

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

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The Insolvency and Bankruptcy Board of India (IBBI) notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2016 on 14th July, 2021.

The amendment regulations enhance the discipline, transparency, and accountability in corporate insolvency proceedings:

- a. A corporate debtor (CD) may have changed its name or registered office address prior to commencement of insolvency. The stakeholders may find it difficult to relate to the new name or registered office address and consequently fail to participate in the CIRP. The amendment requires an insolvency professional (IP) conducting CIRP to disclose all former names and registered office address(es) so changed in the two years preceding the commencement of insolvency along with the current name and registered office address of the CD, in all its communications and records.
- b. The interim resolution professional (IRP) or resolution professional (RP) may appoint any professional, including registered valuers, to assist him in discharge of his duties in conduct of the CIRP. The amendment provides that the IRP/RP may appoint a professional, other than registered valuers, if he is of the opinion that the services of such professional are required and such services are not available with the CD. Such appointments shall be made on an arm's length basis following an objective and transparent process. The invoice for fee shall be raised in the name of the professional and be paid into his bank account.
- c. The RP is duty bound to find out if a CD has been subject to avoidance transactions, namely, preferential transactions, undervalued transactions, extortionate credit transactions, fraudulent trading and wrongful trading, and file applications with the Adjudicating Authority seeking appropriate relief. This not only claws back the value lost in such transactions increasing the possibility of reorganisation of the CD through a resolution plan, but also disincentivises such transactions preventing stress to the CD. For effective monitoring, the amendment requires the RP to file Form CIRP 8 on the electronic platform of the Board, intimating details of his opinion and determination in respect of avoidance transactions. **The IBBI has specified the format of CIRP 8 through a Circular issued yesterday.** This Form needs to be filed in respect of every CIRP ongoing or commencing on or after 14th July, 2021.

The amended regulations are effective from 14th July, 2021. These are available at www.mca.gov.in and www.ibbi.gov.in.

RM/MV/KMN

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