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INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

NOTIFICATION

New Delhi, 14th July, 2021

Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2021.

No. IBBI/2021-22/GN/REG075.- 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) (Second Amendment) Regulations, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

(3) They shall apply to every corporate insolvency resolution process ongoing or commencing on or after the date of coming into force of these regulations.
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 3,-
 - (i) in sub-regulation (1), for the words “a resolution professional”, the words “an interim resolution professional or a resolution professional, as the case may be,” shall be substituted;
 - (ii) in sub-regulation (2), for the words “a resolution professional”, the words “an interim resolution professional or a resolution professional, as the case may be,” shall be substituted;
 - (iii) for sub-regulation (3), the following sub-regulation shall be substituted, namely:-

“(3) An interim resolution professional or a resolution professional, who is a director or a partner of an insolvency professional entity, shall not continue as the interim resolution professional or resolution professional, as the case may be, in a corporate insolvency resolution process, if the insolvency professional entity or any other partner or director of such insolvency professional entity represents any other stakeholder in that corporate insolvency resolution process.”.

3. In the principal regulations, in regulation 4, for the words “interim resolution professional”, the words “interim resolution professional or the resolution professional, as the case may be,” shall be substituted.
4. In the principal regulations, in regulation 4A, in sub-regulation (2), in clause (b), for the words “insolvency professionals”, the words “resolution professional” shall be substituted.
5. In the principal regulations, after regulation 4A, the following regulation shall be inserted, namely:-

“4B. Disclosure of change in name and address of corporate debtor.

Where a corporate debtor has changed its name or registered office address during the period of two years preceding the insolvency commencement date, the interim resolution professional or resolution professional, as the case may be, shall disclose all the former name(s) and registered office address(es) so changed along with the current name and registered office address in every communication, record, proceeding or any other document.”

6. In the principal regulations, in regulation 9A, in sub-regulation (1), for the word and figures “regulation 7, 8 or 9,”, the word and figures “regulation 7, 8, 8A or 9,” shall be substituted.
7. In the principal regulations, in regulation 13, in sub-regulation (2), in clause (b), after the words “corporate debtor”, the words “or their authorised representatives” shall be inserted.
8. In the principal regulations, in regulation 19, in sub-regulation (1), for the words “the resolution professional”, the words “the interim resolution professional or the resolution professional, as the case may be,” shall be substituted.
9. In the principal regulations, for regulation 27, the following regulation shall be substituted, namely:-

“27. Appointment of Professionals.

(1) The resolution professional shall, within seven days of his appointment but not later than forty-seventh day from the insolvency commencement date, appoint two registered valuers to determine the fair value and the liquidation value of the corporate debtor in accordance with regulation 35.

(2) The interim resolution professional or the resolution professional, as the case may be, may appoint any professional, in addition to registered valuers under sub-regulation (1), to assist him in discharge of his duties in conduct of the corporate insolvency resolution process, if he is of the opinion that the services of such professional are required and such services are not available with the corporate debtor.

(3) The interim resolution professional or the resolution professional, as the case may be, shall appoint a professional under this regulation on an arm’s length basis following an objective and transparent process:

Provided that the following persons shall not be appointed, 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 period of five years preceding the insolvency commencement date;

(d) a partner or director of the insolvency professional entity of which the resolution professional is a partner or director.

(4) The invoice for fee and other expenses incurred by a professional appointed under this regulation shall be raised in the name of the professional and be paid directly into the bank account of such professional.”

10. In the principal regulations, in regulation 35A, in sub-regulation (2), the words “under intimation to the Board” shall be deleted.

11. In the principal regulations, in regulation 40B, after sub-regulation (1A), the following sub-regulation shall be inserted, namely: -

“(1B) The resolution professional shall file Form CIRP 8 intimating details of his opinion and determination under regulation 35A, on or before the one hundred and fortieth day of the insolvency commencement date:

Provided that the filing of Form CIRP 8 shall not become due unless a period of thirty days has elapsed from the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2021.”

12. In the principal regulations, in Form H,-

(i) under item 9, in the table, the entry ‘Regulation 35A’ shall be deleted.

(ii) after item 14, the following item shall be inserted, namely:-

“14A. Whether the resolution professional has, in accordance with regulation 35A,-

(a) applied to the Adjudicating Authority on or before the one hundred and thirty-fifth day of the insolvency commencement date: Yes / No

(b) filed Form CIRP 8 with the Board on or before the one hundred and fortieth day of the insolvency commencement date: Yes / No”

Dr. NAVRANG SAINI, Whole-time Member
[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) (Amendment) Regulations, 2021 published vide notification No. IBBI/2020-21/GN/REG070, dated the 15th March, 2021 in the Gazette of India, Extraordinary, Part III, Section 4, No. 98 on 15th March, 2021.