

**GAZETTE OF INDIA
EXTRAORDINARY
PART III, SECTION 4
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**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
NOTIFICATION**

New Delhi, the 22nd October, 2018

No. IBBI/2018-19/GN/REG038- In exercise of the powers conferred by clause (s) of sub-section (1) of section 196 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, namely:-

CHAPTER I

PRELIMINARY

1. Short title and commencement.

- (1) These regulations may be called the Insolvency and Bankruptcy Board of India (Mechanism for Issuing Regulations) Regulations, 2018.
- (2) Save as otherwise provided, these regulations shall come into force on the date of their publication in the Official Gazette.
- (3) These regulations shall not apply to regulations made by the Board in respect of organizational matters.

2. Definitions.

- (1) In these regulations, unless the context otherwise requires,-
 - (a) “Advisory Committee” means an advisory committee constituted by the Board under section 197 of the Code;
 - (b) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016); and
 - (c) “Governing Board” means the Board of Members constituted under sub-section (1) of section 189 of the Code.
- (2) Words and expressions used and not defined in these regulations but defined in the Code shall have the meanings respectively assigned to them in the Code.

CHAPTER II

MAKING OF REGULATIONS

3. Making regulations.

The Board may make regulations to carry out the provisions of the Code in compliance with regulations 4 and 5.

4. Public Consultation.

(1) For the purpose of making regulations, the Board shall upload the following, with the approval of the Governing Board, on its website seeking comments from the public-

- (a) draft of proposed regulations;
- (b) the specific provision of the Code under which the Board proposes regulations;
- (c) a statement of the problem that the proposed regulation seeks to address;
- (d) an economic analysis of the proposed regulations under regulation 5;
- (e) a statement carrying norms advocated by international standard setting agencies and the international best practices, if any, relevant to the proposed regulation;
- (f) the manner of implementation of the proposed regulations; and
- (g) the manner, process and timelines for receiving comments from the public.

(2) The Board shall allow at least twenty one days for public to submit their comments.

(3) The Board shall consider the public comments received and upload the same on its website along with a general statement of its response on the comments, not later than the date of notification of regulations.

(4) If the Governing Board decides to approve regulations in a form substantially different from the proposed regulations, it shall repeat the process under this regulation.

(5) The regulations shall be notified promptly after it is approved by the Governing Board and the date of their enforcement shall ordinarily be after thirty days from the date of notification unless a different date is specified therein.

(6) Without prejudice to provisions in this regulation, the Board may consult stakeholders and advisory committees, as it may consider appropriate for making regulations.

5. Economic Analysis.

(1) The Board shall cause an economic analysis of the proposed regulations to be made.

(2) The economic analysis shall cover the following:-

- (a) expected costs to be incurred by, and the benefits that will accrue to, the society, economy, stakeholders and the Board, both directly and indirectly on account of the proposed regulation; and
- (b) how the proposed regulations further strengthen the objectives of the Code.

CHAPTER III

AMENDMENT AND REVIEW OF REGULATIONS

6. Amendment of Regulations.

An amendment to any regulations shall be made in compliance with the provisions of regulations 4 and 5.

7. Review of Regulations.

The Board shall review each regulation every three years unless a review is warranted earlier and amend or repeal any regulation, keeping in view-

- (a) its objectives;
- (b) its outcome;
- (c) experience of its implementation;
- (d) experience of its enforcement and the related litigation;
- (e) global best practices, if any;
- (f) its relevance in the changed environment; and
- (g) any other factor considered relevant by the Board.

CHAPTER IV

MISCELLANEOUS

8. Urgent regulations.

Where the Board is of the opinion that certain regulations are required to be made or existing regulations are required to be amended urgently, it may make regulations or amend the existing regulations, as the case may be, with the approval of Governing Board, without following the provisions of regulations 4 and 5.

9. Guidance on law.

The Board may provide for a scheme for general or specific clarification or guidance on the provisions of regulations made by it either on a request by a person or on its own, subject to the condition that such clarification or guidance shall not be construed as determination of any question of fact or law.

(Dr. M. S. Sahoo)
Chairperson
Insolvency and Bankruptcy Board of India