

Discussion paper on Reducing Compliance by Review of CIRP Forms submitted by Insolvency Professionals (IPs) to IBBI

10th June, 2024

1. Background:

- 1.1. The Insolvency and Bankruptcy Code, 2016 (Code) assigns specific responsibilities to an insolvency professional (IP) in conduct of a corporate insolvency resolution process (CIRP). He exercises the powers of the Board of Directors of the corporate debtor (CD) and complies with applicable laws on its behalf. He also ensures that the process is conducted in accordance with the Code and the regulations.
- 1.2. In order to ensure that an IP performs his role, the Code casts upon the Insolvency and Bankruptcy Board of India (IBBI) and the Insolvency Professional Agency (IPA) to monitor his performance. The Code also requires the IBBI to collect, maintain and disseminate information and records relating to processes.
- 1.3. In order to facilitate submission of records and information by IPs to the IBBI as well as for monitoring of the processes and performance of IPs, a set of Forms to be filed by IPs on IBBI website were devised.
- 1.4. In the 27th meeting of Financial Stability and Development Council (FSDC) held on 8th May, 2023, it was advised that regulators should adopt a focused approach to reduce the compliance burden further and ensure a streamlined and efficient regulatory environment.
- 1.5. In line with this, on IBBI's behest, the Indian Institute of Insolvency Professionals of ICAI (IIPI) constituted a Study Group on 'Removing Duplicity and Redundancy in Compliances by IPs', comprising of 10 members from all three Insolvency Professional Agencies (IPAs). The Study Group was mandated to make recommendations to alleviate the compliance burden faced by IPs. The Study Group submitted its draft report to IBBI recently.
- 1.6. Further, following the implementation of the initial CIRP Forms in 2019, various other initiatives were undertaken to enhance information sharing by Insolvency Professionals (IPs) with the IBBI. These developments included the creation of an assignments' portal, enabling uploading of public announcement on the portal, and the introduction of a mechanism for reporting the status of claims and Form-G on the IBBI website.
- 1.7. These advancements have significantly improved the capturing and management of data related to specific processes and events within the CIRP. Consequently, the need for modifications in the CIRP Forms has arisen to eliminate duplication of compliances and streamline the reporting requirements for IPs.

1.8. Based on the aforesaid inputs and discussions, and by leveraging the enhanced data capture capabilities provided by these new portals and mechanisms, it is proposed to simplify and optimize the CIRP forms, reducing the compliance burden on IPs while ensuring the availability of comprehensive and accurate information for effective monitoring and decision-making.

1.9. This reform initiative aims to make significant improvements by:

- i. Reducing the amount of information and data that Insolvency Professionals (IPs) currently need to submit, with a special emphasis on removing duplication, making the reporting process simpler and more efficient.
- ii. Adjusting compliance deadlines to reduce the pressure caused by numerous and frequently overlapping submission dates, allowing IPs to manage their resources more effectively.
- iii. Simplifying the compliance process by combining various reporting system on IPA and IBBI website into a single, centralized IBBI website, eliminating duplication, and making it easier for stakeholders to access and use.

1.10. This initiative represents a significant milestone in the ongoing efforts to enhance the regulatory framework governing insolvency proceedings. By significantly mitigating the compliance burden faced by IPs, it underscores a commitment to fostering a regulatory environment that is not only robust but also responsive to the evolving needs of stakeholders.

2. Existing Legal Framework:

2.1. Regulation 40B of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ('CIRP Regulations') provides for filing of specified Forms by IPs with the IBBI as follows:

(1) The insolvency professional, interim resolution professional or resolution professional, as the case may be, shall file the Forms, along with the enclosures thereto, on an electronic platform of the Board, as per the timelines stipulated against each Form, in the table below:

Table

Form No.	Period covered and scope	To be filed by	Timeline
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
IP 1	<i>Pre-Assignment: This includes consent to accept assignment as IRP / RP, the details of IP and the Applicant, the details of the person which will undergo the process, terms of consent, terms of engagement, etc.</i>	IP	<i>Within three days of signing of Form-2 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 or Form-AA of the Regulations, as the case may be.</i>

CIRP 1	From Commencement of CIRP till Issue of Public Announcement: This includes details of IRP, CD, and the Applicant; admission of application by AA; public announcement; details of suggested Authorised Representatives; non-compliances with the provisions of the Code and other laws applicable to the CD; etc.	IRP	Within seven days of making the Public Announcement under section 13.
CIRP 2	From Public Announcement till confirmation / replacement of IRP: This includes details of Authorised Representative selected by IRPs for a class of creditors; taking over management of the CD; receipt and verification of claims; constitution of CoC, first meeting of CoC; confirmation / replacement of IRP; applications seeking cooperation of management (if any); expenses incurred on or by IRP; relationship of IRP with the CD, Financial Creditors and Professionals; support services taken from IPE; non-compliances with the provisions of the Code and other laws applicable to the CD; etc.	IRP	Within seven days of confirmation/ replacement of IRP under section 22.
CIRP 3	From Appointment of RP till issue of IM to Members of CoC: This includes details of RP; details of registered valuers; handing over of records of CD by IRP to RP; taking over management of the CD; applications seeking co-operation of management (if any); details in IM; non-compliances with the provisions of the Code and other laws applicable to the CD; etc.	RP	Within seven days of issue of IM to members of CoC under regulation 36.
CIRP 4	From Issue of IM till issue of RFRP: This includes expression of interest; RFRP and modification thereof; evaluation matrix and modification thereof; non-compliances with the provisions of the Code and other laws applicable to the CD; etc.	RP	Within seven days of the issue of RFRP under regulation 36B.
CIRP 5	From Issue of RFRP till completion of CIRP: This includes updated list of claimants; updated CoC; details of the resolution applicants; details of resolution plans received; details of approval or rejection of resolution plans by CoC; application filed with AA for approval of resolution plan; details of	RP	Within seven days of the approval or rejection of the resolution plan under section 31 or issue of liquidation order under section 33, as the case may be, by the AA.

	resolution plan approved by the AA; initiation of liquidation, if applicable; expenses incurred on or by RP; appointment of professionals and the terms of appointment; relationship of the RP with the CD, Financial Creditors, and Professionals; support services taken from IPE; non-compliances with the provisions of the Code and other laws applicable to the CD; etc.		
CIRP 6	Event Specific: This includes: a. Filing of application in respect of preferential transaction, undervalued transaction, fraudulent transaction, and extortionate transaction; b. Raising interim finance; c. Commencement of insolvency resolution process of guarantors of the CD; d. Extension of period of CIRP and exclusion of time; e. Premature closure of CIRP (appeal, settlement, withdrawal, etc.); f. Request for liquidation before completion of CIRP; and g. Non implementation of resolution plan, as approved by the AA.	IRP or RP, as the case may be.	Within seven days of the occurrence of the relevant event.

(1A) Where any activity stated in column (2) of table below is not complete by the date specified therein. the interim resolution professional or resolution professional, as the case may be, shall file Form CIRP 7 within three days of the said date, and continue to file Form CIRP 7, every 30 days, until the said activity remains incomplete:-

Sl.	Activity requiring filing of Form CIRP 7, if not completed by the specified date	Timeline for filing Form CIRP 7 for the first time	Timeline for subsequent filing of Form CIRP 7
(1)	(2)	(3)	(4)
1	Public announcement is not made by T+3 rd day	Date specified in column (2) + 3 days	X+30 th day, X+60 th day, X+90 th day, and so on, till the activity is completed.
2	Appointment of RP is not made by T+30 th day		
3	Information memorandum is not issued within 92 days from the date of public announcement		
4	RFRP is not issued within 10 days from the date of issue of information memorandum to the committee		
5	CIRP is not completed by T+180 th day		

T = Insolvency commencement date, and

X = Date of filing of Form CIRP 7 for the first time under column (3).

Provided that subsequent filing of Form CIRP 7 shall not be made until thirty days have

lapsed from the filing of an earlier Form CIRP 7.

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(1B) The resolution professional shall file Form CIRP 8 intimating details of his opinion and determination under regulation 35A, on or before the one hundred and fortieth day of the insolvency commencement date:

Provided that the filing of Form CIRP 8 shall not become due unless a period of thirty days has elapsed from the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2021.

(2) The Board shall make available the Forms on the electronic platform and may modify them from time to time.

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3. Proposed Changes:

3.1. Based on the recommendations of the Study Group and considering the need to streamline the process and reduce the compliance burden on IPs, the following changes are proposed to the CIRP forms:

Form	Proposed Changes
IP-1 (Pre-assignment Form)	Proposed to be dropped as relevant details are submitted in the assignment portal and other compliances.
CIRP-1	Proposed to be merged as CP-1
CIRP-2	A single form can be filled after constitution of CoC.
CIRP-3	Proposed to be merged as CP-2
CIRP-4	A single form can be filled after issue of RFRP.
CIRP-5	Completely revamped and divided into two forms: CP-3A will capture details of the application filed with AA for approval of resolution plan, liquidation or closure (including by way of withdrawal/ settlement/ others). CP-3B will capture details of the order of AA approving the resolution plan or ordering liquidation or closure.
CIRP-6	Proposed to be dropped as relevant details are captured in other forms.
CIRP-7	Revamped into CP-5 into a simplified form with minimal fields to be submitted at the end of every month. It will provide status of CIRP, reasons for delay, if any, and update on meetings held during the month.
CIRP-8	Revamped into CP-4 Revised to capture only the details of avoidance transactions reported to AA by the RP. The existing form capturing details at the stage of forming opinion by RP and determination by RP is proposed to be revised to capture the details of application filed to AA only.

3.2 Streamlining of timelines for filing Forms:

- Currently, the timelines for filing various CIRP forms are linked to different events such as the insolvency commencement date, public announcement, appointment of RP, issue of IM, issue of RFRP, etc. This leads to due dates for filing of forms falling on different

dates for an IP handling multiple CIRP assignments, making the filing process cumbersome for the IP.

- To streamline the process, it is proposed to move to a monthly compliance reporting framework. IPs will be required to report the status and progress of the CIRP as on the last day of every month, by filing the applicable forms by 10th day of the following month (Except CP-3B).
- The specific timelines provided in the Code and Regulations for carrying out various activities under CIRP will remain unchanged. Only the reporting of status and progress to IBBI is being aligned to a monthly cycle.

3.3 This change will enable IPs to plan their compliances in an efficient manner and submit all Forms for their cases in one go every month. IBBI will also get a consolidated monthly update on the status of all CIRPs. It will reduce the multiple filing of Forms through the month. For instance, an IP handling three CIRP cases with different insolvency commencement dates in January month would file Form CIRP-1 for all three cases by 10th February, reflecting the status as on 31st January.

3.4 The revised Forms and filing timelines aim to minimize duplicate submissions, auto-populate fields from existing data to the extent possible, seek information relevant to the stage of CIRP and streamline the compliance process. This will help reduce the time and effort required for compliance by IPs.

4. Reduced Compliance Across Multiple Platforms

4.1 In an effort to streamline and centralize compliance procedures, the proposal aims to migrate specific compliance obligations, including the disclosure of costs and relationships, from the diverse and dispersed portals managed by the IPAs to the singular platform provided at the IBBI website. This strategic consolidation not only simplifies the compliance process but also enhances accessibility and oversight, facilitating smoother regulatory operations.

5. Proposal

5.1 Accordingly, it is proposed to:

- Make changes to the CIRP Forms as detailed in **Annexure-I**.
- Make amendment of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 to give effect to the revised Forms and filing requirements.
- Issue necessary Circulars/ guidelines to operationalize the revised Forms and process.

5.2 The proposed changes to the CIRP Forms and the compliance framework aim to significantly reduce the compliance burden on Insolvency Professionals while ensuring that the IBBI receives relevant and timely information for effective monitoring of the CIRP. The streamlining of Forms, auto-population of data from existing sources, and the move to a monthly reporting cycle will make the compliance process more efficient and less time-consuming for IPs.

- 5.3 The consolidation of various compliance requirements, such as disclosure of costs and relationships, onto the centralized IBBI platform will further simplify the process and provide a single-window interface for IPs to fulfil their reporting obligations.
6. **Public comments:** The Board accordingly solicits comments on the proposals discussed above and CIRP Forms detailed in **Annexure I**. Comments may be submitted electronically by **1st July, 2024**. For providing comments, please follow the process as under:
- (a) Visit IBBI website, www.ibbi.gov.in;
 - (b) Select 'Public Comments';
 - (c) Select 'Discussion paper on Reducing Compliance by Review of CIRP Forms submitted by Insolvency Professionals (IPs) to IBBI'
 - (d) Provide your Name, and Email id;
 - (e) 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.
 - (f) Select the kind of comments you wish to make, namely,
 - (i) General Comments; or
 - (ii) Specific Comments.
 - (g) If you have selected 'General Comments', please select one of the following options:
 - (i) Inconsistency, if any, between the Forms;
 - (ii) Any difficulty in filling the information in Forms.
 - (h) And then write comments under the selected option.
 - (i) If you have selected 'Specific Comments', please select 'Form' and write comments under the selected 'Form'.
 - (j) You can make comments on more than one 'Form', by clicking on more comments and repeating the process outlined above from point 6(i) onwards.
 - (k) Click 'Submit' if you have no more comments to make.
