

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) (Fourth Amendment) Regulations, 2018 today.

2. The Regulations earlier required the resolution professional to circulate the minutes of the meeting by electronic means to all members of the committee of creditors within forty-eight hours of the conclusion of the meeting and to seek a vote of the members who did not vote at the meeting. The amendment now requires the resolution professional to circulate the minutes of the meeting by electronic means to authorized representative(s) also. It further requires the authorized representative to circulate the minutes of the meeting received from the resolution professional to the financial creditors in a class. He shall 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. He shall exercise the votes either by electronic means or through electronic voting system as per the voting instructions received by him from the financial creditors in the class pursuant to circulation of the minutes. This will enable a financial creditor in a class, who could not vote on a matter before the meeting, to vote after minutes of the meeting are circulated.

3. The Regulations earlier provided payment of liquidation value to operational creditors and dissenting financial creditors in priority. The amendment has substituted the said regulations to provide that the amount due to operational creditors under the resolution plan shall be paid in priority over financial creditors. Consequently, reference to dissenting financial creditors has been deleted from the Regulations.

4. The regulations mandate the resolution professional to preserve the physical and electronic copy of the records relating to insolvency resolution process of the corporate debtor as per the record retention schedule.

5. The amendment Regulations are effective from **5th October, 2018**.

Legal content of the amendment as under:[\(see amended CIRP regulations-click here\)](#)

**THE GAZETTE OF INDIA
EXTRAORDINARY
PART III, SECTION 4
PUBLISHED BY AUTHORITY
NEW DELHI, FRIDAY, 5th OCTOBER, 2018
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
NOTIFICATION**

New Delhi, the 5th October, 2018

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

No. IBBI/2018-19/GN/REG032.- In exercise of the powers conferred by clause (t) 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 further 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) (Fourth 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 regulation 2, in sub-regulation (1), clause (f) shall be omitted.

3. In the principal regulations, in regulation 21, for sub-regulation (3), following sub-regulation shall be substituted, namely: -

“(3) The notice of the meeting shall contain the following-

(i) a list of the matters to be discussed at the meeting;

(ii) a list of the issues to be voted upon at the meeting; and

(iii) copies of all documents relevant to the matters to be discussed and the issues to be voted upon at the meeting.”.

4. In the principal regulations, in regulation 25, for sub-regulation (5), the following sub-regulations shall be substituted, namely: -

“(5) The resolution professional shall-

(a) circulate the minutes of the meeting by electronic means to all members of the committee and the authorised representative, if any, within forty-eight hours of the conclusion of the meeting; and

(b) seek a vote of the members who did not vote at the meeting on the matters listed for voting, by electronic voting system in accordance with regulation 26 where the voting shall be kept open for at least twenty-four hours from the circulation of the minutes.

(6) The authorised representative shall circulate the minutes of the meeting received under sub-regulation (5) 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.”.

5. In the principal regulations, in regulation 26, after sub-regulation (1), the following sub-regulation shall be inserted, namely: -

“(1A) The authorised representative shall exercise the votes either by electronic means or through electronic voting system as per the voting instructions received by him from the creditors in the class pursuant to sub-regulation (6) of regulation 25.”.

6. In the principal regulations, in regulation 38, for sub-regulation (1), the following sub-regulation shall be substituted, namely: -

“(1) The amount due to the operational creditors under a resolution plan shall be given priority in payment over financial creditors.”.

7. In the principal regulations, in regulation 39, -

- (a) in sub-regulation (1), clause (b) shall be omitted;
- (b) sub-regulation (3A) shall be omitted;

8. In the principal regulations, after regulation 39, the following regulation shall be inserted, namely: -

“39A. Preservation of records.-The interim resolution professional or the resolution professional, as the case may be, shall preserve a physical as well as an electronic copy of the records relating to corporate insolvency resolution process of the corporate debtor as per the record retention schedule as may be communicated by the Board in consultation with Insolvency Professional Agencies.”.

(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/REG18, 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;
- (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;
- (5) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2018 vide notification No. IBBI/2017-18/GN/REG024, dated the 6th February, 2018; and
- (6) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2018 vide notification No. IBBI/2017-18/GN/REG030, dated the 27th March, 2018.

(7) The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2018 vide notification No. IBBI/2018-19/GN/REG031, dated the 3rd July, 2018.

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