- Professional services hired for marketing of assets but only in some CIRPs
- Information of assets need to be disseminated to a wider and targeted audience
- **Marketing effort linked to quantum of assets** and not liabilities to prevent misuse of provision in cases where assets are low in comparison to liabilities and cost of marketing may be prohibitive

## Amendment

- RP to prepare a strategy for marketing of assets in consultation with the CoC for CDs where assets (as per the last available balance sheet) exceed Rs.100 crore
- Strategy may be prepared in other cases, if CoC decides
- Strategy to include measures and cost involved as approved by CoC
- Strategy to include measures to be taken by CoC members



# Resolution of functional/operating parts of CD

- CDs have functional and non-functional assets or assets in different businesses & locations
- PRAs interested in functional asset or an asset in one location/business alone
- Acquiring CD as whole may not in line with the capacity and strategic objective of PRA
- In Liquidation – assets sold in parts and realisation is far less than what is expected in CIRP

**32<sup>nd</sup> report of Standing Committee on Finance:** Bidders may be interested in selected business units or assets, rather than the entire business. A combination of bidders taking different business units or assets may be far superior to one bidder acquiring the entire business.

## Amendment

- Enabled re-issue of the request for resolution plan for sale of part of the assets of CD as well where no resolution plan has been received for the CD as a whole
- Resolution plan may contain measures for sale of part of the assets of corporate debtor to one or more successful resolution applicant(s) submitting resolution plans for the part assets; and dealing with remaining assets

---

Reducing delays

# Guiding factors for CoC to decide on early liquidation

- RP mandated to attempt for resolution before filing for liquidation orders
  - Cost on creditors in paying to the RP and erosion in asset value due to delay
- CoC may decide to liquidate in obvious liquidation cases
- Factors are for guidance

## Amendment

- Provides factors to guide the CoC as stated above in timely liquidation of cases
- Reasons to be recorded and filed with AA

# Exploring compromise /arrangement after CoC approves liquidation

- Liquidator directed to explore the possibility of a compromise or arrangement on many occasions by AA in most cases even where this exploration is not possible.
- A period of 90 days from commencement of liquidation is prescribed (proposed to be reduced to 30 days). However, taking much longer in practice

## Amendment

- Enable the CoC to examine whether they want to explore option of compromise arrangement and file such recommendation with AA while applying to AA for liquidation order
- In cases, where they decide to explore, they should explore the option during the period, order for liquidation is awaited from the AA

---

# Improving clarity in CIRP activities

# Process email and Notice to creditors

- ❖ Communication gaps between IRP/RP and claimants
  - Claims invited by IRP in specific email ID which is changed in case of IRP/RP replacement
  - Missing communication history where IRP fails to deliver documents to new RP
  - Creditors (specially homebuyers) unaware of initiation of CIRP
- ❖ Need for timely information to creditors regarding initiation of CIRP and the last date for filing of claims and a single email id for all correspondence

## Amendment

- A common email address be used throughout the insolvency and liquidation processes and this email id needs to be handed over to the succeeding IP
- IRP to communicate to all creditors of the CD as the per the last available books of accounts through post or through electronic means wherever the information for communication is available

# CoC meetings after approval of resolution plan by the CoC

- Communication gaps as the CoC does not receive any update about the business of CD (in going concern cases) and approval of plan while resolution plan is pending for AA's approval

## **Clarificatory Amendment**

Meeting of the CoC may be convened till the approval of resolution plan under sub-section (1) of section 31 or passing an order for liquidation under section 33