

# INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

16<sup>th</sup> February, 2026

## Discussion Paper on strengthening CoC's oversight and procedural clarity under the CIRP Regulations, 2016

The Insolvency and Bankruptcy Board of India (“IBBI” or “the Board”) continuously reviews the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“CIRP Regulations”) with a view to addressing implementation challenges, removing procedural ambiguities, and enhancing the efficiency, predictability, and integrity of the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 (“IBC” or “the Code”).

2. Based on feedback received from stakeholders and issues observed during the conduct of corporate insolvency resolution processes (“CIRPs”), the Board has identified certain areas where greater procedural clarity is required to avoid inconsistencies, disputes, escalation of costs, or sub-optimal value outcomes. These issues primarily relate to (i) strengthening recording of CoC deliberations while approving resolution plans, (ii) decision-making on continuation of operations of the corporate debtor (CD) as a going concern and approval of insolvency resolution process costs (CIRP Costs), (iii) the respective roles of the Adjudicating Authority and the CoC in respect of delayed claims which are acceptable, and (iv) the composition of the CoC in cases where it is constituted exclusively of operational creditors (OCs).

3. The proposed amendments are intended to strengthen creditor oversight, improve procedural discipline, and reinforce value maximisation. The proposals seek to clarify roles, codify sound practices that have evolved through experience, and address identified implementation concerns through calibrated regulatory refinement.

4. Accordingly, this Discussion Paper proposes amendments to the CIRP Regulations in relation to the following areas:

- (a) Strengthening recording of CoC Deliberations while approving Resolution Plans;
- (b) Rationalisation of the framework for approval of CIRP costs and decision-making on continuation of operations of the corporate debtor as a going concern;
- (c) Clarification of the role of the Committee of Creditors in respect of delayed claims; and
- (d) Exclusion of related operational creditors from participation in committees of creditors constituted exclusively of OCs.

5. **Public comments:** The Board accordingly solicits comments on the proposals discussed above and the draft regulations proposed above. After considering the comments, the Board proposes to make regulations under clauses (aa) and (t) of sub-section (1) of section 196 read with section 240 of the Code. The process for submission of comments is provided at **Page 9 - 10**.

6. The last date for submission of comments is **10<sup>th</sup> March, 2026**.

# **Proposal 1 – Strengthening Recording of CoC Deliberations while Approving Resolution Plans**

## **Statement of Problem**

The CIRP framework requires the Committee of Creditors (CoC) to evaluate resolution plans and record its deliberations on their feasibility and viability. Valuation estimates, including fair value and liquidation value determined under regulation 35, as well as other relevant information, are available to the CoC during consideration of resolution plans. However, the regulations do not presently specify the key aspects that should ordinarily form part of the recorded deliberations.

2. In practice, the depth and detail of recording in CoC minutes may vary across CIRPs. Where deliberations are not adequately reflected in the record, the basis of the CoC's commercial decision may not always be evident, even though the decision itself falls within the CoC's commercial wisdom.

3. This may sometimes give rise to avoidable disputes regarding the robustness of evaluation and decision-making processes.

## **Proposed Solution**

4. It is proposed to provide greater clarity on the scope of matters that may be recorded as part of CoC deliberations while evaluating resolution plans in regulation 39.

5. Accordingly, it is proposed that, in addition to the existing requirement to record deliberations on feasibility and viability of resolution plans, the CoC shall also record its deliberations in respect of:

- the expected recovery for creditors in comparison with the fair value and liquidation value determined under regulation 35;
- the adequacy of market discovery undertaken during the corporate insolvency resolution process, including, where applicable, the use of a challenge mechanism or re-invitation of plans; and
- the capability and credibility of the resolution applicant and the certainty of implementation of the resolution plan, including availability of funds.

6. The proposal does not introduce any new evaluation criteria or mandate any particular outcome. It seeks only to ensure that key considerations forming part of the CoC's commercial decision-making are appropriately reflected in the minutes. It merely ensures that the CoC's approval of a resolution plan is demonstrably conscious, informed, and supported by recorded rationale.

7. This is expected to promote greater transparency, consistency and evidentiary robustness in the CIRP process, while fully preserving the commercial wisdom and decision-making autonomy of the CoC.

## **Proposed Draft Regulation**

8. In regulation 39, in sub-regulation (3), for clause (b), the following clause shall be substituted, namely:-

*“(b) record its deliberations on—*

*(i) the feasibility and viability of each resolution plan;*

*(ii) the expected recovery for creditors in comparison with the fair value and liquidation value determined under regulation 35;*

*(iii) the adequacy of market discovery undertaken during the corporate insolvency resolution process, including, where applicable, the use of a challenge mechanism or re-invitation of plans; and*

*(iv) the capability and credibility of the resolution applicant and the certainty of implementation of the resolution plan, including availability of funds.”*

## **Proposal 2 - Rationalisation of the framework for approval of CIRP costs and decision-making on continuation of operations of the corporate debtor as a going concern**

### **Statement of Problem -**

The Insolvency and Bankruptcy Code, 2016 represents a paradigm shift in the resolution of corporate distress, with value maximisation as its cardinal objective, to be achieved through a time-bound and creditor-driven insolvency resolution process.

2. The regulatory framework vests the Committee of Creditors (“CoC”) with the authority to approve insolvency resolution process costs. However, the CoC is statutorily required to be constituted, and to hold its first meeting, only after 30 days from the insolvency commencement date.

3. This creates a gap during the initial phase of CIRP, during which the IRP is required to incur costs in the absence of CoC, as CoC is yet to be constituted.

4. Further, sections 20 and 25 of the Code obligate the interim resolution professional (“IRP”) and resolution professional (“RP”) to protect and preserve the value of the corporate debtor (“CD”) and to manage its operations as a going concern. However, continuation of the CD as a going concern is intended as a *means* to achieve value maximisation, and not as an end in itself or a mechanical mandate applicable in every case.

5. Experience under the Code indicates that, in certain cases, continuation of operations during the corporate insolvency resolution process has been undertaken without a structured assessment of financial viability, cash flows, or expected value outcomes. Where such continuation is commercially unjustified, it has resulted in avoidable resources burn, escalation of insolvency resolution process costs, blockage of resources in receivables and erosion of enterprise value.

6. It is observed that decisions relating to continuation of operations of the CD, and the scale and duration of associated costs, are sometimes taken as a matter of course, without being anchored in a structured and documented financial assessment placed before the CoC at an early stage of the process.

7. There is, therefore, a need to reinforce that:

- continuation of operations during CIRP must be guided by commercial prudence and expected value outcomes;
- insolvency resolution process costs must be proportionate, justified, and subject to effective creditor oversight; and
- decision-making on operational continuation should be based on structured financial assessment rather than default practice.

## **Proposed Solution -**

8. It is proposed to introduce a calibrated regulatory framework that balances the need for operational flexibility for the insolvency professional with early, informed, and continuous oversight by the Committee of Creditors.

9. First, recognising that the CoC is not constituted during the initial phase of CIRP, the insolvency professional may incur insolvency resolution process costs without prior approval of the CoC, subject to clearly defined limitations, for the first thirty days from the insolvency commencement date, or until the constitution of the CoC, whichever is earlier.

10. Such costs shall be confined to expenses necessary for preservation and protection of the assets of the corporate debtor, maintenance of essential services, compliance with statutory and regulatory requirements, and such minimal operations as are required to prevent value deterioration.

11. All costs incurred during this initial period shall be fully disclosed to the CoC at its first meeting and placed for post-facto approval, together with a brief justification demonstrating that the expenditure was necessary for value preservation and was not part of any indiscriminate or mechanically continued business operations.

12. Second, it is proposed to mandate the placement of a structured Going Concern Assessment Report before the CoC at its first meeting. This assessment shall examine, inter alia, the financial viability of operations, estimated income, expenditure and associated cash flows, working capital requirements, and the risks of value erosion arising from continuation or suspension of operations.

13. Based on this assessment, the CoC shall take an informed commercial decision on whether the corporate debtor should be run as a going concern and, if so, the scope, scale, and duration of such operations. This decision shall form the commercial basis for incurring future operational insolvency resolution process costs.

14. Third, after the first meeting of the CoC, all insolvency resolution process costs shall be incurred only with the prior approval of the CoC, supported by periodic financial estimates and comparison of approved estimates with actuals, so as to ensure continuous creditor oversight, transparency, and cost discipline.

## **Proposed Draft Regulation -**

15. For regulation 31B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the following regulation shall be substituted, namely:—

### ***“31B. Approval of committee for insolvency resolution process costs***

*(1) The insolvency professional may incur insolvency resolution process costs, for a period commencing from the insolvency commencement date up to—*

*(a) thirty days from such date; or*

*(b) the date of constitution of the committee of creditors,*

*whichever is earlier.*

*(2) The insolvency resolution process costs incurred under sub-regulation (1) shall be limited to costs necessary for—*

- (a) preservation and protection of the assets of the corporate debtor;*
- (b) maintenance of essential services;*
- (c) compliance with applicable laws and statutory requirements; or*
- (d) such minimal operations as are necessary to prevent value deterioration of the corporate debtor.*

*(3) All insolvency resolution process costs incurred under sub-regulation (1) shall be placed before the committee at its first meeting for approval, together with a justification for such costs.*

*(4) At the first meeting of the committee, the insolvency professional shall place a Going Concern Assessment Report including—*

- (a) estimated income, expenditure and cash flows arising from continuation of operations;*
- (b) details of working capital requirements, if any; and*
- (c) material risks of value erosion arising from continuation or suspension of operations.*

*(5) Based on the Going Concern Assessment Report placed under sub-regulation (4), the committee shall decide whether the operations of the corporate debtor shall be continued and, if so, the scope and duration of such operations.*

*(6) After the first meeting of the committee of creditors, all insolvency resolution process costs shall be incurred only with the prior approval of the committee.*

*(7) For the purpose of sub-regulation (6), the resolution professional shall, at each meeting of the committee—*

- (a) place periodic estimates of the Statement of Income and Expenses and Cash Flow Statement for the period up to the next meeting;*
- (b) seek approval for insolvency resolution process costs proposed to be incurred until the next meeting; and*
- (c) place a statement comparing actual insolvency resolution process costs with the estimates of costs approved by the committee in the previous meeting.”*

## **Proposal 3 - Clarification of the Role of the CoC in Respect of Delayed Claims**

### **Statement of Problem -**

Regulation 13(1C)(b) of the CIRP Regulations provides that where claims are received after the period specified under regulation 12, but before voting on the resolution plan or initiation of liquidation, the resolution professional shall place such delayed claims before the Committee of Creditors and the Adjudicating Authority.

2. In practice, there appears to be some ambiguity regarding the sequencing and scope of consideration of such delayed claims, leading to an interpretation that only those delayed claims which receive a recommendation of the CoC are required to be placed before the Adjudicating Authority.

3. Such an interpretation persists notwithstanding the settled legal position that condonation of delay and adjudication of claims vest exclusively with the Adjudicating Authority, and not with the CoC, and that the role of the CoC is confined to commercial aspects of the resolution process.

4. As a result, delayed claims which are otherwise found acceptable by the resolution professional have, in certain cases, not been placed before the Adjudicating Authority solely due to absence of a recommendation by the CoC, leading to procedural inconsistency and avoidable disputes.

### **Proposed Solution -**

5. It is proposed to substitute regulation 13(1C)(b) to expressly provide that all delayed claims categorised as acceptable by the resolution professional shall be placed before the Adjudicating Authority, within one week of receipt of such claims, for condonation of delay and adjudication, and before the Committee of Creditors only for its recommendation regarding their treatment in the resolution plan, if any.

### **Proposed Draft Regulation -**

6. In regulation 13, in sub-regulation (1C), for clause (b), the following clause shall be substituted, namely:-

*“(b) put up the claims categorised as acceptable under sub-regulation (1B) and collated by him :-*

*(i) before the Adjudicating Authority, within one week of receipt of such claims, for condonation of delay and adjudication wherever applicable; and*

*(ii) before the committee in its next meeting for its recommendation for their treatment in the resolution plan, if any.”*

## Proposal 4 - Exclusion of ‘Related’ Operational Creditors from CoC

### Statement of Problem -

Regulation 16 provides for constitution of the CoC where:

- the corporate debtor has no financial debt; or
- all financial creditors are related parties.

2. In such cases, the CoC consists of the largest operational creditors, along with representatives of workmen and employees, and enjoys the same rights and powers as a CoC comprising financial creditors.

3. At present, regulation 16 does not expressly exclude related operational creditors from participation in the CoC. This may give rise to conflicts of interest; influence by promoters or related entities through operational debt structures; and outcomes inconsistent with the objective of creditor-driven resolution.

4. The Code expressly excludes related financial creditors from the CoC to preserve independence of decision-making. Extending a similar principle to operational-creditor-only CoCs would:

- enhance fairness and credibility of the process;
- align regulation 16 with the underlying spirit of section 21 of the Code; and
- prevent circumvention of CoC neutrality through related operational creditors.

### Proposed Solution -

5. It is proposed to amend regulation 16(2)(a) to expressly exclude related OCs from participation in the Committee of Creditors constituted under regulation 16.

6. The proposed amendment seeks to ensure that only unrelated operational creditors participate in the decision-making process in cases where the CoC is constituted exclusively of operational creditors, thereby preserving independence, neutrality, and creditor primacy under the Code.

### Proposed Draft Regulation -

7. To amend regulation 16(2)(a), to insert the term ‘unrelated’, as under:

“(a) eighteen largest unrelated operational creditors by value:

*Provided* that if the number of such unrelated operational creditors is less than eighteen, the committee shall include all such unrelated operational creditors.”

## **Process for submission of Public Comments**

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The comments may be submitted electronically by **10<sup>th</sup> March, 2026**. For providing comments, please follow the process as under:

- i. Visit IBBI website at [www.ibbi.gov.in](http://www.ibbi.gov.in);
- ii. Select '**Public Comments**', then select '**Discussion paper – Process Division - February 2026**'
- iii. Provide your Name and Email-ID;
- iv. Select the stakeholder category, namely, -
  - a. Corporate Debtor;
  - b. Personal Guarantor to a Corporate Debtor;
  - c. Proprietorship firms;
  - d. Partnership firms;
  - e. Creditor to a Corporate Debtor;
  - f. Insolvency Professional;
  - g. Insolvency Professional Agency;
  - h. Insolvency Professional Entity;
  - i. Academics;
  - j. Investor; or
  - k. Others.
- v. Select the kind of comments you wish to make, namely, \
  - a. General Comments; or
  - b. Specific Comments.
- vi. If you have selected 'General Comments', please select one of the following options:
  - a. Inconsistency, if any, between the provisions within the regulations (intra regulations);
  - b. Inconsistency, if any, between the provisions in different regulations (inter regulations);
  - c. Inconsistency, if any, between the provisions in the regulations with those in the rules;
  - d. Inconsistency, if any, between the provisions in the regulations with those in the Code;
  - e. Inconsistency, if any, between the provisions in the regulations with those in any other law;
  - f. Any difficulty in implementation of any of the provisions in the regulations;
  - g. Any provision that should have been provided in the regulations, but has not been provided; or
  - h. Any provision that has been provided in the regulations but should not have been provided.

And then write comments under the selected option.

- vii. If you have selected 'Specific Comments', please select Proposal Number on which you want to give the comment, and write comments under the selected Proposal Number.
- viii. You can make comments on more than one Proposal, by clicking on more comments and repeating the process outlined above from point (v) onwards.
- ix. Click 'Submit' if you have no more comments to make.

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