

# Info Capsule

January 28, 2019



THE INSTITUTE OF  
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

[www.icsi.edu](http://www.icsi.edu)

## **THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA AMENDS THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016<sup>1</sup>**

1. The Insolvency and Bankruptcy Code, 2016 provides for corporate insolvency resolution process for invitation, receipt, and consideration of resolution plans; and approval of a resolution plan to resolve insolvency of the corporate debtor. It envisages that a resolution plan, once approved, must be implemented. In furtherance of this, the Insolvency and Bankruptcy Board of India has notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2019 to discourage persons, other than genuine, capable and credible resolution applicants, to submit resolution plans.
2. The amendment mandates that the request for resolution plans shall require the resolution applicant, in case its resolution plan is approved by the committee of creditors, to provide a performance security. Performance security means security of such nature, value, duration and source, as may be approved by the committee of creditors, having regard to the nature of resolution plan and business of the corporate debtor.
3. The Resolution Professional shall attach the evidence of receipt of performance security while submitting the resolution plan to the Adjudicating Authority for approval. Such performance security shall be forfeited if the resolution applicant of such plan, after its approval by the adjudicating authority, fails to implement or contributes to the failure of implementation of the plan.
4. The amendment also requires that the resolution plan shall include a statement as to whether the resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016 at any time in the past.
5. The amendment enables a creditor, who is aggrieved by non-implementation of a resolution plan approved by the Adjudicating Authority, to apply to the Adjudicating Authority for appropriate directions.
6. The amendment Regulations are effective from January 24, 2019.
7. These amendment regulations are available at [www.mca.gov.in](http://www.mca.gov.in) and [www.ibbi.gov.in](http://www.ibbi.gov.in).

\*\*\*

<sup>1</sup> <https://ibbi.gov.in/webadmin/pdf/press/2019/Jan/Press%20Release-CIRP-24012019.pdf>