



IBC AU-COURANT

Latest updates On Insolvency & Bankruptcy

22nd September 2022

"It does not matter how slowly you go as long as you do not stop "

➤ **IBBI hikes fees to cut reliance on govt funds**

In a purported bid to become self-sufficient and reduce reliance on government funds, the Insolvency and Bankruptcy Board of India (IBBI) has proposed to levy a “regulatory fee” of 0.25% of the realisable value to creditors where the recovery is higher than the liquidation value of stressed assets.

It has also proposed to impose a fee of 1% of the resolution cost in respect of hiring any professional or for other services. At the same time, the regulator has raised the fees it gets from insolvency professionals (IPs), IP entities and the information utility (IU). The new fee structures will come into force from October 1, 2022.

According to its annual report for FY21 (the latest available), the IBBI met just about a fourth of its fund requirements through fees and relied heavily on government grants for its operations. It received a grant of Rs 26.58 crore from the government in FY21. Its internal revenue—including fees by service providers such as IP agencies, IPs and IU—stood at Rs 6.90 crore and its total spending was to the tune of Rs 28.12 crore.

Given the fact that the IBBI is the newest financial sector regulator (it came into being only in late 2016), its reliance on government funds has remained substantial.

The regulator has also stipulated that an IP has to pay a fee at the rate of 1% of her earnings from such professional services in the preceding financial year. Currently, IPs are mandated to shell out only 0.25%. IP entities, too, will have to fork out a fee of 1% of their earnings.

The information utility will now have to pay a fee of 10% of its turnover in the preceding financial year, on or before April 30 every year. At present, such a utility is mandated to pay Rs 50 lakh as annual fee to the regulator. Any delay in the payment of the revised fee will attract a penal interest of 12% a year.

The regulator has also proposed to double the non-refundable fees of IPs and IP agencies for applying for providing such services to Rs 20,000 and Rs 2 lakh, respectively. Similarly, the application fee and for an information utility will be

doubled to Rs 10 lakh; its registration/renewal fee, too, will be raised to Rs 1 crore from Rs 50 lakh.

Currently, the country has only one information utility for insolvency resolution (National e-governance Services); three IP agencies that are floated by ICAI, ICSI and cost accountants' institute; 142 IP entities; and thousands of Ips.

Pritika Kumar, founder of Cornellia Chambers, said, "The IBBI's expenditure has only increased through the years, and this trend will continue with the introduction of pre-pack and cross-border insolvency mechanisms. The fees will ensure that this anticipated increase in the expenditure of the IBBI is covered and it will also allow the IBBI to steadily reduce its reliance on the central government funds."

Panel overseeing liquidation gets more teeth

The regulator has provided more power to the Stakeholders Consultation Committee (SCC), which usually comprises creditors, to take decisions in liquidation cases. The SCC can even propose the replacement of the liquidator to the adjudicating authority and fix his fees as well, if the committee of creditor did not fix the same during Corporate Insolvency Resolution Process (CIRP), according to an IBBI notification.

The CoC, formed during the CIRP will function as the SCC in the first 60 days. After adjudication of claims and within 60 days of initiation of process, the SCC will be reconstituted based upon admitted claims. The liquidator has been mandated to conduct the meetings of the SCC in a structured and time-bound manner with better participation of stakeholders and the scope of mandatory consultation by the liquidator with SCC has been enlarged. The changes came into effect from September 16.

Source: Financial Express

Read Full news at: <https://www.financialexpress.com/industry/ibbi-hikes-fees-to-cut-reliance-on-govt-funds/2683470/>

➤ **Assets of bankrupt companies can be sold in parts: IBBI**

Insolvency and Bankruptcy Board of India (IBBI) has said that its latest regulations on corporate rescue allow administrators and lenders of bankrupt firms to invite bids for individual assets of the distressed company if they received no rescue plan for the entity as a whole the first time.

IBBI said in a statement that the idea is to maximise value in resolution. The amendments to regulations on 'Insolvency Resolution Process for Corporate Persons' issued last Friday enables the resolution professional and the committee of creditors to issue request for resolution plan a second time for sale of one or more of assets of the corporate debtor in cases where no resolution plan has been received for the corporate debtor as a whole.

"It enables for a resolution plan to include sale of one or more assets of the debtor company to one or more successful resolution applicants submitting resolution plans for such assets and providing for appropriate treatment of the remaining assets," IBBI said in a statement.

The regulations also help in improving value received in the resolution plan, IBBI said.

The amendment provides for formulating a strategy for marketing of assets of the bankrupt business to a wider and targeted audience of potential bidders.

It also enables a longer time for the asset to be in the market as the invitation for expression of interest been advanced to 60th day from insolvency commencement date. Changes have also been introduced to provide more relevant information to persons for expressing interest, IBBI said.

With the aim to reduce delays in the process and to enhance efficiency of available time, the amendment enables creditors to examine whether they want to explore the option of 'compromise or arrangement'—a restructure option under the Companies Act--and seek the same from the tribunal while applying for a liquidation order.

If creditors decide to explore 'compromise or arrangement'--the option outside the Insolvency and Bankruptcy Code (IBC)--then they should explore that option during the period the order for liquidation under IBC is awaited from the tribunal.

Source: Mint

Read Full news at: <https://www.livemint.com/news/india/bankrupt-firms-can-be-sold-in-parts-says-ibbi-11663568291797.html>

