

Insolvency and Bankruptcy Board of India

PRESS RELEASE

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IBBI amends the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

The Insolvency and Bankruptcy Board of India (IBBI) has notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2018 today.

2. The following are salient amendments to the regulations:

a. The regulations provide that wherever the corporate debtor has classes of creditors having at least ten creditors in the class, the interim resolution professional shall offer a choice of three insolvency professionals in the public announcement to act as the authorised representative of creditors in each class. A creditor in a class may indicate its choice of an insolvency professional, from amongst the three choices provided by the interim resolution professional, to act as its authorised representative. The insolvency professional, who is the choice of the highest number of creditors in the class, shall be appointed as the authorised representative of the creditors of the respective class.

b. An application for withdrawal of an application admitted under section 7, 9 or 10 of the Code (for closure of corporate insolvency resolution process) may be submitted to the interim resolution professional or the resolution professional, as the case may be, before issue of invitation for expression of interest, along with a bank guarantee towards estimated cost incurred for certain purposes under the process. The committee of creditors (CoC) shall consider the application within seven days of its constitution or seven days of receipt of the application, whichever is later. If the application is approved by the CoC with 90% voting share, the resolution professional shall submit the application to the Adjudicating Authority on behalf of the applicant, within three days of such approval.

c. Where rate of interest has not been agreed to between the parties in case of creditors in a class, the voting share of such a creditor shall be in proportion to the financial debt that includes an interest at the rate of eight per cent per annum.

d. Where the appointment of resolution professional is delayed, the interim resolution professional shall perform the functions of the resolution professional from the fortieth day of the insolvency commencement date till a resolution professional is appointed.

e. A meeting of the CoC shall be called by giving not less than five days' notice in writing to every participant. The CoC may, however, reduce the notice period from five days to such other period of not less than forty-eight hours where there is any authorised representative and to twenty-four hours in all other cases. The authorised representative shall circulate the agenda to creditors in a class and announce the voting window at least twenty-four hours before the window opens for voting instructions and keep the voting window open for at least twelve hours.

f. The resolution professional shall form an opinion whether the corporate debtor has been subjected to certain transactions (preferential transactions, undervalued transactions, extortionate transactions or fraudulent transactions) by 75th day and make a determination of the same by 115th day of the insolvency commencement date. Where the resolution professional makes such a determination, he shall apply to the Adjudicating Authority for appropriate relief before 135th day of the insolvency commencement date.

g. The resolution professional shall publish an invitation for expression of interest (EoI) by the 75th day from the insolvency commencement date. The invitation shall specify the criteria, ineligibility, the last date for submission of EoI and other details and shall not require payment of non-refundable deposit. Any EoI received after the specified time shall be rejected. The resolution professional shall conduct due diligence based on material on record and issue a provisional list of prospective resolution applicants within 10 days of the last date of submission of EoI. On considering objections to the provisional list, the resolution professional shall issue the final list of prospective resolution applicants, within 10 days of the last date for receipt of objections.

h. The resolution professional shall issue the information memorandum, the evaluation matrix and the request for resolution plans (RFRP), within five days of issue of the provisional list to the prospective resolution applicants and allow at least 30 days for submission of resolution plans. The RFRP shall detail each step in the process, and the manner and purposes of interaction between the resolution professional and the prospective resolution applicant, along with corresponding timelines. The resolution plan needs to demonstrate that (a) it addresses the cause of default; (b) it is feasible and viable; (c) it has provisions for its effective implementation; (d) it has provisions for approvals required and the timeline for the same; and (e) the resolution applicant has the capability to implement the resolution plan. The CoC shall evaluate the resolution plan strictly as per the evaluation matrix to identify the best resolution plan and may approve it with the required majority. If approved by the CoC, the resolution professional shall endeavour to submit the resolution plan approved by the CoC to the Adjudicating Authority at least fifteen days before the maximum period for completion of corporate insolvency resolution process, along with a compliance certificate in the specified Form.

3. The regulations provide for a model timeline of the corporate insolvency resolution process assuming that the interim resolution professional is appointed on the date of commencement of the process and the time available is hundred and eighty days, as under:

Section / Regulation	Description of Activity	Norm	Timeline
Section 16(1)	Commencement of CIRP and appointment of IRP	T
Regulation 6(1)	Public announcement inviting claims	Within 3 Days of Appointment of IRP	T+3
Section 15(1)(c) / Regulations 6(2)(c) and 12(1)	Submission of claims	For 14 Days from Appointment of IRP	T+14
Regulation 12(2)	Submission of claims	Up to 90 th day of commencement	T+90

Regulation 13(1)	Verification of claims received under regulation 12(1)	Within 7 days from the receipt of the claim	T+21
Regulation 13(2)	Verification of claims received under regulation 12(2)		T+97
Section 21(6A)(b) / Regulation 16A	Application for appointment of AR	Within 2 days from verification of claims received under regulation 12(1)	T+23
Regulation 17(1)	Report certifying constitution of CoC		T+23
Section 22(1) / Regulation 19(1)	1 st meeting of the CoC	Within 7 days of the constitution of the CoC, but with seven days' notice	T+30
Section 22(2)	Resolution to appoint RP by the CoC	In the first meeting of the CoC	T+30
Section 16(5)	Appointment of RP	On approval by the AA
Regulation 17(3)	IRP performs the functions of RP till the RP is appointed.	If RP is not appointed by 40 th day of commencement	T+40
Regulation 27	Appointment of valuer	Within 7 days of appointment of RP, but not later than 40 th day of commencement	T+47
Section 12(A) / Regulation 30A	Submission of application for withdrawal of application admitted	Before issue of EoI	W
	CoC to dispose of the application	Within 7 days of its receipt or 7 days of constitution of CoC, whichever is later.	W+7
	Filing application of withdrawal, if approved by CoC with 90% majority voting, by RP to AA	Within 3 days of approval by CoC	W+10
Regulation 35A	RP to form an opinion on preferential and other transactions	Within 75 days of the commencement	T+75
	RP to make a determination on preferential and other transactions	Within 115 days of commencement	T+115
	RP to file applications to AA for appropriate relief	Within 135 days of commencement	T+135
Regulation 36(1)	Submission of IM to CoC	Within 2 weeks of appointment of RP, but not later than 54 th day of commencement	T+54
Regulation 36A	Publish Form G	Within 75 days of commencement	T+75
	Invitation of EoI		
	Submission of EoI	At least 15 days from issue of EoI (Assume 15 days)	T+90

	Provisional List of RAs by RP	Within 10 days from the last day of receipt of EoI	T+100
	Submission of objections to provisional list	For 5 days from the date of provisional list	T+105
	Final List of RAs by RP	Within 10 days of the receipt of objections	T+115
Regulation 36B	Issue of RFRP, including Evaluation Matrix and IM	Within 5 days of the issue of the provisional list	T+105
	Receipt of Resolution Plans	At least 30 days from issue of RFRP (Assume 30 days)	T+135
Regulation 39(4)	Submission of CoC approved Resolution Plan to AA	As soon as approved by the CoC	T+165
Section 31(1)	Approval of resolution plan by AA		T=180

AA: Adjudicating Authority; AR: Authorised Representative; CIRP: Corporate Insolvency Resolution Process; CoC: Committee of Creditors; EoI: Expression of Interest; IM: Information Memorandum; IRP: Interim Resolution Professional; RA: Resolution Applicant; RP: Resolution Professional; RFRP: Request for Resolution Plan.
