

Insolvency and Bankruptcy Board of India (IBBI) strengthens its Due Diligence Framework under the Insolvency and Bankruptcy Code, 2016

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Now prior to approval of a Resolution Plan, the Resolution Applicants, including promoters, will be put to a stringent test with respect to their credit worthiness and credibility; Amendments to the IBBI (Insolvency Resolution Process for Corporate Persons) Resolution Process, 2016 impose a greater responsibility on the Resolution Professionals and the Committee of Creditors in discharging their duties.

Insolvency and Bankruptcy Board of India (IBBI) has amended its Corporate Insolvency Resolution Process Regulations to ensure that as part of due diligence, prior to approval of a Resolution Plan, the antecedents, credit worthiness and credibility of a Resolution Applicant, including promoters, are taken into account by the Committee of Creditors.

With a view to ensure that the Corporate Insolvency Resolution Process results in a credible and viable Resolution Plan, the Insolvency and Bankruptcy Board of India (IBBI) has carried-out amendments to the IBBI (Insolvency Resolution Process for Corporate Persons) Resolution Process, 2016 (CIRP Regulations).

The Revised Regulations make it incumbent upon the Resolution Professional to ensure that the Resolution Plan presented to the Committee of Creditors contains relevant details to assess the credibility of the Resolution Applicants. The details to be provided would include details with respect to the Resolution Applicant in terms of convictions, disqualifications, criminal proceedings, categorization as willful defaulter as per RBI guidelines, debarment imposed by SEBI, if any, and transaction, if any, with the Corporate Debtor in the last two years.

Apart from the above, the Resolution Professional has to also submit details in respect of transactions observed or determined, if any, covered under Section 43 (Preferential Transactions); Section 45(Undervalued Transactions); Section 50 (Extortionate Credit Transactions); Section 66 (Fraudulent Transactions) under Insolvency and Bankruptcy Code, 2016.

By virtue of the above mentioned changes in the Regulations, the Resolution Applicants,

including promoters, are put to a stringent test with respect to their credit worthiness and credibility. Further, it also imposes greater responsibility on the Resolution Professionals and the Committee of Creditors in discharging their duties.

The amendments are available at www.mca.gov.in and www.ibbi.gov.in.

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