



IBBI AMENDMENTS TO THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016.

This note delves into the recent amendments made by the Insolvency and Bankruptcy Board of India (IBBI) to the (Insolvency Resolution Process for Corporate Persons Regulations), 2016 notified on 15.02.2024. This note analyses the impact of these amendments on the efficiency of corporate insolvency resolution process for corporate persons and the benefits ensued on the Committee of Creditors

• Segregation of bank accounts

Insertion of regulation 4D to the Insolvency Resolution Process for Corporate Persons Regulations, 2016: Where the corporate debtor is associated with real estate project, the Interim Resolution Professional or the Resolution Professional whichever the case may be shall form a separate bank account for each real estate project. This insertion aligns with the Real Estate Regulatory Authority (RERA) provision for maintaining separate bank accounts for each project to ensure transparency in the project. The sole object of the inserting this regulation is to align with the RERA regulation of operating a separate bank account would record all receipts and payments of the individual project and help in collating information about a real-estate project which can be useful for inviting separate resolution plans.

• Voting Procedure

Amendment to regulation 25(5)(b): The amendment to the provision regarding the opening of the electronic voting window introduces a more flexible and controlled approach. The CoC is now empowered to determine the period for opening the voting window, ranging from a minimum of 24h to a maximum of 7 days. It streamlines the voting process by introducing a maximum extension of 24h if the matters listed for voting have already received the requisite majority vote. This provision ensures that the RP provides one last opportunity to seek a vote of the members who did not vote at the meeting on the matters listed for voting earlier.

• Disclosure of Valuation Methodology and approval of insolvency resolution professional cost

Insertion of proviso to regulation 35(1)(a) : The RP shall facilitate a meeting between the registered valuers and the CoC wherein the valuers will explain the methodology adopted to arrive at the valuation to the CoC before computation of the estimates. This ensures transparency and reduction of disputes over valuation related issues thus enabling them to take informed decision. Initially, the CoC had a limited grasp of crucial valuation concepts such as fair value and liquidation value, which restricted their decision making regarding the eligibility criteria for the Prospective Resolution Applicant.

Insertion of regulation 31B: RP to seek approval of all the insolvency resolution process cost which shall now include the cost/expenditure incurred in running the business of corporate debtor as a going concern. This insertion aims to streamline the process and enhance monitoring of the CoC on the CIRP process.

• Mandatory Committee of Creditors Meeting

Amendment to Regulation 18 sub-regulation (1): The RP is mandated to convene a meeting of the CoC before the lapse of 30 days from the last meeting. However, if the CoC thinks fit, the interval between each meeting can be extended with the condition that at least one meeting is to be held every 3 months(quarter). This amendment ensures timely oversight of the CoC in the insolvency proceedings ,platform for addressing emerging concerns and to foster collaborative spirit among all stakeholders thus reducing the prolonged gaps between each meeting which would have otherwise resulted in delayed decisions.



- **Invitation of separate Resolution Plans for different real-estate projects of the Corporate Debtor**

Clarification inserted in regulation 36A: This amendment allows the CoC to direct the Resolution Professional (RP) to invite separate resolution plan for each real estate project or group of projects of the corporate debtor. The amendment is made to enhance flexibility and competition in the resolution process. It allows resolution applicants to express interest in specific real estate projects rather than mandating investment in the entire portfolio, which requires huge capital. This flexibility aims to attract a wider range of bidders, potentially maximizing the overall value generated in the resolution process.

Our Comment:

The latest amendment by the IBBI is intended to improve the insolvency resolution process by encouraging responsibility, efficiency, and transparency. A more efficient and productive framework is achieved by the implementation of separate bank accounts for real estate projects, mandated Committee of Creditors meetings, resolution plans tailored to individual real estate projects, transparent valuation processes, and an adaptable voting process. These amendments are in line with the goals of lowering the possibility of financial misconduct, protecting the interests of creditors, ensuring that creditors have the opportunity to participate in crucial decisions and guaranteeing prompt and informed decision-making during bankruptcy procedures.

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