

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

The Insolvency and Bankruptcy Board of India (IBBI) notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2020 today.

The Insolvency and Bankruptcy Code, 2016 (Code) envisages appointment of an authorised representative (AR) by the Adjudicating Authority to represent financial creditors in a class, like allottees under a real estate project, in the committee of creditors. For this purpose, the Regulations require the interim resolution professional to offer a choice of three Insolvency Professionals (IP) in the public announcement, and the creditors in a class to choose one of them to act as their authorised representative. The amendment made to the Regulations today provides that the three IPs offered by the interim resolution professional must be from the State or Union Territory, which has the highest number of creditors in the class as per records of the corporate debtor. This will facilitate ease of coordination and communication between the AR and the creditors in the class he represents.

3. The Regulations currently envisage that the authorised representative shall seek voting instructions from creditors in a class at two stages, namely, (i) before the meeting; and (ii) after circulation of minutes of meeting. The amendment made to the Regulations today provides that the authorised representative shall seek voting instructions only after circulation of minutes of meeting and vote accordingly. He shall, however, circulate the agenda, and may seek preliminary views of creditors in the class before the meeting, to enable him to effectively participate in the meeting.

4. The Regulations provide that the committee of creditors shall evaluate all compliant resolution plans as per evaluation matrix to identify the best of them and may approve it. The amendment made to the Regulations today provides that after evaluation of all compliant resolution plans as per evaluation matrix, the committee of creditors shall vote on all compliant resolution plans simultaneously. The resolution plan, which receives the highest votes, but not less than sixty-six percent of voting share, shall be considered as approved.

[Updated Regulations available here.](#)

Original text of the regulation:

**GAZETTE OF INDIA
EXTRAORDINARY
PART III, SECTION 4
PUBLISHED BY AUTHORITY
NEW DELHI, WEDNESDAY, AUGUST 7, 2020**

**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
NOTIFICATION**

New Delhi, the 7th August, 2020

**Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons)
(Fourth Amendment) Regulations, 2020.**

No. IBBI/2020-21/GN/REG064.- 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 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, 2020.

(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 4A, in sub-regulation (2), after clause (a), the following clause shall be inserted, namely: -

“(aa) having their addresses, as registered with the Board, in the State or Union Territory, as the case may be, which has the highest number of creditors in the class as per their addresses in the records of the corporate debtor:

Provided that where such State or Union Territory does not have adequate number of insolvency professionals, the insolvency professionals having addresses in a nearby State or Union Territory, as the case may be, shall be considered.”.

3. In the principal regulations, in regulation 16A, for sub-regulation (9), the following subregulation shall be substituted, namely: -

“(9) The authorised representative shall circulate the agenda to creditors in a class, and may seek their preliminary views on any item in the agenda to enable him to effectively participate in the meeting of the committee:

Provided that creditors shall have a time window of at least twelve hours to submit their preliminary views, and the said window opens at least twenty-four hours after the authorised representative seeks preliminary views:

Provided further that such preliminary views shall not be considered as voting instructions by the creditors.”.

4. In the principal regulations, in regulation 39, for sub-regulation (3), the following subregulations shall be substituted, namely: -

“(3) The committee shall-

- (a) evaluate the resolution plans received under sub-regulation (2) as per evaluation matrix;
 (b) record its deliberations on the feasibility and viability of each resolution plan; and
 (c) vote on all such resolution plans simultaneously.

(3A) Where only one resolution plan is put to vote, it shall be considered approved if it receives requisite votes.

(3B) Where two or more resolution plans are put to vote simultaneously, the resolution plan, which receives the highest votes, but not less than requisite votes, shall be considered as approved:

Provided that where two or more resolution plans receive equal votes, but not less than requisite votes, the committee shall approve any one of them, as per the tie-breaker formula announced before voting:

Provided further that where none of the resolution plans receives requisite votes, the committee shall again vote on the resolution plan that received the highest votes, subject to the timelines under the Code.

Illustration. - The committee is voting on two resolution plans, namely, A and B, simultaneously. The voting outcome is as under:

Voting outcome	% of votes in favour of		Status of approval
	Plan A	Plan B	
1	55	60	No Plan is approved, as neither of the Plans received requisite votes. The committee shall vote again on Plan B, which received the higher votes, subject to the timelines under the Code.
2	60	75	Plan B is approved, as it received higher votes, which is not less than requisite votes.
3	75	75	The committee shall approve either Plan A or Plan B, as per the tie-breaker formula announced before voting.”

Dr. M. S. SAHOO
 Chairperson
 [ADVT.- _____]

Note: The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 were published vide notification No. IBBI/2016-17/GN/REG004, dated 30th November, 2016 in the Gazette of India, Extraordinary, Part III, Section 4, No. 432 on 30th November, 2016 and were last amended by the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2020 published vide notification No. IBBI/2020-21/GN/REG059, dated the 20th April, 2020 in the Gazette of India, Extraordinary, Part III, Section 4, No. 156 on 24th April, 2020.