THE INSOLVENCY AND BANKRUPTCY CODE, 2016

[31 of 2016, dated 28-5-2016]

[As amended by the Insolvency and Bankruptcy Code (Amendment) Act, 2026 (6 of 2026), dated 6-4-2026]

An Act to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time-bound manner for maximisation of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. Short title, extent and commencement

(1) This Code may be called the Insolvency and Bankruptcy Code, 2016.

(2) It extends to the whole of India:

[1]PROVIDED that Part III of this Code shall not extend to the State of Jammu and Kashmir.

1. Union territory of Jammu and Kashmir (Scope of Enforcement) – In section 1, in sub-section (2), omit proviso vide SO 1123(E), dated 18.03.2020.
   Union territory of Ladakh (Scope of Enforcement)—In section 1, in sub-section (2), omit proviso – vide S.O. 3774(E), dated 23.10.2020, w.e.f. 23.10.2020.
   — Provisions of Sections 188 to 194 are enforceable w.e.f. 5-8-2016 vide S.O. 2618(E), dtd. 5-8-2016.
   — Provisions of Section 3(1), (5), (22), (26), (28), (37), sections 221, 222, 225, 226, 230, 232, 233 and sections 239(1), 239(2)(zd), 240(1), 240(2)(zt), 241 and 242 are enforceable w.e.f. 19-8-2016 vide S.O. 2746(E), dtd. 19-8-2016.
   — Provisions of section 3, i.e.; clauses (2) to (4), clauses (6) to (21), clauses (23) to (25), clause (27) and clauses (29) to (36), sections 196, 197, 223, sub-section (2) of section 239,—clauses (ze) to (zh), clauses (zl) to (zm), sub-section (2) of section 240,—clauses (a) to (zm), clauses (zu) to (zzzc), section 244, sections 246 to 248, sections 250 and 252, are enforceable w.e.f. 1-11-2016 vide S.O. 3355(E), dtd. 1-11-2016.
   — Provisions of sections 199 to 207; sub-section (1) of section 208 – clause (c), clause (e); sub-section (2) of section 208; sections 217 to 220; sections 251, 253, 254 and 255 are enforceable w.e.f. 15-11-2016 vide S.O. 3453(E), dtd. 15-11-2016.
   — Provisions of sections 2—clauses (a) to (d), 4 to 32, 60 to 77, 198, 231, 236 to 238 and 239—clauses (a) to (f) of sub-section (2), are enforceable w.e.f. 1-12-2016 vide S.O. 3594(E), dtd. 30-11-2016.
   — Provisions of sections 33 to 54 are enforceable w.e.f. 15-12-2016 vide S.O. 3687(E), dtd. 9-12-2016.

Continued on next page

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

PROVIDED that different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the commencement of that provision.

COMMENTS

This section provides for the short title of the Act as the Insolvency and Bankruptcy Code, 2016, extent and commencement of Code, and for enforcement of the various sections of the Code on different dates.

2. Application

The provisions of this Code shall apply to—

[1](a) any company incorporated under the Companies Act, 2013 (18 of 2013) or under any previous company law;

[1](b) any other company governed by any special Act for the time being in force, except insofar as the said provisions are inconsistent with the provisions of such special Act;

[1](c) any Limited Liability Partnership incorporated under the Limited Liability Partnership Act, 2008 (6 of 2009);

[1](d) such other body incorporated under any law for the time being in force, as the Central Government may, by notification, specify in this behalf; [2][***]

[3][(e)[4] personal guarantors to corporate debtors;

(f) partnership firms and proprietorship firms; and

(g) individuals, other than persons referred to in clause (e),]

in relation to their insolvency, liquidation, voluntary liquidation or bankruptcy, as the case may be.

Continue from previous page

— Provisions of sections 59, 209 to 215 (both inclusive), sub-section (1) of section 216, section 234 and section 235 are enforceable w.e.f. 01-04-2017 vide S.O. 1005(E), dtd. 30-03-2017.

1. Enforced w.e.f. 1-12-2016 (except with regard to Voluntary Liquidation or Bankruptcy) vide S.O. 3594(E), dtd. 30-11-2016.
   Enforced w.e.f. 1-4-2017 (relating to Voluntary Liquidation or Bankruptcy) vide S.O. 1570(E), dtd. 15-5-2017.
2. Word "and" omitted by the Insolvency and Bankruptcy Code (Amendment) Act, 2018 (8 of 2018), dated 18.1.2018, w.e.f. 23.11.2017.
3. Substituted, ibid. Prior to substitution, clause (e) read as under:
   "(e) partnership firms and individuals"
4. Provisions of clause (e) enforced w.e.f. 1.12.2019 insofar as they relate to personal guarantors to corporate debtors vide S.O. 4126(E), dtd. 15.11.2019.

COMMENTS

This section specifies the applicability of the Code to companies, limited liability partnerships, partnership firms, individuals and such bodies incorporated under any law for the time being in force, as the Central Government may notify.

3. Definitions

In this Code, unless the context otherwise requires,—

[1](1) "Board" means the Insolvency and Bankruptcy Board of India established under sub-section (1) of section 188;

[2](2) "bench" means a bench of the Adjudicating Authority;

[2](3) "bye-laws" mean the bye-laws made by the insolvency professional agency under section 205;

[2](4) "charge" means an interest or lien created on the property or assets of any person or any of its undertakings or both, as the case may be, as security and includes a mortgage;

[1](5) "Chairperson" means the Chairperson of the Board;

(6) "claim" means—

(a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured;

(b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured or unsecured;

[2](7) "corporate person" means a company as defined in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013), a limited liability partnership, as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009), or any other person incorporated with limited liability under any law for the time being in force but shall not include any financial service provider;

[2](8) "corporate debtor" means a corporate person who owes a debt to any person;

[2](9) "core services" means services rendered by an information utility for—

(a) accepting electronic submission of financial information in such form and manner as may be specified;

(b) safe and accurate recording of financial information;

(c) authenticating and verifying the financial information submitted by a person; and

(d) providing access to information stored with the information utility to persons as may be specified;

1. Enforced w.e.f. 19-8-2016 vide S.O. 2746(E), dtd. 19-8-2016.
2. Enforced w.e.f. 1-11-2016 vide S.O. 3355(E), dtd. 1-11-2016.

[1](10) "creditor" means any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor, an unsecured creditor and a decree-holder;

[1](11) "debt" means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;

[1](12) "default" means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not [2][paid] by the debtor or the corporate debtor, as the case may be;

[1](13) "financial information", in relation to a person, means one or more of the following categories of information, namely:—

(a) records of the debt of the person;
(b) records of liabilities when the person is solvent;
(c) records of assets of person over which security interest has been created;
(d) records, if any, of instances of default by the person against any debt;
(e) records of the balance sheet and cash-flow statements of the person; and
(f) such other information as may be specified;

[1](14) "financial institution" means—

(a) a scheduled bank;
(b) financial institution as defined in section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);
(c) Public financial institution as defined in clause (72) of section 2 of the Companies Act, 2013 (18 of 2013); and
(d) such other institution as the Central Government may by notification specify as a financial institution;

[1](15) "financial product" means securities, contracts of insurance, deposits, credit arrangements including loans and advances by banks and financial institutions, retirement benefit plans, small savings instruments, foreign currency contracts other than contracts to exchange one currency (whether Indian or not) for another which are to be settled immediately, or any other instrument as may be prescribed;

[1](16) "financial service" includes any of the following services, namely:—

(a) accepting of deposits;
(b) safeguarding and administering assets consisting of financial

1. Enforced w.e.f. 1-11-2016 vide S.O. 3355(E), dtd. 1-11-2016.
2. Substituted for "repaid" by Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 (26 of 2018), dated 17.08.2018, w.e.f. 6.6.2018.

products, belonging to another person, or agreeing to do so;

(c) effecting contracts of insurance;

(d) offering, managing or agreeing to manage assets consisting of financial products belonging to another person;

(e) rendering or agreeing, for consideration, to render advice on or soliciting for the purposes of—

(i) buying, selling, or subscribing to, a financial product;

(ii) availing a financial service; or

(iii) exercising any right associated with a financial product or financial service;

(f) establishing or operating an investment scheme;

(g) maintaining or transferring records of ownership of a financial product;

(h) underwriting the issuance or subscription of a financial product; or

(i) selling, providing, or issuing stored value or payment instruments or providing payment services;

[1](17) "financial service provider" means a person engaged in the business of providing financial services in terms of authorisation issued or registration granted by a financial sector regulator;

[1](18) "financial sector regulator" means an authority or body constituted under any law for the time being in force to regulate services or transactions of financial sector and includes the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory Authority and such other regulatory authorities as may be notified by the Central Government;

[1](19) "insolvency professional" means a person enrolled under section 206 with an insolvency professional agency as its member and registered with the Board as an insolvency professional under section 207;

[1](20) "insolvency professional agency" means any person registered with the Board under section 201 as an insolvency professional agency;

[1](21) "information utility" means a person who is registered with the Board as an information utility under section 210;

[2](22) "notification" means a notification published in the Official Gazette, and the terms "notified" and "notify" shall be construed accordingly;

[1](23) "person" includes—

1. Enforced w.e.f. 1-11-2016 vide S.O. 3355(E), dtd. 1-11-2016.
2. Enforced w.e.f. 19-8-2016 vide S.O. 2746(E), dtd. 19-8-2016.

(a) an individual;
(b) a Hindu Undivided Family;
(c) a company;
(d) a trust;
(e) a partnership;
(f) a limited liability partnership; and
(g) any other entity established under a statute,

and includes a person resident outside India;

[1](24) "person resident in India" shall have the meaning as assigned to such term in clause (v) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);

[1](25) "person resident outside India" means a person other than a person resident in India;

[2](26) "prescribed" means prescribed by rules made by the Central Government;

[1](27) "property" includes money, goods, actionable claims, land and every description of property situated in India or outside India and every description of interest including present or future or vested or contingent interest arising out of, or incidental to, property;

[3][(27A) "registered valuer" shall have the same meaning as assigned to it under Chapter XVII of the Companies Act, 2013 (18 of 2013);]

[2](28) "regulations" means the regulations made by the Board under this Code;

[1](29) "Schedule" means the Schedule annexed to this Code;

[1](30) "secured creditor" means a creditor in favour of whom security interest is created;

[1](31) "security interest" means right, title or interest or a claim to property, created in favour of, or provided for a secured creditor by a transaction which secures payment or performance of an obligation and includes mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement securing payment or performance of any obligation of any person:

PROVIDED that security interest shall not include a performance guarantee;

[3][*Explanation*: For the removal of doubts, it is hereby clarified that the security interest shall exist only if it creates a right, title or interest or a claim to a property pursuant to an agreement or arrangement, by the act of two or more parties, and shall not include a security interest created merely by operation of any law for the time being in force;]

1. Enforced w.e.f. 1-11-2016 vide S.O. 3355(E), dtd. 1-11-2016.
2. Enforced w.e.f. 19-8-2016 vide S.O. 2746(E), dtd. 19-8-2016.
3. Inserted by the Insolvency and Bankruptcy Code (Amdt.) Act, 2026 (6 of 2026), dt. 6-4-2026, w.e.f. 26-5-2026 vide SO 2625(E), dt. 22-5-2026.

[1][(31A) "service provider" means an insolvency professional, insolvency professional agency, information utility, registered valuer and any person falling within the category of persons notified by the Central Government, for rendering services in relation to insolvency and bankruptcy processes under this Code and is registered with the Board;]

[2](32) "specified" means specified by regulations made by the Board under this Code and the term "specify" shall be construed accordingly;

[2](33) "transaction" includes an agreement or arrangement in writing for the transfer of assets, or funds, goods or services, from or to the corporate debtor;

[2](34) "transfer" includes sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien;

[2](35) "transfer of property" means transfer of any property and includes a transfer of any interest in the property and creation of any charge upon such property;

[2](36) "workman" shall have the same meaning as assigned to it in clause (s) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947);

[3](37) words and expressions used but not defined in this Code but defined in the Indian Contract Act, 1872 (9 of 1872), the Indian Partnership Act, 1932 (9 of 1932), the Securities Contract (Regulation) Act, 1956 (42 of 1956), the Securities Exchange Board of India Act, 1992 (15 of 1992), the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993), the Limited Liability Partnership Act, 2008 (6 of 2009) and the Companies Act, 2013 (18 of 2013), shall have the meanings respectively assigned to them in those Acts.

COMMENTS

This section defines relevant expressions used in the Code such as corporate persons, corporate debtor, corporate guarantor, default, insolvency professional, and insolvency agency, etc.

PART II

INSOLVENCY RESOLUTION AND LIQUIDATION FOR CORPORATE PERSONS

CHAPTER I

PRELIMINARY

[4]4. Application of this Part

(1) This Part shall apply to matters relating to the insolvency and liquidation of corporate debtors where the minimum amount of the default is one lakh rupees:

1. Inserted by the Insolvency and Bankruptcy Code (Amdt.) Act, 2026 (6 of 2026), dt. 6-4-2026, w.e.f. 26-5-2026 vide SO 2625(E), dt. 22-5-2026.
2. Enforced w.e.f. 1-11-2016 vide S.O. 3355(E), dtd. 1-11-2016.
3. Enforced w.e.f. 19-8-2016 vide S.O. 2746(E), dtd. 19-8-2016.
4. Enforced w.e.f. 1-12-2016 vide S.O. 3594(E), dtd. 30-11-2016.

PROVIDED that the Central Government may, by notification, specify the minimum amount of default of higher value which shall not be more than one crore rupees:

[1][PROVIDED FURTHER that the Central Government may, by notification, specify [2]such minimum amount of default of higher value, which shall not be more than one crore rupees, for matters relating to the pre-packaged insolvency resolution process of corporate debtors under Chapter III-A.]

COMMENTS

This section specifies that Part II of the Insolvency and Bankruptcy Code, 2016 shall deal with all matters relating to the insolvency and liquidation of corporate persons. This Part of the Code deals with insolvency resolution and liquidation of 'corporate persons' defined as companies, limited liability partnerships, or any other person incorporated with limited liability under any law for the time being in force. Insolvency resolution and liquidation of financial service providers is excluded from the scope of Code. This is because such entities require a special insolvency regime that is specialised. Given the interconnectedness between such entities and the systemic risk implications for the economy the insolvency resolution and liquidation process of such entities must take into account the interest of the financial system and the economy. The provisions of this Part shall apply where the minimum amount of the default is one lakh rupees. However, the Central Government may specify the minimum amount of default of higher value upto Rs. one crore.

Vide S.O. 1205(E), dated 24.03.2020, the Central Government specifies one crore rupees as the minimum amount of default.

[3]5. Definitions

In this Part, unless the context otherwise requires,—

(1) "Adjudicating Authority", for the purposes of this Part, means National Company Law Tribunal constituted under section 408 of the Companies Act, 2013 (18 of 2013);

(2) "auditor" means a chartered accountant certified to practice as such by the Institute of Chartered Accountants of India under section 6 of the Chartered Accountants Act, 1949 (38 of 1949);

[4][(2A) "avoidance transaction" means a transaction as referred to in sections 43, 45, 49 and 50;]

[5][(2B)] "base resolution plan" means a resolution plan provided by the corporate debtor under clause (c) of sub-section (4) of section 54A;]

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1. Inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2021 (26 of 2021), dt. 11-08-2021, w.e.f. 4-4-2021.
2. The Central Government vide Notification S.O.1543 (E), dt. 9-4-2021, specifies ten lakh rupees as the maximum amount of default for the matters relating to the pre-packaged insolvency resolution process of corporate debtor.
3. Enforced w.e.f. 1-12-2016 vide S.O. 3594(E), dtd. 30-11-2016.
4. Inserted by the Insolvency and Bankruptcy Code (Amdt.) Act, 2026 (6 of 2026), dt. 6-4-2026, w.e.f. 26-5-2026 vide SO 2625(E), dt. 22-5-2026.
5. Renumbered as clause (2B) by the Insolvency and Bankruptcy Code (Amdt.) Act, 2026 (6 of 2026), dt. 6-4-2026, w.e.f. 26-5-2026 vide SO 2625(E), dt. 22-5-2026. Earlier, it was inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2021 (26 of 2021), dated 11-08-2021, w.e.f. 4-4-2021.

(3) "Chapter" means a Chapter under this Part;

(4) "constitutional document", in relation to a corporate person, includes articles of association, memorandum of association of a company and incorporation document of a Limited Liability Partnership;

(5) "corporate applicant" means—

(a) corporate debtor; or

(b) a member or partner of the corporate debtor who is authorised to make an application for the corporate insolvency resolution process [2][or the pre-packaged insolvency resolution process, as the case may be,] under the constitutional document of the corporate debtor; or

(c) an individual who is in charge of managing the operations and resources of the corporate debtor; or

(d) a person who has the control and supervision over the financial affairs of the corporate debtor;

[1][(5A) "corporate guarantor" means a corporate person who is the surety in a contract of guarantee to a corporate debtor;]

(6) "dispute" includes a suit or arbitration proceedings relating to—

(a) the existence of the amount of debt;

(b) the quality of goods or service; or

(c) the breach of a representation or warranty;

(7) "financial creditor" means any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to;

(8) "financial debt" means a debt alongwith interest, if any, which is disbursed against the consideration for the time value of money and includes—

(a) money borrowed against the payment of interest;

(b) any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent;

(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;

(e) receivables sold or discounted other than any receivables sold on non-recourse basis;

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1. Inserted by Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 (26 of 2018), dated 17.08.2018, w.e.f. 6.6.2018.

(f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;

[1][*Explanation:* For the purposes of this sub-clause,—

(i) any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing; and

(ii) the expressions, "allottee" and "real estate project" shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);]

(g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;

(h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;

(i) the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause;

(9) "financial position", in relation to any person, means the financial information of a person as on a certain date;

[2][(9A) "fraudulent or wrongful trading" means the fraudulent or wrongful trading as referred to in section 66;]

(10) "information memorandum" means a memorandum prepared by resolution professional under sub-section (1) of section 29;

(11) "initiation date" means the date on which a financial creditor, corporate applicant or operational creditor, as the case may be, makes an application to the Adjudicating Authority for initiating corporate insolvency resolution process [3][or the pre-packaged insolvency resolution process, as the case may be]:

[2][PROVIDED that where multiple applications for initiation of the corporate insolvency resolution process in respect of a corporate debtor are pending before the Adjudicating Authority on the insolvency commencement date, the initiation date shall be the date on which the first such application was made before the Adjudicating Authority.]

1. Inserted by Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 (26 of 2018), dated 17.08.2018, w.e.f. 6.6.2018.
2. Inserted by the Insolvency and Bankruptcy Code (Amdt.) Act, 2026 (6 of 2026), dt. 6-4-2026, w.e.f. 26-5-2026 vide SO 2625(E), dt. 22-5-2026**.**
3. Inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2021 (26 of 2021), dated 11-08-2021, w.e.f. 4-4-2021.

(12) "insolvency commencement date" means the date of admission of an application for initiating corporate insolvency resolution process by the Adjudicating Authority under sections 7, 9 or section 10, as the case may be:
[1][xxx]

(13) "insolvency resolution process costs" means—
(a) the amount of any interim finance and the costs incurred in raising such finance;
(b) the fees payable to any person acting as a resolution professional;
(c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern;
(d) any costs incurred at the expense of the Government to facilitate the insolvency resolution process; and
(e) any other costs as may be specified by the Board;

(14) "insolvency resolution process period" means the period of one hundred and eighty days beginning from the insolvency commencement date and ending on one hundred and eightieth day;

(15) "interim finance" means any financial debt raised by the resolution professional during the insolvency resolution process period [2][or by the corporate debtor during the pre-packaged insolvency resolution process period, as the case may be] [3][and such other debt as may be notified];

(16) "liquidation cost" means any cost incurred by the liquidator during the period of liquidation subject to such regulations, as may be specified by the Board;

(17) "liquidation commencement date" means the date on which proceedings for liquidation commence in accordance with section 33 or section 59, as the case may be;

(18) "liquidator" means an insolvency professional appointed as a liquidator in accordance with the provisions of Chapter III or Chapter V of this Part, as the case may be.

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1. Omitted by the Insolvency and Bankruptcy Code (Amendment) Act, 2020, dated 13.03.2020, w.e.f. 28.12.2019. Earlier, proviso was inserted by Second Amendment Act, 2018, w.e.f. 6.6.2018. Prior to omission proviso read as under:
"PROVIDED that where the interim resolution professional is not appointed in the order admitting application under section 7, 9 or section 10, the insolvency commencement date shall be the date on which such interim resolution professional is appointed by the Adjudication Authority;"
2. Inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2021 (26 of 2021), dated 11-08-2021, w.e.f. 4-4-2021.
3. Inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2020 (1 of 2020), dated 13.03.2020, w.e.f. 28.12.2019.

(19) "officer" for the purposes of [1][Chapter VI and] Chapter VII of this Part, means an officer who is in default, as defined in clause (60) of section 2 of the Companies Act, 2013 (18 of 2013) or a designated partner as defined in clause (j) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009), as the case may be;

(20) "operational creditor" means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred;

(21) "operational debt" means a claim in respect of the provision of goods or services including employment or a debt in respect of the [2][payment] of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority;

(22) "personal guarantor" means an individual who is the surety in a contract of guarantee to a corporate debtor;

(23) "personnel" includes the directors, managers, key managerial personnel, designated partners and employees, if any, of the corporate debtor;

[1][(23A) "preliminary information memorandum" means a memorandum submitted by the corporate debtor under clause (b) of sub-section (1) of section 54G;

(23B) "pre-packaged insolvency commencement date" means the date of admission of an application for initiating the pre-packaged insolvency resolution process by the Adjudicating Authority under clause (a) of sub-section (4) of section 54C;

(23C) "pre-packaged insolvency resolution process costs" means—

(a) the amount of any interim finance and the costs incurred in raising such finance;

(b) the fees payable to any person acting as a resolution professional and any expenses incurred by him for conducting the pre-packaged insolvency resolution process during the pre-packaged insolvency resolution process period, subject to sub-section (6) of section 54F;

(c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern pursuant to an order under sub-section (2) of section 54J;

(d) any costs incurred at the expense of the Government to facilitate the pre-packaged insolvency resolution process; and

(e) any other costs as may be specified;

(23D) "pre-packaged insolvency resolution process period" means the period beginning from the pre-packaged insolvency commencement

1. Inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2021 (26 of 2021), dated 11.8.2021, w.e.f. 4.4.2021.
2. Substituted for "repayment" by Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 (26 of 2018), dated 17.08.2018, w.e.f. 6.6.2018.

date and ending on the date on which an order under sub-section (1) of section 54L, or sub-section (1) of section 54N, or sub-section (2) of section 54-O, as the case may be, is passed by the Adjudicating Authority;]

(24) "related party", in relation to a corporate debtor, means—

(a) a director or partner of the corporate debtor or a relative of a director or partner of the corporate debtor;

(b) a key managerial personnel of the corporate debtor or a relative of a key managerial personnel of the corporate debtor;

(c) a limited liability partnership or a partnership firm in which a director, partner, or manager of the corporate debtor or his relative is a partner;

(d) a private company in which a director, partner or manager of the corporate debtor is a director and holds along with his relatives, more than two per cent of its share capital;

(e) a public company in which a director, partner or manager of the corporate debtor is a director and holds along with relatives, more than two percent of its paid- up share capital;

(f) any body corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;

(g) any limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;

(h) any person on whose advice, directions or instructions, a director, partner or manager of the corporate debtor is accustomed to act;

(i) a body corporate which is a holding, subsidiary or an associate company of the corporate debtor, or a subsidiary of a holding company to which the corporate debtor is a subsidiary;

(j) any person who controls more than twenty per cent of voting rights in the corporate debtor on account of ownership or a voting agreement;

(k) any person in whom the corporate debtor controls more than twenty per cent of voting rights on account of ownership or a voting agreement;

(l) any person who can control the composition of the board of directors or corresponding governing body of the corporate debtor;

(m) any person who is associated with the corporate debtor on account of—

(i) participation in policy making processes of the corporate debtor; or

(ii) having more than two directors in common between the corporate debtor and such person; or

(iii) interchange of managerial personnel between the corporate debtor and such person; or

(iv) provision of essential technical information to, or from, the corporate debtor;

[1][(24A) "related party", in relation to an individual, means—

(a) a person who is a relative of the individual or a relative of the spouse of the individual;

(b) a partner of a limited liability partnership, or a limited liability partnership or a partnership firm, in which the individual is a partner;

(c) a person who is a trustee of a trust in which the beneficiary of the trust includes the individual, or the terms of the trust confers a power on the trustee which may be exercised for the benefit of the individual;

(d) a private company in which the individual is a director and holds along with his relatives, more than two per cent. of its share capital;

(e) a public company in which the individual is a director and holds along with relatives, more than two per cent. of its paid-up share capital;

(f) a body corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of the individual;

(g) a limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, act on the advice, directions or instructions of the individual;

(h) a person on whose advice, directions or instructions, the individual is accustomed to act;

(i) a company, where the individual or the individual along with its related party, own more than fifty per cent. of the share capital of the company or controls the appointment of the board of directors of the company.

Explanation : For the purposes of this clause,—

(a) "relative", with reference to any person, means anyone who is related to another, in the following manner, namely:—

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1. Inserted by Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 (26 of 2018), dated 17.08.2018, w.e.f. 6.6.2018.

(i) members of a Hindu Undivided Family,
(ii) husband,
(iii) wife,
(iv) father,
(v) mother,
(vi) son,
(vii) daughter,
(viii) son's daughter and son,
(ix) daughter's daughter and son,
(x) grandson's daughter and son,
(xi) granddaughter's daughter and son,
(xii) brother,
(xiii) sister,
(xiv) brother's son and daughter,
(xv) sister's son and daughter,
(xvi) father's father and mother,
(xvii) mother's father and mother,
(xviii) father's brother and sister,
(xix) mother's brother and sister; and

(b) wherever the relation is that of a son, daughter, sister or brother, their spouses shall also be included;]

[1][(25) "resolution applicant" means a person, who individually or jointly with any other person, submits a resolution plan to the resolution professional pursuant to the invitation made under clause (h) of sub-section (2) of section 25 [2][or pursuant to section 54K, as the case may be];]

(26) "resolution plan" means a plan proposed by [3][resolution applicant] for insolvency resolution of the corporate debtor as a going concern in accordance with Part II;

[4][*Explanation :* For the removal of doubts, it is hereby clarified that a resolution plan may include provisions for the restructuring of the corporate debtor, including by way of [5][merger, amalgamation, demerger and sale of one or more assets of the corporate debtor

1. Substituted by the Insolvency and Bankruptcy Code (Amendment) Act, 2018 (8 of 2018), dated 18.1.2018, w.e.f. 23.11.2017. Prior to substitution, clause (25) read as under:
"(25) "resolution applicant" means any person who submits a resolution plan to the resolution professional;"
2. Inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2021 (26 of 2021), dated 11-08-2021, w.e.f. 4-4-2021.
3. Substituted for "any person", by the Insolvency and Bankruptcy Code (Amendment) Act, 2018 (Act No. 8 of 2018), dated 18.1.2018, w.e.f. 23.11.2017.
4. Inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2019 (26 of 2019), dated 5.8.2019, w.e.f. 16.8.2019 vide S.O. 2953(E), dated 16.8.2019.
5. Substituted for "merger, amalgamation, demerger" the Insolvency and Bankruptcy Code (Amdt.) Act, 2026 (6 of 2026), dt. 6-4-2026, w.e.f. 26-5-2026 vide SO 2625(E), dt. 22-5-2026.

through one or more plans proposed by one or more resolution applicants subject to such conditions as may be specified;]]

(27) "resolution professional", for the purposes of this Part, means an insolvency professional appointed to conduct the corporate insolvency resolution process [1][or the pre-packaged insolvency resolution process, as the case may be,] and includes an interim resolution professional; and

(28) "voting share" means the share of the voting rights of a single financial creditor in the committee of creditors which is based on the proportion of the financial debt owed to such financial creditor in relation to the financial [2][to the members of the committee of creditors who are eligible to vote].

COMMENTS

Section 5 sets out various definitions used in Part II of the Code, which deals with insolvency resolution and liquidation of corporate persons. New Explanation inserted in clause (8)(f) so as to define "allottee" and "real estate project". Proviso inserted to clause (12) provides that where the interim resolution professional is not appointed in the order, the insolvency commencement date shall be date on which interim resolution professional is appointed. Expression "related party" has also been defined.

Under clause (15), the Central Government, vide S.O. 1145(E), dated 18.03.2020, notifies a debt raised from the Special Window for Affordable and Middle-Income Housing Investment Fund I.

Section 5(8)-Financial Debt— An interest-free loan qualifies as a "Financial Debt" under Section 5(8). It held that the "time value of money" does not strictly require the payment of interest. Therefore, a creditor who provides an interest-free funding for business purposes is a Financial Creditor and can validly initiate CIRP under Section 7 upon default.

Orator Marketing Pvt. Ltd. v. Samtex Desinz Pvt. Ltd. (2021) 8 SCC 481

A lease only qualifies as "Financial Debt" under Section 5(8)(f) if it is a finance/capital lease under Accounting Standards and has the commercial effect of a borrowing.

New Okhla Industrial Development Authority v. Anand Sonbhadra (2022) 8 SCC 1

The amounts raised from homebuyers under real estate projects have the "commercial effect of a borrowing." Since homebuyers finance the construction of their future homes, their investment qualifies as a "Financial Debt." They are "Financial Creditors" and have the right to sit on the Committee of Creditors (CoC).

Section 5(8)(f) does appear to be a residuary provision which is "catch all" in nature. This is clear from the words "any amount" and "any other transaction" which means that amounts that are "raised" under "transactions" not covered by any of the other clauses, would amount to a financial debt if they had the commercial effect of a borrowing.

Pioneer Urban Land and Infrastructure Ltd. v. Union of India (2019) 8 SCC 416

Section 5(8) is an inclusive definition and thus would cover money that is borrowed or raised in any of the manners prescribed in Section 5(8) or otherwise.

Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. v. Axis Bank Ltd. & Ors. (2020) 8 SCC 401

The expressions 'related party' and 'relative' contained in the definition sections must be read noscitur a sociis with the categories of person mentioned in Explanation I. So read, it would include only persons who are connected with the business activity

1. Inserted by Insolvency and Bankruptcy Code (Amendment) Act, 2021 (26 of 2021), dated 11.08.2021, w.e.f. 4.4.2021.
2. Substituted for "owed by the corporated debtor" by the Insolvency and Bankruptcy Code (Amdt.) Act, 2026, dt. 6-4-2026, w.e.f. 26-5-2026 vide SO 2625(E), dt. 22-5-2026.

of the resolution applicant. This Court further clarified that the expression 'connected person' would also cover a person who is in management or control of the business of the corporate debtor during the implementation of a resolution plan."

Eva Agro Feeds Pvt. Ltd. v. Punjab National Bank and Anr., (2023) ibclaw.in 98 SC

CHAPTER II

CORPORATE INSOLVENCY RESOLUTION PROCESS

[1]6. Persons who may initiate corporate insolvency resolution process

Where any corporate debtor commits a default, a financial creditor, an operational creditor or the corporate debtor itself may initiate corporate insolvency resolution process in respect of such corporate debtor in the manner as provided under this Chapter.

COMMENTS

This section provides that where a corporate debtor has defaulted in paying a debt that has become due and payable but not repaid, the corporate insolvency resolution process may be initiated in the manner as provided in this Chapter in respect of such corporate debtor by a financial creditor, an operational creditor or the corporate debtor itself. Early recognition of financial distress is very important for timely resolution of insolvency. Any financial creditor to initiate the corporate insolvency resolution process where the corporate debtor has defaulted in paying a debt that has become due and payable but not repaid. Financial creditors are those creditors to whom a financial debt is owed. The corporate debtor itself to initiate the insolvency resolution process once it has defaulted on a debt. Operational creditors are also permitted to initiate the insolvency resolution process. This will bring the law in line with international practices, which permit unsecured creditors to file for the initiation of insolvency resolution proceedings.

[1]7. Initiation of corporate insolvency resolution process by financial creditor

(1) A financial creditor either by itself or jointly with [2][other financial creditors, or any other person on behalf of the financial creditor, as may be notified by the Central Government,] may file an application for initiating corporate insolvency resolution process against a corporate debtor before the Adjudicating Authority[3] when a default has occurred:

[4][PROVIDED that for the financial creditors, referred to in clauses (a) and (b) of sub-section (6A) of section 21, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than

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1. Enforced w.e.f. 1-12-2016 vide S.O. 3594(E), dt. 30-11-2016.
2. Substituted for "other financial creditors" by Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 (26 of 2018), dated 17.08.2018, w.e.f. 6.6.2018.
3. Vide S.O. 1091(E), dtd. 27.2.2019, the Central Government notifies following persons for filing an application before the Adjudicating Authority for initiating corporate insolvency resolution process against a corporate debtor:—
   (i) a guardian;
   (ii) an executor or administrator of an estate of a financial creditor;
   (iii) a trustee (including a debenture trustee); and
   (iv) a person duly authorised by the Board of Directors of a Company.
4. Inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2020 (1 of 2020), dated 13.03.2020, w.e.f. 28.12.2019.

one hundred of such creditors in the same class or not less than ten per cent. of the total number of such creditors in the same class, whichever is less:

PROVIDED FURTHER that for financial creditors who are allottees under a real estate project, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such allottees under the same real estate project or not less than ten per cent. of the total number of such allottees under the same real estate project, whichever is less:

PROVIDED ALSO that where an application for initiating the corporate insolvency resolution process against a corporate debtor has been filed by a financial creditor referred to in the first and second provisos and has not been admitted by the Adjudicating Authority before the commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2020, such application shall be modified to comply with the requirements of the first or second proviso within thirty days of the commencement of the said Act, failing which the application shall be deemed to be withdrawn before its admission.]

Explanation: For the purposes of this sub-section, a default includes a default in respect of a financial debt owed not only to the applicant financial creditor but to any other financial creditor of the corporate debtor.

(2) The financial creditor shall make an application under sub-section (1) in such form and manner and accompanied with such fee as may be prescribed.

(3) The financial creditor shall, along with the application furnish—

(a) record of the default recorded with the information utility or such other record or evidence of default as may be specified;

(b) the name of the resolution professional proposed to act as an interim resolution professional; and

(c) any other information as may be specified by the Board.

(4) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3):

[1][xxx]

[2][(5) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), by an order—

1. Omitted by the Insolvency and Bankruptcy Code (Amdt.) Act, 2026 (6 of 2026), dt. 6-4-2026, w.e.f. 26-5-2026 vide SO 2625(E), dt. 22-5-2026. Prior to omition, proviso read as under:
"PROVIDED that if the Adjudicating Authority has not ascertained the existence of default and passed an order under sub-section (*5*) within such time, it shall record its reasons in writing for the same."
Earlier, proviso was inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2019 (26 of 2019), dated 5.8.2019, w.e.f. 16.8.2019 vide S.O. 2953(E), dated 16.8.2019.

2. Substituted by by the Insolvency and Bankruptcy Code (Amdt.) Act, 2026 (6 of 2026), dt. 6-4-2026, w.e.f. 26-5-2026 vide SO 2625(E), dt. 22-5-2026. Prior to substitution, sub-section (5) read as under:
"(5) Where the Adjudicating Authority is satisfied that—
(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application; or *Continued on next page*

(a) admit the application, if it is satisfied that a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceeding pending against the proposed resolution professional; or

(b) reject the application, if it is satisfied that a default has not occurred or the application under sub-section (2) is incomplete or a disciplinary proceeding is pending against the proposed resolution professional:

PROVIDED that the Adjudicating Authority shall, before rejecting the application under clause (b), give a notice to the applicant to rectify the defect in his application within seven days from the date of receipt of such notice from the Adjudicating Authority:

PROVIDED FURTHER that if the Adjudicating Authority has not passed an order under this sub-section within a period of fourteen days from the date of receipt of the application under sub-section (2), it shall record the reasons for such delay in writing.

Explanation I: For the purposes of this sub-section, it is hereby clarified that where the requirements under clause (a) have been complied with, no other ground shall be considered to reject an application filed under this section.

Explanation II: For the removal of doubts, it is hereby clarified that where a record of default in respect of a financial debt owed to a financial institution recorded with the information utility has been furnished along with the application filed by such financial institution under this section, such record shall be considered sufficient for the Adjudicating Authority to ascertain the existence of default under this section.]

(6) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (5).

(7) The Adjudicating Authority shall communicate—

(a) the order under clause (a) of sub-section (5) to the financial creditor and the corporate debtor;

(b) the order under clause (b) of sub-section (5) to the financial creditor,

within seven days of admission or rejection of such application, as the case may be.

Continue from previous page

(b) default has not occurred or the application under sub-section (2) is incomplete or any disciplinary proceeding is pending against the proposed resolution professional, it may, by order, reject such application:

PROVIDED that the Adjudicating Authority shall, before rejecting the application under clause (b) of sub-section (5), give a notice to the applicant to rectify the defect in his application within seven days of receipt of such notice from the Adjudicating Authority.''

COMMENTS

This section lays down the procedure for the initiation of the corporate insolvency resolution process by a financial creditor or two or more financial creditors jointly. The financial creditor can file an application before the National Company Law Tribunal along with proof of default and the name of a resolution professional proposed to act as the interim resolution professional in respect of the corporate debtor. The requirement to provide proof of default ensures that financial creditors do not file frivolous applications or applications which prematurely put the corporate debtor into insolvency resolution proceedings for extraneous considerations. The adjudicating authority/Tribunal can, within fourteen days from the date of receipt of the application, ascertain the existence of a default from the records of a regulated information utility. A default may also be proved in such manner as may be specified by the Insolvency and Bankruptcy Board of India. Once the adjudicating authority/Tribunal is satisfied as to the existence of the default and has ensured that the application is complete and no disciplinary proceedings are pending against the proposed resolution professional, it shall admit the application. The adjudicating authority/Tribunal is not required to look into any other criteria for admission of the application. It is important that parties are not allowed to abuse the legal process by using delaying tactics at the admissions stage.

For Section 7 applications, the NCLT only needs to verify the existence of a "debt" and "default"; whether the application is in the prescribed format and includes necessary evidence, then the application must be admitted.

In the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.

M/s Innoventive Industries Ltd. v. ICICI Bank & Anr., 2018 1 SCC 407

The Court held that the distinction between Financial Creditors (FC) and Operational Creditors (OC) is based on an "intelligible differentia" and is not discriminatory under Article 14. Financial creditors are involved in the business from the start and can assess the viability of the corporate debtor, whereas operational creditors typically provide goods and services and are concerned with recovering specific dues. Thus, different procedures for initiation and the exclusion of OCs from the Committee of Creditors (CoC) are constitutionally valid.

Swiss Ribbons Pvt. Ltd. & Anr. v. Union of India & Ors. (2019) 4 SCC 17

Section 7 application by allottees (homebuyers) of a real estate project must be filed by at least 100 allottees in the same project, or 10% of the total number of such allottees, whichever is less. The Court ruled that this classification is reasonable and prevents a single disgruntled homebuyer from stalling a large-scale project, which would be detrimental to the interests of hundreds of other buyers.

Manish Kumar v. Union of India (2021) 5 SCC 1

There is no bar in law to the amendment of pleadings in an application under Section 7 of the IBC, or to the filing of additional documents, apart from those initially filed along with application under Section 7 of the IBC.

Dena Bank v. C. Shivakumar Reddy and Anr., (2021) ibclaw.in 69 SC

Section 7 application is maintainable against a Corporate Guarantor even if the principal borrower is not a "corporate person". The liability of the guarantor is co-extensive with that of the principal borrower. Once the principal borrower defaults, the "financial debt" becomes due from the guarantor immediately.

Laxmi Pat Surana v. Union Bank of India & Anr. (2021) 8 SCC 481