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## INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

### **Amendment to the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017**

The Insolvency and Bankruptcy Board of India (“**the Board**”) vide its *Notification No. IBBI/2018-19/GN/REG34* dated October 11, 2018 amended the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017 (“**Principal Regulation**”).

1. This regulation may be called the Insolvency and Bankruptcy Board of India (Information Utilities) (Second Amendment) Regulations, 2018 (“**Amended Regulation**”).
2. The amended Regulation substitutes the regulation 9 of the Principal Regulation by clarifying under the regulation 9 of the Amendment Regulation, the composition of the Governing Board. It states the individuals it should comprise of viz, the Managing Director, independent directors and shareholder directors provided that half of them shall be citizens of India and Indian residents.

3. Further, Regulation 9 clarifies the individuals that can be appointed as either one of the directors as mentioned above and the term they are to be appointed for.
  
3. Regulation 9A provides for all the necessary clarifications pertaining to the Managing Director such as the Qualification and expertise, manner of appointment, terms and conditions of appointment and other procedural formalities.
  
3. Further, the Regulation 9B mentions the compliance of the Amendment Regulation which is within one year from the date of its commencement.

## Insolvency and Bankruptcy Board of India (Mechanism for Issuing Regulations) Regulations, 2018

The Insolvency and Bankruptcy Board of India (“**the Board**”) makes the following regulations vide the *Notification No. IBBI/2018-19/GN/REG038*, namely-

1. The Regulation shall be called the Insolvency and Bankruptcy Board of India (Mechanism for Issuing Regulations) Regulations, 2018.
2. These regulations exclude its application upon the Regulations made by the Board in respect of organizational matters.
3. The Regulations to be made by the Board are to be in compliance with the regulation 4 and Regulation 5 which shall be explained below:
  - a. With the approval of the Governing Board, the Board shall upload on its website all the necessary information specifying the draft regulation, economic analysis, manner of implementation seeking comments from the public with specific manner, process and timelines for receiving those comments.
  - b. At least twenty-one (21) should be allowed for receiving the comments.

- c. The Board may consult the stakeholders and advisory committees.
  - d. Further, the Board shall conduct a thorough economic analysis of the proposed regulation.
4. The Board shall review the regulations every three (3) years unless required earlier and amend or repeal any regulation if required keeping in view certain criteria.
5. If the Board is of the opinion that a new regulation is required or an existing regulation should be amended urgently, then the Board may do so with the approval of the Governing Board.
6. The Board may provide general or specific clarifications either on a request or on its own.

## Amendment of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

The Insolvency and Bankruptcy Board of India makes the following amendments to the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (“**Principal Regulation**”) vide its notification *No. IBBI/2018-19/GN/REG037*, namely-

1. These regulations will be called the Insolvency and Bankruptcy Board of India (Liquidation Process) (Second Amendment) Regulations, 2018 (“**Amendment Regulation**”).
2. A proviso has been added to the regulation 32 of principal regulation which prioritizes the security interest of an asset over its sale by the liquidator.
3. Regulation 35 of the amendment regulations entails the liquidator to consider the average of the estimates of the value conducted during liquidation if the valuation is done in accordance to the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate persons) Regulations, 2017. In cases not covered by the above regulations, the liquidator can appoint two registered valuers within seven (7) days of liquidation commencement date.

- 4. Two Particulars have been introduced to the Form B of the amendment regulation viz, Address and e-mail of the liquidators as registered with the board and address and e-mail to be used for correspondence with the liquidator.

The following table has been added below-

**FORM B**

**PUBLIC ANNOUNCEMENT**

Sr.	PARTICULARS	DETAILS
1	Name of Corporate Debtor	
2	Date of incorporation of corporate debtor	
3	Authority under which corporate debtor is	
4	Corporate Identity No. / Limited Liability Iden-	
5	Address of the registered office and principal	
6	Date of closure of Insolvency Resolution Pro-	
7	Liquidation commencement date of corporate	
8	Name and registration number of the insol-	
9	Address and e-mail of the liquidator, as regis-	
10	Address and e-mail to be used for correspond-	
11	Last date for submission of claims	

## RESERVE BANK OF INDIA

### Fit and Proper Criteria for Sponsors-Asset Reconstruction Companies

The Reserve Bank of India (“**RBI**”) hereby issues the following direction vide its Master *Direction DNBR. PD (ARC) CC. No. 06/26.03.001/2018-19* dated October 25, 2018:

1. This direction shall be called the Fit and Proper Criteria for Sponsors-Asset Reconstruction Companies (Reserve Bank) Direction, 2018 (“**Directions**”).
2. The Bank should take into consideration all relevant factors that they deem appropriate for determining whether the sponsor is fit and proper.
3. Information of a natural person should be furnished as a self-declaration as per Form I (Part A, B and C) where as that of a legal person as per the Form II (Part A, B, C and D)
4. The Asset Reconstruction Company (“**ARC**”) should furnish additional information as per Form I (Part E). Further every ARC should furnish a certificate in accordance to the Form III by the end of May every year to the RBI on the changes in the status of the sponsor

5. ARC shall make an application along with the Form II for the Bank's prior approval for the change in shareholding of the ARCs as indicated in the circular on Bank's Prior approval for change in shareholding vide its *Circular No. DNRB(PD)CC.No.01/SCRC/26.03.001/2014-15* dated February 24, 2015.



## External Commercial Borrowings Policy – Liberalization

The Reserve Bank of India (“RBI”) vide its *Circular A.P. (DIR Series) Circular No.10* dated October 03, 2018 issued a circular on External Commercial Borrowings (“ECB”) Policy – Liberalization (“**the amended direction**”) amending the Master Direction on External Commercial Borrowings, Trade Credit, Borrowings and Lending in Foreign Currency by Authorised Dealers and Person other than the Authorised Dealers vide its Direction No. RBI/FED/2015-16/15 (“**the Principal Direction**”).

1. This Direction is with matters concerning the Authorized Dealer Category-I (“**AD category-I**”)
2. With the consultation of the Government of India, it has been decided vide the amended direction to liberalize and permit the public-sector Oil Marketing Companies (“**OMCs**”) to raise the ECB for working capital purposes with a minimum average of maturing period of three (3) or five (5) years from all recognized lenders under the automatic route instead of the minimum average maturity of five (5) years.
3. The OMCs should have a Board approved forex market to market procedure and prudent risk management policy.

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Warm Regards,

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