

Revised Norms by Insolvency and Bankruptcy Board of India, 2018

Insolvency and Bankruptcy Board of India has issued revised norms under the Insolvency and Bankruptcy Code, 2016 (“Code”) on 4th July 2018, thereby amending the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The revised norms include the much awaited amendment whereby homebuyers are brought under the ambit of the above Regulations. Under the said amendment a homebuyer can submit his claim to the Interim Resolution Professional (IRP) with documentary proof of claim which shall include agreement for sale and letter of allotment. The above amendment has also inserted provisions whereby a creditor in a class may indicate its choice of an insolvency professional, from amongst the three choices provided by the IRP in the public announcement, to act as its authorised representative.

The amended regulations also provide that an application admitted under section 7, 9 or 10 of the Code (for closure of corporate insolvency resolution process) may be withdrawn by the applicant by submitting an application to the effect to the IRP or the resolution professional, as the case may be, before the issue of invitation for expression of interest, along with a bank guarantee towards estimated cost incurred for certain purposes under the process. The committee of creditors (CoC) shall consider the application within seven days of its constitution or seven days of receipt of the application, whichever is later. If the application is approved by the CoC with 90% voting share, the resolution professional shall submit the application to the Adjudicating Authority on behalf of the applicant, within three days of such approval.

The above amendments have fortified the process of enforcement of the provisions of the Code while providing the much needed relief to the aggrieved homebuyers who have neither been given possession of the flats bought by them nor have been refunded their money and were left in a lurch when the developer companies underwent insolvency process. Homebuyers will now have voting rights and can now participate in the CoC meetings. Till now, they had no voting rights and were not included in the CoC.

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