

**THE GAZETTE OF INDIA
EXTRAORDINARY
PART III, SECTION 4
PUBLISHED BY AUTHORITY
NEW DELHI, TUESDAY, 6th FEBRUARY, 2018**

**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
NOTIFICATION**

New Delhi, the 6th February, 2018

**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY
RESOLUTION PROCESS FOR CORPORATE PERSONS) (AMENDMENT)
REGULATIONS, 2018**

No. IBBI/2017-18/GN/REG024— In exercise of the powers conferred by clause (t) of subsection (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 to amend the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, namely:-

1. (1) These regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2018.

(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 (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as the principal regulations), in sub-regulation (1) of regulation (2),-

(i) after clause (h), the following clauses shall be inserted, namely:-

“(ha) “evaluation matrix” means such parameters to be applied and the manner of applying such parameters, as approved by the committee, for consideration of resolution plans for its approval;

(hb) “fair value” means the estimated realizable value of the assets of the corporate debtor, if they were to be exchanged on the insolvency commencement date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing and where the parties had acted knowledgeably, prudently and without compulsion;”

(ii) for clause (k), the following clause shall be substituted, namely:-

“(k) “liquidation value” means the estimated realizable value of the assets of the corporate debtor, if the corporate debtor were to be liquidated on the insolvency commencement date.”.

3. In the principal regulations, for regulation 27, the following regulation shall be substituted, namely:-

“27. Appointment of registered valuers. - The resolution professional shall within seven days of his appointment, appoint two registered valuers to determine the fair value and the liquidation value of the corporate debtor in accordance with regulation 35:

Provided that the following persons shall not be appointed as registered valuers, namely:

- (a) a relative of the resolution professional;
- (b) a related party of the corporate debtor;
- (c) an auditor of the corporate debtor at any time during the five years preceding the insolvency commencement date; or
- (d) a partner or director of the insolvency professional entity of which the resolution professional is a partner or director.”

4. In the principal regulations, for regulation 35, the following regulation shall be substituted, namely:-

“35. Fair value and Liquidation value.

- (1) Fair value and liquidation value shall be determined in the following manner:-
 - (a) the two registered valuers appointed under regulation 27 shall submit to the resolution professional an estimate of the fair value and of the liquidation value computed in accordance with internationally accepted valuation standards, after physical verification of the inventory and fixed assets of the corporate debtor;
 - (b) if in the opinion of the resolution professional, the two estimates of a value are significantly different, he may appoint another registered valuer who shall submit an estimate of the value computed in the same manner; and
 - (c) the average of the two closest estimates of a value shall be considered the fair value or the liquidation value, as the case may be.
- (2) After the receipt of resolution plans in accordance with the Code and these regulations, the resolution professional shall provide the fair value and the liquidation value to every member of the committee in electronic form, on receiving an undertaking from the member to the effect that such member shall maintain confidentiality of the fair value and the liquidation value and shall not use such values to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29:
- (3) The resolution professional and registered valuers shall maintain confidentiality of the fair value and the liquidation value.”.

5. In the principal regulations, for sub-regulation (1) of regulation 36, the following sub-regulation shall be substituted, namely: -

“(1) Subject to sub-regulation (4), the resolution professional shall submit the information memorandum in electronic form to-

- (a) each member of the committee within two weeks of his appointment as resolution professional; and
- (b) to each prospective resolution applicant latest by the date of invitation of resolution plan under clause (h) of sub-section (2) of section 25 of the Code.”

6. In the principal regulations, for clause (a) of sub-regulation (2) of regulation 36, the following clause shall be substituted, namely: -

“(a) assets and liabilities with such description, as on the insolvency commencement date, as are generally necessary for ascertaining their values.

Explanation: ‘Description’ includes the details such as date of acquisition, cost of acquisition, remaining useful life, identification number, depreciation charged, book value, and any other relevant details.”.

7. In the principal regulations, for sub-regulation (4) of regulation 36, the following sub-regulation shall be substituted, namely:-

“(4) The resolution professional shall share the information memorandum after receiving an undertaking from a member of the committee or a prospective resolution applicant to the effect that such member or resolution applicant shall maintain confidentiality of the information and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29.”

8. In the principal regulations, after regulation 36, the following shall be inserted, namely: -

“36A. Invitation of Resolution Plans

(1) The resolution professional shall issue an invitation , including evaluation matrix, to the prospective resolution applicants in accordance with clause (h) of sub-section (2) of section 25, to submit resolution plans at least thirty days before the last date of submission of resolution plans.

(2) Where the invitation does not contain the evaluation matrix, the resolution professional shall issue, with the approval of the committee, the evaluation matrix to the prospective resolution applicants at least fifteen days before the last date for submission of resolution plans.

(3) The resolution professional may modify the invitation, the evaluation matrix or both with the approval of the committee within the timelines given under sub-regulation (1) or sub-regulation (2), as the case may be.

(4) The timelines specified under this regulation shall not apply to an ongoing corporate insolvency resolution process-

(a) where a period of less than thirty-seven days is left for submission of resolution plans under sub-regulation (1);

(b) where a period of less than eighteen days is left for submission of resolution plans under sub-regulation (2).

(5) The resolution professional shall publish brief particulars of the invitation in Form G of the Schedule:

(a) on the website, if any, of the corporate debtor; and

(b) on the website, if any, designated by the Board for the purpose.”

9. In the principal regulations, for regulation 37, the following regulation shall be substituted, namely: -

“37. Resolution Plan. - A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximization of value of its assets, including but not limited to the following:-

- (a) transfer of all or part of the assets of the corporate debtor to one or more persons;
- (b) sale of all or part of the assets whether subject to any security interest or not;
- (c) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;
- (d) satisfaction or modification of any security interest;
- (e) curing or waiving of any breach of the terms of any debt due from the corporate debtor;
- (f) reduction in the amount payable to the creditors;
- (g) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;
- (h) amendment of the constitutional documents of the corporate debtor;
- (i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;
- (j) change in portfolio of goods or services produced or rendered by the corporate debtor;
- (k) change in technology used by the corporate debtor; and
- (l) obtaining necessary approvals from the Central and State Governments and other authorities.”

10. In the principal regulations, after sub-regulation (3) of regulation 39, the following sub-regulation (3A) shall be inserted, namely: -

“(3A) The committee shall, while approving the resolution plan under sub-section (4) of section (30), specify the amounts payable from resources under the resolution plan for the purposes under sub-regulation (1) of regulation 38.”

11. In the principal regulations, for sub-regulation (4) of regulation 39, the following sub-regulation (4) shall be substituted, namely: -

“(4) The resolution professional shall submit the resolution plan approved by the committee to the Adjudicating Authority, at least fifteen days before the expiry of the maximum period permitted under section 12 for the completion of the corporate insolvency resolution process, with the certification that-

- (a) the contents of the resolution plan meet all the requirements of the Code and the Regulations; and

- (b) the resolution plan has been approved by the committee:

Provided that the timeline specified in this sub-regulation shall not apply to an ongoing corporate insolvency resolution process which has completed 130th day from its commencement date.”

12. In the principal regulations, after Form F, the following Form shall be inserted, namely:-

“Form G
 Invitation of Resolution Plans
 (Under sub-regulation (5) of regulation 36A of the Insolvency and Bankruptcy Board of India
 (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

**FOR THE ATTENTION OF THE PROSPECTIVE RESOLUTION APPLICANTS OF
 (Name of Corporate Debtor)**

Sl. No.	Particulars	
1	NAME OF CORPORATE DEBTOR	
2	DATE OF INCORPORATION OF CORPORATE DEBTOR	
3	AUTHORITY UNDER WHICH CORPORATE DEBTOR IS INCORPORATED / REGISTERED	
4	CORPORATE IDENTITY NUMBER / LIMITED LIABILITY IDENTIFICATION NUMBER OF CORPORATE DEBTOR	
5	ADDRESS OF THE REGISTERED OFFICE AND PRINCIPAL OFFICE (IF ANY) OF CORPORATE DEBTOR	
6	INSOLVENCY COMMENCEMENT DATE IN RESPECT OF CORPORATE DEBTOR	
7	ESTIMATED DATE OF CLOSURE OF INSOLVENCY RESOLUTION PROCESS	
8	DATE OF ISSUE OF INFORMATION MEMORANDUM	
9	MANNER OF OBTAINING THE INFORMATION MEMORANDUM BY THE PROSPECTIVE RESOLUTION APPLICANTS	
10	DATE OF ISSUE OF INVITATION FOR RESOLUTION PLANS	
11	MANNER OF OBTAINING THE INVITATION BY THE PROSPECTIVE RESOLUTION APPLICANTS	
12	DATE OF ISSUE OF EVALUATION MATRIX	
13	MANNER OF OBTAINING THE EVALUATION MATRIX BY THE PROSPECTIVE RESOLUTION APPLICANTS	
14	LAST DATE FOR SUBMISSION OF RESOLUTION PLANS	
15	MANNER OF SUBMITTING RESOLUTION PLANS BY A PROSPECTIVE RESOLUTION APPLICANT	
16	NAME, ADDRESS AND EMAIL OF THE RESOLUTION PROFESSIONAL, AS REGISTERED WITH THE BOARD	
17	ADDRESS AND EMAIL, IF ANY, OTHER THAN GIVEN AT SL. NO. 16 TO BE USED FOR CORRESPONDENCE WITH THE RESOLUTION PROFESSIONAL	
18	REGISTRATION NUMBER OF RESOLUTION PROFESSIONAL, AS GRANTED BY THE BOARD	

Signature of Resolution Professional
 For(Name of Corporate Debtor)
 Date and Place....”

(Dr. M. S. Sahoo)
 Chairperson
 [ADVT.-_____]

Note: The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 were published in the Gazette of India Extraordinary vide notification No. IBBI/2016-17/GN/REG004 on 30th November, 2016 and was subsequently amended by—

- 1) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2017 vide notification No. IBBI/2017-18/GN/REG013, dated the 16th August, 2017;
- 2) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2017 vide notification No. IBBI/2017-18/GN/REG018, dated the 5th October, 2017;
- 3) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2017 vide notification No. IBBI/2017-18/GN/REG019, dated the 7th November, 2017; and
- 4) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2017 vide notification No. IBBI/2017-18/GN/REG022, dated the 31st December, 2017.