

INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Mukund Mall

Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2022

The following amended regulations are effective from 9th February, 2022.

Regulation 18 - Meetings of the committee.

- (1) A resolution professional may convene a meeting of the committee as and when he considers necessary.
- (2) A resolution professional may convene a meeting, if he considers it necessary, on a request received from members of the committee and shall convene a meeting if the same is made by members of the committee representing at least thirty three per cent of the voting rights.
- (3) A resolution professional may place a proposal received from members of the committee in a meeting, if he considers it necessary and shall place the proposal if the same is made by members of the committee representing at least thirty three per cent of the voting rights.

Regulation 39A - Preservation of records.

- (1) The interim resolution professional or the resolution professional, as the case may be, shall preserve copies of all such records which are required to give a complete account of the corporate insolvency resolution process.
- (2) Without prejudice to the generality of the obligations under sub-regulation (1), the interim resolution professional or the resolution professional, as the case may be, shall preserve copies of records relating to or forming the basis of: –
 - (a) his appointment as interim resolution professional or resolution professional, including the terms of appointment;
 - (b) handing over / taking over of the assignment;
 - (c) admission of corporate debtor into corporate insolvency resolution process;
 - (d) public announcement;
 - (e) the constitution of committee and meetings of the committee;
 - (f) claims, verification of claims, and list of creditors;
 - (g) engagement of professionals, registered valuers, and insolvency professional entity, including work done, reports etc., submitted by them;
 - (h) information memorandum;
 - (i) all filings with the Adjudicating Authority, Appellate Authority and their orders;
 - (j) invitation, consideration and approval of the resolution plan;
 - (k) statutory filings with Board and insolvency professional agencies;
 - (l) correspondence during the corporate insolvency resolution process;
 - (m) insolvency resolution process cost; and
 - (n) preferential, undervalued, extortionate credit transactions or fraudulent or wrongful trading.
- (3) The interim resolution professional or the resolution professional shall preserve:

- (a) electronic copy of all records (physical and electronic) for a minimum period of eight years; and
- (b) a physical copy of records for a minimum period of three years;

from the date of completion of the corporate insolvency resolution process or the conclusion of any proceeding relating to the corporate insolvency resolution process, before the Board, the Adjudicating Authority, Appellate Authority or any Court, whichever is later.

(4) The interim resolution professional or the resolution professional shall preserve the records at a secure place and shall be obliged to produce records as may be required under the Code and the Regulations.

Explanation – The records referred to in this regulation includes records pertaining to the period of a corporate insolvency resolution process during which the interim resolution professional or the resolution professional acted as such, irrespective of the fact that he did not take up the assignment from its commencement or continue the assignment till its conclusion.