

IBBI seeks inputs on Discussion paper on Corporate Insolvency Resolution Process Regulations, 2016

Insolvency and Bankruptcy Board of India (IBBI) has released a Discussion Paper Corporate Insolvency Resolution Process Regulations, 2016. The paper solicits comments on the issues, such as replacement of authorised representative, voting by class of creditors at two stages and voting on two or more compliant resolution plans simultaneously.

The IBBI has proposed that the Regulations may enable the creditors in a class to replace an Authorised Representative (AR) with 66% of voting power of the class, similar to voting required for replacement of an Resolution Professional (RP) in a Corporate Insolvency Resolution (CIRP). The creditors in a class with 10% voting powers may seek replacement of the AR by making a request to the RP, any time after 30 days of the appointment of the AR. The RP will conduct a voting of the class and if 66% of voting power supports removal of the AR, the RP shall file an application with the AA for removal of the AR. The RP will then offer a choice of three Insolvency Practitioner (IPs) to act as the AR and seek preference of creditors of the class. He will apply to the AA for appointment of the AR who is the choice of the highest number of creditors in the class.

Further, it is proposed that the voting by AR may be recorded after the circulation of the minutes of the meeting. Wherever required, the AR may seek views of creditors in the class after circulation of agenda for the meeting, but before the meeting. Such voting instructions received by the AR may be treated as a preliminary view of such creditors to enable the AR to make submissions before the committee of creditor (CoC) during the meeting.

According to IBBI, regulations be amended to include that where more than one compliant resolution plans are available, both the plans should be put to vote simultaneously. The plan that receives the highest affirmative votes, subject to receiving the requisite 66%, may be regarded as approved by the CoC. In an unlikely event of two or more resolution plans securing equal number of votes, the creditors (including those in a class) may be asked to vote for one of those. This voting for one of the plans may be conducted simultaneously with the voting for plans making it clear that this will be used as a tie breaker only when there is equality of votes.

The detailed Discussion Paper of IBBI on Corporate Insolvency Resolution Process Regulations, 2016, has been enclosed for your kind reference.

At this background, IBBI seeks inputs/comments on the proposals mentioned in the discussion paper, in the format as mentioned in Point 5 of the paper.

The members are requested to share the inputs at research@phdcci.in, with a cc to spsharma@phdcci.in, by Saturday, 29th February 2020.

Please contact for any query related to this mail to Ms. Kritika Bhasin, Research Officer at kritika.bhasin@phdcci.in with a cc to Dr. S P Sharma, Chief Economist at spsharma@phdcci.in and Ms Surbhi Sharma, Associate Economist at surbhi@phdcci.in, PHD Chamber of Commerce & Industry.

Regards,

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