

IBBI UPDATES

1. Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2021

On **June 01, 2021** The Insolvency and Bankruptcy Board of India (IBBI) released Guideline “**Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2021**”. The Guidelines shall come into effect for appointments as IRP, Liquidator, RP and BT with effect from **July 1, 2021**.

IBBI is required to recommend the name of an Insolvency Professional (IP) for appointment as IRP or Liquidator, RP or Bankruptcy Trustee (BT) in case of Individual Insolvency.

At the time of reference/ directions received from the Adjudicating Authority (AA), IBBI does not have information about the volume, nature and complexity of insolvency or bankruptcy process and the resources available at the disposal of an IP. In such a situation, the IBBI is unlikely to add much value by recommending an IP for the process.

Further, it takes time for a reference/ direction from the AA to reach IBBI. IBBI may take up to 10 days to identify an IP and it takes time for the recommendation of IBBI to reach AA, after which the AA will appoint the recommended IP. The process of appointment may entail 2-3 weeks, which could be saved if the AA has a ready Panel of IPs recommended by IBBI and it can pick up any name from the Panel for appointment while issuing the Order itself.

Therefore the IBBI has decided to release guidelines to prepare Common Panel of IPs for appointment as IRP, Liquidator, RP and BT.

The Panel will have **Zone wise list** of IPs based on the registered office of the IP and shall have a validity of **6 months** post which a new panel will replace the earlier panel. The NCLT and DRT may pick up any name from the panel for appointment of IRP, Liquidator, RP or BT.

An IP shall be eligible to be in the panel if:

- a) there is no disciplinary proceeding, pending against him;
- b) he has not been convicted at any time in the last 3 years by a court of competent jurisdiction;
- c) he expresses his interest to be included in the Panel for the relevant period;
- d) he undertakes to discharge the responsibility as IRP, Liquidator, RP or BT, as he may be appointed by the AA;
- e) he holds an Authorisation for Assignment (AFA), which is valid till the validity of Panel.

IBBI shall invite expression of interest from IPs in **Form A** by sending an e-mail to them at their email addresses registered with the IBBI.

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The eligible IPs will be included in the Panel in the order of the volume of ongoing processes they have in hand. The IP who has the lowest volume of ongoing processes will get a score of 100 and will be at the top of the Panel. The IP who has the highest volume of ongoing processes will get a score of 0. Where 2 or more IPs get the same score, they will be placed in the Panel in the order of date of their registration with IBBI. The IP registered earlier will be placed above the IP registered later.

IP who is included in the Panel cannot:

- a) withdraw his interest to act as IRP, Liquidator, RP or BT, as the case may be;
- b) decline to act as IRPs, Liquidator, RP or BT, as the case may be, if appointed by the AA; or
- c) surrender his registration to IBBI or membership or AFA to his IPA during the validity of the Panel.

The submission of expression of interest is an unconditional consent by the IP to act as an IRP, Liquidator, RP or BT. An IP who declines to act as IRP, Liquidator, RP or BT on being appointed by the AA, shall not be included in the Panel for the next 5 years, without prejudice to any other action that may be taken by the IBBI.

The link for the aforesaid Guideline is as below:

<https://ibbi.gov.in/uploads/legalframework/57df52b9084e184d7dd15a6f4c3e314b.pdf>

2. Invitation of Expression of Interest (EOI) Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees.

On **June 05, 2021** in terms of Guideline “**Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2021** issued by IBBI on **June 01, 2021**, IBBI has invited Expression of Interest (EOI) from IPs in **Form A**.

IBBI has sent an e-mail to IPs at their registered email addresses seeking EOI for appointment as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees from **July 1, 2021 to December 31, 2021**. The EOI should be submitted strictly through online mode only by accessing <https://www.ibbi.gov.in/users/login> on the IBBI's website. The form will be available in the login account till June 20, 2021.

EOI if submitted, through any other mode (viz. e-mails/fax/physical mode/others etc.) or EOIs without DSC, e-sign, invalid DSC/e-sign, received after due date, not consistent with the guidelines, shall stand rejected. **Form A** once submitted using DSC/e-sign cannot be altered. An acknowledgement e-mail will be sent on registered e-mail ID upon successful submission of Form A by IP.

The link for the aforesaid Invitation is as below:

<https://www.ibbi.gov.in/uploads/whatsnew/ab53abe33e82b39967d47d8ec2288362.pdf>

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3. Extension of last date for Submission of Expression of Interest (EOI)

On **June 10, 2021** vide notification no. **IP-12011/1/2020-IBBI** has extended the timeline for submitting the Expression of Interest (EOI) from IPs in relation with Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2021 to **June 25, 2021**.

IBBI will then send the Panel List to AA by **June 30, 2021**.

The list can be assessed from following link:

<https://www.ibbi.gov.in/uploads/whatsnew/26e89d33582af728c650ec6407aa0dcb.pdf>

The link for the aforesaid extension is as below:

<https://www.ibbi.gov.in/uploads/whatsnew/52e51f50d8bdb1995c32b161ea1ede91.pdf>

4. IBBI invites comments from the public on the Regulations already notified under the Insolvency and Bankruptcy Code, 2016

On **June 17, 2021** IBBI vide press release no. **IBBI/PR/2021/12** has invited comments from the public including the stakeholders on the regulations already notified under the Code till date.

The comments received between 17th June, 2021 and 31st December, 2021 will be processed together by IBBI and by following the due process, regulations will be modified to the extent considered necessary.

It will be the endeavor of the IBBI to notify modified regulations by 31st March, 2022 and bring them into force on 1st April, 2022.

The link for the aforesaid Press Release is as below:

<https://ibbi.gov.in/uploads/press/985d3ef60a8caf32a5e3ad55382d9137.pdf>

5. The Securities Contracts (Regulation) (Amendment) Rules, 2021

On **June 18, 2021** Ministry of Finance vide notification no. **G.S.R 423(E)** notified Securities Contracts (Regulation) (Amendment) Rules, 2021 which amends Securities Contracts (Regulation) Rules, 1957.

- A Company which is desirous of getting its securities listed on a Stock Exchange shall offer and allot to public in terms of an offer document at least 10% of each class or kind of equity shares or debentures convertible into equity shares" (securities) issued by the company, if the post issue capital of the company calculated at offer price is above ₹4 thousand crore but less than or equal to ₹1 lakh crore.

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- A Company which is desirous of getting its securities listed on a Stock Exchange shall offer and allot to public in terms of an offer document at least such percentage of securities issued by the company equivalent to the value of ₹5 thousand crore and at least 5% of each such securities issued by the company, if the post issue capital of the company calculated at offer price is above ₹1 lakh crore. Further, the Company shall increase its public shareholding to at least 10% within a period of 2 years and at least 25% within a period of 5 years from the date of listing of the securities.
- In case of acquisition of a listed co. under Corporate Insolvency Resolution Process, if the public shareholding falls below 10% then the same shall be increased to 10% within 12 months from the date of such shortfall.
- ***Every listed company shall maintain public shareholding of at least 5% as a result of implementation of the resolution plan approved under section 31 of the IBC.***

The link for the aforesaid Notification is as below:

<https://www.ibbi.gov.in/uploads/legalframework/cfc752ae9fb5738a0b8e125a86c5f257.pdf>

6. Starting Regular hearing in NCLT

On **June 25, 2021** NCLT vide order has announced that regular hearing in NCLT Benches shall commence w.e.f. **July 1, 2021** through Video Conference on all working days or as mentioned. All the Members shall attend the Bench from Court Rooms at their respective Headquarters through video conferencing.

The link for the aforesaid Order is as below:

<https://www.ibbi.gov.in/uploads/legalframework/ac543006840abd6a5bc2a21849507cc5.pdf>

7. List of companies where CIRP ended with liquidation Order – as on 31 March 2021

<https://www.ibbi.gov.in/uploads/whatsnew/f0f7ff1d1a9065fd85a571a0ccaf5e96.pdf>

8. List of companies where CIRP ended with Yielding Resolution Plans-as on 31st March, 2021

<https://www.ibbi.gov.in/uploads/whatsnew/2021-06-04-222250-7q3js-89f86a10908fb64434535a96823ae731.pdf>

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