

## Insolvency & Bankruptcy Process under the Insolvency and Bankruptcy Code, 2016

The update covers the recent amendments to CIRP regulations, Information Utilities, Code of Conduct for the Committee of Creditors (CoC), and the two circulars issued by IBBI in August and September 2024.

### CIRP Regulations Amendment (September 2024)<sup>1</sup>

#### Key Changes:

- Regulation 12 (Submission of Claims): The timeline for submitting claims has been revised.
- Now, claims must be submitted within the period specified under sub-regulation (1) rather than (2), creating stricter deadlines for creditors.
- Regulation 16A (Authorised Representative for Creditors): If Form CA is submitted after the stipulated time, the choice of an insolvency professional as an authorised representative will not be considered.
- Until the appointment of an authorised representative by the Adjudicating Authority, the interim representative can attend meetings and perform necessary duties.
- Regulation 40A (Verification of Claims): The previous timeline prescribed for verifying claims under sub-regulation (2) has been omitted, and related timelines (“7 days of receipt of claim) have been removed.

**Impact Changes:** These amendments streamline the process of appointing authorised representatives and ensure quicker verification and submission of claims. The changes aim to avoid delays in the insolvency process.

**Note:** Creditors will have to adhere to original timelines for filing of claims and the earlier window available under Regulation 40A by way of indicative timeline (90 days) for filing of claims is not available now.

### Information Utility Regulations Amendment (August 2024)<sup>2</sup>

#### Key Changes:

- Authentication and Verification of Default: Regulation 21 The amended regulation emphasizes strict timelines for authenticating and verifying default records submitted to Information Utilities (IUs). There is a provision requiring the IU to notify the debtor within 7 days and send repeated reminders (three times) in case the debtor does not respond, allow seven days each time for the debtor to respond. Failure to respond by the debtor will automatically mark the information as “authenticated.”
- In case of Fis and Banks included in the second schedule of the Reserve Bank of India Act, 1934, when a debtor disputes a part of the default amount or such dispute is in respect of only non-financial information, then the information utility will record the status of authentication as ‘authenticated’ in respect of the undisputed default amount.

<sup>1</sup> <https://ibbi.gov.in/uploads/legalframwork/67fce8ab05c7c0a28fa66b353e813cbd.pdf>

<sup>2</sup> <https://ibbi.gov.in/uploads/legalframwork/50e73a8f0b814b062891ffb6f1f5e5ae.pdf>

- In case a debtor disputes a part of default amount or entire default amount, such debtor shall provide the reasons for such dispute and upload the evidence for the same.
- Access to Information: New Regulation 21B Provide Dissemination of public announcement.
- “An information utility shall disseminate every public announcement it receives or has access to, on the date of its receipt or access, as the case may be, to its registered users, who are creditors of the corporate debtor undergoing insolvency proceeding under the Code.”
- The regulation now mandates that IUs should provide a mechanism allowing users to access information stored across multiple IUs. This promotes inter-operability between different information utilities, allowing creditors to access authenticated records seamlessly.
- Record of Default: The amendment strengthens the procedural requirements for maintaining and updating records of default, with specific timelines for issuing records of default (Regulation 21).
- Security and Risk Management: The regulation enhances security protocols and risk management frameworks to ensure the integrity and privacy of the data shared with IUs.

### Code of Conduct for Committee of Creditors (CoC) - August 2024<sup>3</sup>

In August 2024, IBBI issued guidelines to establish a formal Code of Conduct for the Committee of Creditors (CoC) in insolvency cases.

#### *Key Guidelines:*

- Objectivity and Integrity: CoC members must follow the provisions of the Code with integrity while making decisions.
- Professional Competence: Members must stay updated on relevant legal provisions and regulations, ensuring they participate in meetings with proper authorisation.
- Confidentiality: CoC members must maintain the confidentiality of the information shared during insolvency proceedings.
- Cost Management: CoC members are expected to ensure that the resolution process costs, including the fees of insolvency professionals, are reasonable and transparent.
- Dispute Resolution: The CoC is encouraged to resolve inter-se disputes, especially around claims, through dialogue to avoid litigation.

### Circulars Issued by IBBI (August-September 2024)

#### *Filing Forms to Monitor Liquidation Processes (Issued in August 2024)<sup>4</sup>*

This circular mandates the filing of liquidation-related forms through an online platform provided by IBBI. It outlines several forms (LIQ1, LIQ2, LIQ3, LIQ4) for tracking various stages of the liquidation process, from public announcements to final closure. Liquidators are required to adhere strictly to the filing deadlines and submit accurate and complete information through IBBI’s portal.

<sup>3</sup> <https://ibbi.gov.in/uploads/legalframework/db3d7327523500331bd793bed7835ff2.pdf>

<sup>4</sup> <https://ibbi.gov.in/uploads/legalframework/f7d067e47bfcde79a294d5827466db17.pdf>

***Valuation Report Identification Number (VRIN) (Issued in August 2024)***<sup>5</sup>

This circular introduced a mandatory unique Valuation Report Identification Number (VRIN) for every valuation conducted under the IBC by Registered Valuers. The objective is to enhance the authenticity of valuation reports and allow stakeholders to verify reports by referencing the VRIN. Any valuation report submitted without VRIN post-August 2024 will not be accepted.

The amendments and circulars represent steps toward refining the insolvency resolution framework with focus is on improving procedural timelines, transparency, and the integrity of the information.

*We trust you will find this an interesting read. For any queries or comments on this update, please feel free to contact us at [insights@elp-in.com](mailto:insights@elp-in.com) or write to our authors:*

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<sup>5</sup> <https://ibbi.gov.in/uploads/legalframework/fec61f0798e424d32aa521af3e82f344.pdf>