

Insolvency and Bankruptcy Board of India

PRESS RELEASE

7th November, 2017

Sub: Amendments to (i) the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and the Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017

IBBI has amended (i) the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and the Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017 today.

2. A key objective of the Insolvency and Bankruptcy Code, 2016 is insolvency resolution of corporate persons in a time bound manner for maximization of value of their assets. This objective would be achieved only if a resolution process ends up with a credible resolution plan that maximises the value of assets of the corporate debtor, that is, the plan has been drawn up realistically and would be implemented successfully. Though there is no restriction on as to who can submit a resolution plan, it should come from any person, who can really rescue the insolvent business and the Committee of Creditors is expected to approve the best of them.

3. The Committee of Creditors is expected to carry out due diligence of every resolution plan to satisfy itself that (a) the plan is viable, and (b) the persons who have submitted the plan and who would implement the plan are credible, to avoid the plans which may lead to liquidation, post resolution, and to select the most suitable plan under the circumstances. The amendments to regulations empower the Committee of Creditors to carry out the due diligence by making provision for the required disclosures in the resolution plan.

4. According to the amendments, a resolution plan shall disclose details of the resolution applicant and other connected persons to enable the Committee of Creditors to assess credibility of such applicant and other connected persons to take a prudent decision while considering the resolution plan for its approval. The resolution plan shall disclose the details in respect of the resolution applicant, persons who are promoters or in management or control of the resolution applicant; persons who will be promoters or in management or control of the business of the corporate debtor during the implementation of the resolution plan; and their holding companies, subsidiary companies, associate companies and related parties, if any. It shall disclose details of convictions, pending criminal proceedings, disqualifications under the Companies Act, 2013, orders or directions issued by SEBI, categorization as a willful defaulter, etc.

5. Further, the resolution professional shall submit to the Committee of Creditors all resolution plans which comply with the requirements of the Code and regulations made thereunder, along with details of preferential transactions under section 43, undervalued transactions under section 45, extortionate credit transactions under section 50, and fraudulent transactions under section 66 of the Insolvency and Bankruptcy Code, 2016 noticed by him.

6. The amendments are available at www.mca.gov.in and www.ibbi.gov.in.