

¹[Explanation.—For the removal of doubts, it is hereby clarified that a resolution plan may include provisions for the restructuring of the corporate debtor, including by way of merger, amalgamation and demerger;]

- (27) “resolution professional”, for the purposes of this Part, means an insolvency professional appointed to conduct the corporate insolvency resolution process and includes an interim resolution professional; and
- (28) “voting share” means the share of the voting rights of a single financial creditor in the committee of creditors which is based on the proportion of the financial debt owed to such financial creditor in relation to the financial debt owed by the corporate debtor.

CHAPTER II

CORPORATE INSOLVENCY RESOLUTION PROCESS

Persons who may initiate corporate insolvency resolution process.

²⁶. Where any corporate debtor commits a default, a financial creditor, an operational creditor or the corporate debtor itself may initiate corporate insolvency resolution process in respect of such corporate debtor in the manner as provided under this Chapter.

Initiation of corporate insolvency resolution process by financial creditor.

²⁷. (1) A financial creditor either by itself or jointly with ³[other financial creditors, or any other person on behalf of the financial creditor, as may be notified by the Central Government,] may file an application for initiating corporate insolvency resolution process against a corporate debtor before the Adjudicating Authority when a default has occurred.

Explanation.—For the purposes of this sub-section, a default includes a default in respect of a financial debt owed not only to the applicant financial creditor but to any other financial creditor of the corporate debtor.

(2) The financial creditor shall make an application under sub-section (1) in such form and manner and accompanied with such fee as may be prescribed⁴.

(3) The financial creditor shall, along with the application furnish —

- (a) record of the default recorded with the information utility or such other record or evidence of default as may be specified;
- (b) the name of the resolution professional proposed to act as an interim resolution professional; and
- (c) any other information as may be specified by the Board.

1. Inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2019, with effect from a date yet to be notified.

2. Enforced with effect from 1-12-2016.

3. Substituted for “other financial creditors” by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, w.r.e.f. 6-6-2018.

4. Rules 4, 8, 9 & 10 and Form 1 and Form 2 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

(4) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3):

¹[**Provided** that if the Adjudicating Authority has not ascertained the existence of default and passed an order under sub-section (5) within such time, it shall record its reasons in writing for the same.]

(5) Where the Adjudicating Authority is satisfied that—

- (a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application; or
- (b) default has not occurred or the application under sub-section (2) is incomplete or any disciplinary proceeding is pending against the proposed resolution professional, it may, by order, reject such application:

Provided that the Adjudicating Authority shall, before rejecting the application under clause (b) of sub-section (5), give a notice to the applicant to rectify the defect in his application within seven days of receipt of such notice from the Adjudicating Authority.

(6) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (5).

(7) The Adjudicating Authority shall communicate—

- (a) the order under clause (a) of sub-section (5) to the financial creditor and the corporate debtor;
- (b) the order under clause (b) of sub-section (5) to the financial creditor,

within seven days of admission or rejection of such application, as the case may be.

Insolvency resolution by operational creditor.

²8. (1) An operational creditor may, on the occurrence of a default, deliver a demand notice of unpaid operational debtor copy of an invoice demanding payment of the amount involved in the default to the corporate debtor in such form and manner as may be prescribed³.

(2) The corporate debtor shall, within a period of ten days of the receipt of the demand notice or copy of the invoice mentioned in sub-section (1) bring to the notice of the operational creditor—

- (a) existence of a dispute, ⁴[if any, or] record of the pendency of the suit or arbitration proceedings filed before the receipt of such notice or invoice in relation to such dispute;

1. Inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2019, with effect from a date yet to be notified.

2. Enforced with effect from 1-12-2016.

3. Rule 5, Form 3 & Form 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

4. Substituted for “if any, and” by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, w.r.e.f. 6-6-2018.

- (b) the '[payment]' of unpaid operational debt—
- (i) by sending an attested copy of the record of electronic transfer of the unpaid amount from the bank account of the corporate debtor; or
 - (ii) by sending an attested copy of record that the operational creditor has encashed a cheque issued by the corporate debtor.

Explanation.—For the purposes of this section, a “demand notice” means a notice served by an operational creditor to the corporate debtor demanding '[payment]' of the operational debt in respect of which the default has occurred.

Application for initiation of corporate insolvency resolution process by operational creditor.

29. (1) After the expiry of the period of ten days from the date of delivery of the notice or invoice demanding payment under sub-section (1) of section 8, if the operational creditor does not receive payment from the corporate debtor or notice of the dispute under sub-section (2) of section 8, the operational creditor may file an application before the Adjudicating Authority for initiating a corporate insolvency resolution process.

(2) The application under sub-section (1) shall be filed in such form and manner and accompanied with such fee as may be prescribed³.

(3) The operational creditor shall, along with the application furnish—

- (a) a copy of the invoice demanding payment or demand notice delivered by the operational creditor to the corporate debtor;
- (b) an affidavit to the effect that there is no notice given by the corporate debtor relating to a dispute of the unpaid operational debt;
- (c) a copy of the certificate from the financial institutions maintaining accounts of the operational creditor confirming that there is no payment of an unpaid operational debt ⁴[by the corporate debtor, if available;]
- ⁵[(d) a copy of any record with information utility confirming that there is no payment of an unpaid operational debt by the corporate debtor, if available; and
- (e) any other proof confirming that there is no payment of an unpaid operational debt by the corporate debtor or such other information, as may be prescribed.]

1. Substituted for “repayment” by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, w.r.e.f. 6-6-2018.

2. Enforced with effect from 1-12-2016.

3. Rules 6, 8, 9 & 10 and Form 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

4. Substituted for “by the corporate debtor; and” by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, w.r.e.f. 6-6-2018.

5. Clauses (d) and (e) substituted for clause (d), *ibid*. Prior to its substitution, clause (d) read as under :

“(d) such other information as may be specified.”

(4) An operational creditor initiating a corporate insolvency resolution process under this section, may propose a resolution professional to act as an interim resolution professional.

(5) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), by an order—

- (i) admit the application and communicate such decision to the operational creditor and the corporate debtor if,—
 - (a) the application made under sub-section (2) is complete;
 - (b) there is no ¹[payment] of the unpaid operational debt;
 - (c) the invoice or notice for payment to the corporate debtor has been delivered by the operational creditor;
 - (d) no notice of dispute has been received by the operational creditor or there is no record of dispute in the information utility; and
 - (e) there is no disciplinary proceeding pending against any resolution professional proposed under sub-section (4), if any.
- (ii) reject the application and communicate such decision to the operational creditor and the corporate debtor, if—
 - (a) the application made under sub-section (2) is incomplete;
 - (b) there has been ¹[payment] of the unpaid operational debt;
 - (c) the creditor has not delivered the invoice or notice for payment to the corporate debtor;
 - (d) notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility; or
 - (e) any disciplinary proceeding is pending against any proposed resolution professional:

Provided that Adjudicating Authority, shall before rejecting an application under sub-clause (a) of clause (ii) give a notice to the applicant to rectify the defect in his application within seven days of the date of receipt of such notice from the Adjudicating Authority.

(6) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (5) of this section.

Initiation of corporate insolvency resolution process by corporate applicant.

²**10.** (1) Where a corporate debtor has committed a default, a corporate applicant thereof may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.

(2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed³.

1. Substituted for “repayment” by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, w.r.e.f. 6-6-2018.

2. Enforced with effect from 1-12-2016.

3. Rules 7, 8, 9 & 10 & Form 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

- ¹[(3) The corporate applicant shall, along with the application, furnish—
- (a) the information relating to its books of account and such other documents for such period as may be specified;
 - (b) the information relating to the resolution professional proposed to be appointed as an interim resolution professional; and
 - (c) the special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.]
- (4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order—
- (a) admit the application, if it is complete ²[and no disciplinary proceeding is pending against the proposed resolution professional]; or
 - (b) reject the application, if it is incomplete ²[or any disciplinary proceeding is pending against the proposed resolution professional]:

Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.

(5) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (4) of this section.

Persons not entitled to make application.

³11. The following persons shall not be entitled to make an application to initiate corporate insolvency resolution process under this Chapter, namely:—

- (a) a corporate debtor undergoing a corporate insolvency resolution process; or
- (b) a corporate debtor having completed corporate insolvency resolution process twelve months preceding the date of making of the application; or
- (c) a corporate debtor or a financial creditor who has violated any of the terms of resolution plan which was approved twelve months before the date of making of an application under this Chapter; or
- (d) a corporate debtor in respect of whom a liquidation order has been made.

Explanation.—For the purposes of this section, a corporate debtor includes a corporate applicant in respect of such corporate debtor.

1. Substituted by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, w.r.e.f. 6-6-2018. Prior to its substitution, sub-section (3) read as under :

“(3) The corporate applicant shall, along with the application furnish the information relating to—

- (a) its books of account and such other documents relating to such period as may be specified; and
- (b) the resolution professional proposed to be appointed as an interim resolution professional.”

2. Inserted, *ibid*.

3. Enforced with effect from 1-12-2016.

Time-limit for completion of insolvency resolution process.

¹**12.**(1) Subject to sub-section (2), the corporate insolvency resolution process shall be completed within a period of one hundred and eighty days from the date of admission of the application to initiate such process.

(2) The resolution professional shall file an application² to the Adjudicating Authority to extend the period of the corporate insolvency resolution process beyond one hundred and eighty days, if instructed to do so by a resolution passed at a meeting of the committee of creditors by a vote of ³[sixty-six] per cent of the voting shares.

(3) On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that corporate insolvency resolution process cannot be completed within one hundred and eighty days, it may by order extend the duration of such process beyond one hundred and eighty days by such further period as it thinks fit, but not exceeding ninety days:

Provided that any extension of the period of corporate insolvency resolution process under this section shall not be granted more than once:

⁴**[Provided further** that the corporate insolvency resolution process shall mandatorily be completed within a period of three hundred and thirty days from the insolvency commencement date, including any extension of the period of corporate insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor:

Provided also that where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso, such resolution process shall be completed within a period of ninety days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.]

⁵**[Withdrawal of application admitted under section 7, 9 or 10.**

12A. The Adjudicating Authority may allow the withdrawal of application admitted under section 7 or section 9 or section 10, on an application made by the applicant with the approval of ninety per cent voting share of the committee of creditors, in such manner as may be specified.]

Declaration of moratorium and public announcement.

¹**13.**(1) The Adjudicating Authority, after admission of the application under section 7 or section 9 or section 10, shall, by an order—

- (a) declare a moratorium for the purposes referred to in section 14;
- (b) cause a public announcement of the initiation of corporate insolvency resolution process and call for the submission of claims under section 15; and

1. Enforced with effect from 1-12-2016.

2. Regulation 40 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

3. Substituted for “seventy-five” by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, w.r.e.f. 6-6-2018.

4. Inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2019, with effect from a date yet to be notified.

5. Inserted by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, w.r.e.f. 6-6-2018.

(c) appoint an interim resolution professional in the manner as laid down in section 16.

(2) The public announcement¹ referred to in clause (b) of sub-section (1) shall be made immediately after the appointment of the interim resolution professional.

Moratorium.

²14.(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:—

- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- (d) the recovery of any property by an owner or less or where such property is occupied by or in the possession of the corporate debtor.

(2) The supply of essential goods or services³ to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

⁴[(3) The provisions of sub-section (1) shall not apply to—

- (a) such transaction as may be notified by the Central Government in consultation with any financial regulator;
- (b) a surety in a contract of guarantee to a corporate debtor.]

(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

1. Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

2. Enforced with effect from 1-12-2016.

3. Regulation 32 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

4. Substituted by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, w.r.e.f. 6-6-2018. Prior to its substitution, sub-section (3) read as under :

“(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.”

Public announcement of corporate insolvency resolution process¹.

²15.(1) The public announcement of the corporate insolvency resolution process under the order referred to in section 13 shall contain the following information, namely:—

- (a) name and address of the corporate debtor under the corporate insolvency resolution process;
- (b) name of the authority with which the corporate debtor is incorporated or registered;
- (c) the last date for submission of ³[claims, as may be specified];
- (d) details of the interim resolution professional who shall be vested with the management of the corporate debtor and be responsible for receiving claims;`
- (e) penalties for false or misleading claims; and
- (f) the date on which the corporate insolvency resolution process shall close, which shall be the one hundred and eightieth day from the date of the admission of the application under sections 7, 9 or section 10, as the case may be.

(2) The public announcement under this section shall be made in such manner as may be specified.

Appointment and tenure of interim resolution professional⁴.

⁵16.(1) The Adjudicating Authority shall appoint an interim resolution professional within fourteen days from the insolvency commencement date.

(2) Where the application for corporate insolvency resolution process is made by a financial creditor or the corporate debtor, as the case may be, the resolution professional, as proposed respectively in the application under section 7 or section 10, shall be appointed as the interim resolution professional, if no disciplinary proceedings are pending against him.

(3) Where the application for corporate insolvency resolution process is made by an operational creditor and—

- (a) no proposal for an interim resolution professional is made, the Adjudicating Authority shall make a reference to the Board for the recommendation of an insolvency professional who may act as an interim resolution professional;
- (b) a proposal for an interim resolution professional is made under sub-section (4) of section 9, the resolution professional as proposed,

1. Regulation 6 and Form A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
 2. Enforced with effect from 1-12-2016.
 3. Substituted for “claims” by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, w.r.e.f. 6-6-2018.
 4. Regulation 6 and Form A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
 5. Enforced with effect from 1-12-2016.

shall be appointed as the interim resolution professional, if no disciplinary proceedings are pending against him.

(4) The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (3), recommend the name of an insolvency professional to the Adjudicating Authority against whom no disciplinary proceedings are pending.

(5) The term of the interim resolution professional ¹[shall continue till the date of appointment of the resolution professional under section 22].

Management of affairs of corporate debtor by interim resolution professional.

²17.(1) From the date of appointment of the interim resolution professional,—

- (a) the management of the affairs of the corporate debtor shall vest in the interim resolution professional;
- (b) the powers of the board of directors or the partners of the corporate debtor, as the case may be, shall stand suspended and be exercised by the interim resolution professional;
- (c) the officers and managers of the corporate debtor shall report to the interim resolution professional and provide access to such documents and records of the corporate debtor as may be required by the interim resolution professional;

³(d) the financial institutions maintaining accounts of the corporate debtor shall act on the instructions of the interim resolution professional in relation to such accounts and furnish all information relating to the corporate debtor available with them to the interim resolution professional.

(2) The interim resolution professional vested with the management of the corporate debtor shall—

- (a) act and execute in the name and on behalf of the corporate debtor all deeds, receipts, and other documents, if any;
- (b) take such actions, in the manner and subject to such restrictions, as may be specified by the Board;
- (c) have the authority to access the electronic records of corporate debtor from information utility having financial information of the corporate debtor;
- (d) have the authority to access the books of account, records and other relevant documents of corporate debtor available with government authorities, statutory auditors, accountants and such other persons as ⁴[may be specified; and]

1. Substituted for “shall not exceed thirty days from date of his appointment” by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, w.r.e.f. 6-6-2018.

2. Enforced with effect from 1-12-2016.

3. Regulation 4 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

4. Substituted for “may be specified.” by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, w.r.e.f. 6-6-2018.