

LOK SABHA

REPORT OF

THE JOINT COMMITTEE ON

THE INSOLVENCY AND BANKRUPTCY CODE, 2015

SIXTEENTH LOK SABHA



Lok Sabha Secretariat

New Delhi

April, 2016/Vaisakha 1938(Saka)

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SIXTEENTH LOK SABHA

Presented to Lok Sabha on 28 April, 2016

Laid in Rajya Sabha on 28 April, 2016



Lok Sabha Secretariat

New Delhi

April, 2016/Vaisakha 1938(Saka)

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(iv)

**COMPOSITION OF THE JOINT COMMITTEE ON THE INSOLVENCY AND
BANKRUPTCY CODE, 2015**

Shri Bhupender Yadav - **Chairperson**
LOK SABHA

2. Shri P. P Chaudhary
3. Shri Gopal Chinayya Shetty
4. Shri Subhash Baheria
5. Shri Nishikant Dubey
6. Shri Shivkumar C. Udasi
7. Shri Anil Shirole
8. Shri Abhishek Singh
9. Shri Gajendra Singh Shekhawat
10. Dr. Sanjay Jaiswal
11. Shri Jagdambika Pal
12. Shri Jayadev Galla
13. Shri Chandrakant Khaire
14. Shri Chirag Paswan
15. Shri K. C. Venugopal
16. Ms. Sushmita Dev
17. Dr. P. Venugopal
18. Shri Kalyan Banerjee
19. Shri Bhartruhari Mahtab
20. Shri B. Vinod Kumar
21. Shri Jitendra Chaudhury

RAJYA SABHA

22. Shri Ajay Sancheti
23. Shri Naresh Gujral #
24. Shri Bhubneswar Kalita @
25. Shri Praful Patel
26. Shri Ravi Prakash Verma
27. Shri K.C. Tyagi
28. Shri Sukhendu Sekhar Roy
29. Shri Satish Chandra Misra
30. Shri Anand Sharma *

Vice Shri Naresh Gujral , MP (Rajya Sabha) retired from Rajya Sabha w.e.f. 9th April, 2016 and re-nominated from Rajya Sabha (Bulletin Part I, No. 5251) w.e.f. 25th April, 2016

*Vice Shri Anand Sharma, MP (Rajya Sabha) resigned his seat from Rajya Sabha w.e.f. 7th March, 2016 (RS Bulletin Part –II dated 7th March, 2016) and re-nominated from Rajya Sabha (Bulletin Part I, No. 5251) w.e.f. 25th April, 2016

@ Vice Shri Bhubaneswar Kaliata, MP (Rajya Sabha) nominated from Rajya Sabha (Bulletin Part I, No. 5251) w.e.f. 25th April, 2016

Secretariat

- | | | | |
|----|----------------------|---|------------------|
| 1. | Smt. Sudesh Luthra | - | Joint Secretary |
| 2. | Shri J. V. G. Reddy | - | Director |
| 3. | Smt. Jagriti Tewatia | - | Deputy Secretary |
| 4. | Smt. Neena Juneja | - | Under Secretary |

REPRESENTATIVES OF MINISTRY OF FINANCE

(DEPARTMENT OF ECONOMIC AFFAIRS)

- | | | | |
|----|----------------------|---|----------------------|
| 1. | Shri Shaktikanta Das | - | Secretary |
| 2. | Shri Ajay Tyagi | - | Additional Secretary |

REPRESENTATIVES OF MINISTRY OF LAW & JUSTICE

(LEGISLATIVE DEPARTMENT)

- | | | | |
|----|-----------------------|---|--------------------------------|
| 1. | #Dr. G Narayanan Raju | - | Secretary |
| 2. | Dr. M.Vijayawargiya | - | Additional Secretary |
| 3. | Smt. Veena Kothavale | - | Additional Legislative Counsel |

(DEPARTMENT OF LEGAL AFFAIRS)

- | | | | |
|----|--------------------------|---|--------------------------|
| 1. | *Shri P K Malhotra | - | Secretary |
| 2. | Shri Suresh Chandra | - | Additional Secretary |
| 3. | Shri Mahendra Khandelwal | - | Additional Legal Advisor |

*Since demitted office on 20 April, 2016.

#holding dual charge of Legislative Department and Department of Legal Affairs
w.e.f. 21 April, 2016

REPORT OF THE JOINT COMMITTEE ON THE INSOLVENCY AND BANKRUPTCY CODE, 2015

I, the Chairperson of the Joint Committee to which the Bill* titled 'Insolvency and Bankruptcy Code, 2015' was referred, having been authorised to submit the Report on their behalf, present this Report with the Bill as amended by the Committee annexed thereto.

2. The Insolvency and Bankruptcy Code, 2015 was introduced in Lok Sabha on 21 December, 2015. The motion for reference of the Bill to a Joint Committee of both the Houses of Parliament was moved in Lok Sabha on 23 December, 2015 by Shri Arun Jaitley, Minister of Finance (**Appendix-I**). The Rajya Sabha concurred in the said motion on the same date (**Appendix-II**). The time given to the Committee for making the report as per the aforesaid motion was the last day of the first week of the Budget Session, 2016. One extension for making the report by the last day of the first week of the second part of the Budget Session, 2016 was granted by the House as per the motion moved and adopted on 26 February, 2016(**Appendix-III**). With the prorogation of Lok Sabha on 29 March, 2016, the second part of the Budget Session, 2016 stood cancelled. Subsequently, summons were issued for the next session i.e. Eighth Session from 25 April, 2016 to 13 May, 2016. The date of commencement of Eighth Session being same as commencement of second part of Budget Session, 2016, the earlier extension given by the House was treated as extension upto the last day of the first week of the Eight Session as per the motion moved and adopted by the Lok Sabha on 25 April, 2016.

3. The objective of the Insolvency and Bankruptcy Code, 2015 is to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner. There is no single law in India that deals with insolvency and bankruptcy. As per the present legal framework, provisions relating to insolvency and bankruptcy for companies can be found in the Sick Industrial Companies (Special Provisions) Act, 1985, the Recovery of Debt Due to Banks and Financial Institutions Act, 1993, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Companies Act, 2013. Liquidation of companies is handled by the High Courts. Individual Bankruptcy and Insolvency is dealt with by the Courts.

* **Published in the Gazette of India, Extraordinary Part-II, Section 2 dated 17.12.2015**

The existing framework for insolvency and bankruptcy is inadequate, ineffective and results in undue delays in resolution. It has been mentioned in Statement of Objects and Reasons that the Code seeks to provide an effective legal framework for timely resolution of insolvency and bankruptcy which would support development of credit markets and encourage entrepreneurship. It would also improve Ease of Doing Business, and facilitate more investments leading to higher economic growth and development.

4. The Committee held 12 sittings in all.

5. At their first sitting held on 19 January, 2016, the Committee held general discussion on the provisions of the Code and deliberated on the methodology for completion of the task assigned and decided that memoranda from important experts, trade unions, regulatory bodies, professional bodies and concerned Ministries on the aforesaid Bill may be obtained and their views heard by the Committee for a comprehensive and in-depth examination of the legislation.

6. Keeping in view the wide ranging importance of the provisions of the Code, the Committee at their first sitting also decided to invite the views/suggestions from stakeholder and public at large. A press communiqué inviting memoranda was issued accordingly by giving advertisement through DAVP, in response to which 26 memoranda were received out of which 19 memoranda related to the Code were circulated to the members of the Committee (**Appendix-IV**). The Committee also held a briefing by the representatives of the Department of Economic Affairs.

7. At their second sitting held on 20 January, 2016, the Committee heard the views of Shri T.K.Viswanathan, former Law Secretary, former Secretary General, Lok Sabha and Chairman, Bankruptcy Law Reforms Committee which was constituted by the Department of Economic Affairs to study the corporate bankruptcy legal framework in India and to submit a report. The Committee had also a briefing meeting with Departments of Financial Services, Economic Affairs and the Legislative Department.

8. The Committee at their third, fourth and fifth sittings held on 8, 9 and 16 February, 2016 heard the views/suggestions of 26 experts/representatives of Statutory/Regulatory/Government Bodies and Research Bodies/Trade Unions as well as organisations representing Industry and Professional Bodies (**Appendix-V**). The

Committee also heard the views of Ministry of Labour & Employment and Department of Public Enterprises.

9. The Committee at their sixth sitting held on 16 February, 2016 took evidence of the nodal Department i.e. Department of Economic Affairs as well as Legislative Department, Department of Financial Services and Ministry of Corporate Affairs.

10. Seventh, eighth, ninth and tenth sittings of the Committee were held on 3 and 17 March, 2016, 6 and 7 April, 2016 to take up clause-by-clause consideration of the Code.

11. At their eleventh sitting held on 21 April, 2016, the Committee considered formulations and modifications submitted by the Legislative Department as per decision taken by the Committee during the clause by clause consideration of the Code.

12. At their twelfth sitting held on 26 April, 2016, the Committee considered and adopted the draft report and authorized the Chairman to present the report on their behalf. The Committee also decided that (i) the evidence tendered before the Committee might be laid on the Table of both the Houses of Parliament; (ii) two copies each of the memoranda received by the Committee from various quarters might be placed in the Parliament Library after the Report has been presented to Parliament, for reference by the Members of Parliament.

13. The observations/recommendations of the Committee with regard to principal changes made in the Bill, as decided by the Committee are detailed in the succeeding paragraphs:-

14. Including public financial institutions in the definition of financial institutions – Clause 3(14)

The Committee note that Clause 3 defines relevant expressions used in the Bill. Clause 3(14) which defines financial institutions provides as under:-

“financial institution means—

(a) a scheduled bank;

(b) financial institution as defined in section 45-I of the Reserve Bank of India Act, 1934; and

(c) such other institution as the Central Government may by notification specify as a financial institution.”

The Committee are of the view that public financial institutions such as the Life Insurance Corporation of India (LIC), The Infrastructure Development Finance Company Limited (IDFC) play a crucial role in financing to corporates and as such need to be included in the definition of financial institution. In this regard, the Committee note that section 2(72) of 'The Companies Act, 2013' defines public financial institutions which also include LIC, IDFC, specified company referred to in the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002), institutions notified by the Central Government under sub-section(2) of section 4A of the Companies Act, 1956 (1 of 1956), such other institution as may be notified by the Central Government in consultation with RBI.

In view of the above, the Committee decide that the following new sub-Clause 3(14)(c) may be inserted in section 14:-

“Public financial institution as defined in clause (72) of section 2 of the Companies Act, 2013”

The existing Clause 3(14)(c) may accordingly be renumbered as 3(14)(d).

15. Operational Creditor – Clause 5(20)

The Committee note that clause 5(20) provides the definition of operational creditor as under:

(20) “operational creditor” means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred (including a person resident outside India)”

The Committee note that in clause 3(23) the definition of a person also includes ‘a person resident outside India’. The Committee therefore, feel that the words ‘(including a person resident outside India)’ in clause 5(20) are redundant and as such these words may be omitted.

16. Bringing clarity regarding applicability of the provisions of Part-II relating to Corporate Insolvency and Part-III relating to Insolvency and Bankruptcy for individuals and partnership firms – Clause 4(Part-II) Chapter-1 and Clause 78(2) (Part-III) Chapter-1

Clause 4 of the Bill specifies the amount of default for applicability of provisions of Part-II relating to insolvency resolution and liquidation for corporate persons. The aforesaid Clause provides as under:-

“This Part shall apply to matters relating to the insolvency and liquidation of corporate debtors where the amount of the default is not less than one lakh rupees or such other amount not exceeding one crore rupees, as the Central Government may, by notification, specify.”

Similarly Clause 78(2) specifies about the applicability of provisions of Part-III relating to insolvency resolution and bankruptcy for individuals and partnership firms. The aforesaid Clause provides as under:-

“The provisions of this Part shall not apply where the amount of the default is less than one thousand rupees or such other amount not exceeding one lakh rupees, as the Central Government may, by notification, specify.”

The Committee note that the plain reading of the aforesaid Clauses indicates that the provisions provide for a range i.e. one lakh rupees to one crore rupees for corporate insolvency and one thousand rupees to one lakh rupees for individuals and partnership firms insolvency and bankruptcy. In this regard, the Secretary, Department of Economic Affairs during the course of deliberations clarified that section 4 deals with the minimum amount only. It is not the higher amount. At present, the minimum amount is one lakh rupees. In future, if the Central Government want to enhance this, enabling provision has been given to the Central Government. The Central Government can enhance it up to one crore rupees.

The Committee observe that the language of Clause 4 does not reflect the intent of the Government as elaborated by the Secretary. Similar is the case with Clause 78(2). The Committee, therefore, decide that Clause 4 and 78(2) may be modified as under:-

‘Clause 4 –

This Part shall apply to matters relating to the insolvency and liquidation of corporate debtors where the minimum amount of the default is one lakh rupees.

Provided that the Central Government may, by notification, specify the minimum amount of default of higher value which shall not be more than one crore rupees’.

‘Clause 78-

This Part shall apply to matters relating to fresh start, insolvency and bankruptcy of individuals and partnership firms where the amount of the default is not less than one thousand rupees;

Provided that the Central Government may, by notification, specify the minimum amount of default of higher value which shall not be more than one lakh rupees’.

Clause 78(1) and 78(3) have been deleted as elaborated in the later part of report. Clause 78(2) may accordingly be renumbered as clause 78.

17. Mode of delivery of demand notice of unpaid operational debt – Clause 8

The Committee find that clause 8(1) of the Code provides that an operational creditor may, on the occurrence of a default, deliver a demand notice of unpaid operational debt or copy of an invoice demanding payment of the amount involved in the default to the corporate debtor in such form as may be prescribed. through an information utility, wherever applicable, or by registered post or courier or by such electronic mode of communication, as may be specified.

The Committee are of the view that the details of the mode of delivery of demand notice can be provided in the rules. The Committee, therefore, decide to substitute words “in such form as may be prescribed. through an information utility, wherever applicable, or by registered post or courier or by such electronic mode of communication, as may be specified” as appearing in clause 8(1) with the words “in such form and manner, as may be prescribed”. Besides as a consequential amendment words “through an information utility or by registered post or courier or by such electronic mode of communication as may be specified” as appearing in clause 8(2) may also be omitted.

18. Giving reasons for rejection of an application for initiating corporate insolvency resolution process – Clause 10(4)

Clause 10 relates to initiation of corporate insolvency resolution process by corporate applicant where a corporate debt has committed a default. Clause 10(4) provides as under:-

“The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order—

(a) admit the application, if it is complete; or

(b) reject the application, if it is incomplete.”

The Committee find that the Adjudicating Authority may reject an application on a minor defect/shortcoming, without giving an opportunity to the

applicant to correct the defect/shortcoming in the application. In view of this the Committee feel that the applicant should be given an opportunity to rectify the defect in his application within a stipulated time frame and necessary provisions in this regard should be made on the lines of the provisions made under proviso to Clause 7(5) in case of financial creditor and Clause 9(5) for operational creditor. The Committee, therefore, decide that the following proviso may be inserted after Clause 10(4)(b):

“Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defect in his application within seven days from the date of receipt of such notice from the Adjudicating Authority”.

The Committee also note that the aforesaid provisos to clause 7(5) and 9(5) restrict the scope of opportunity given to the applicant to rectify the defect on the grounds of application being incomplete. To broaden the scope, the Committee decide that words “on the grounds of incomplete application” as appearing in proviso to clause 7(5)” and words “of this sub-section, shall” as appearing in proviso to clause 9(5)” may be omitted.

19. Appointment of insolvency/resolution professional-recommendation/confirmation by the Board – Clause 16(4), 82(1)(b), 97(1)(b) and 98(5)(b)

Clauses 16(4), 82(1)(b), 97(1)(b) and 98(5)(b) provide that the Board shall recommend/confirm the name/about the insolvency/resolution professional to the Adjudicating Authority- that such professional has relevant expertise or is suitable to act as a resolution professional.

The Committee find that as per provisions made under Clause 199, no person shall carry on its business as insolvency professional agencies under this Code and enroll insolvency professionals as its members except under and in accordance with a certificate of registration issued in this behalf by the Board. Besides Clause 207 provides that no person shall render his services as insolvency professional under this Code without being enrolled as a member of an insolvency professional agency. Every insolvency professional shall, after obtaining the membership of any insolvency professional agency, register themselves with the Board within such time, in such manner and on payment of such fee, as may be specified by regulations. Moreover, Clause 205 provides that the insolvency professional agency shall make bye-laws to the minimum standards of professional competence for its members, the standards for

professional and ethical conduct of its members and requirements for enrolment of persons as its members.

From the aforesaid provisions, the Committee find that there are sufficient safeguards to ensure that the competent persons are enrolled as insolvency professionals. In view of this, the Committee feel that provisions made under Clause 16(4)(a), 82(1)(b), 97(1)(b) and 98(5)(b) are redundant and may be omitted. Besides for the purpose of uniformity words “if no disciplinary proceedings are pending against him” may be added after words interim resolution professional” under clause 16(2).

20. Requirement of consent of the creditor – Clause 20(2)(c)

Clause 20(2) (c) provides as under:-

20. “For the purposes of sub-section (1), the interim resolution professional shall have the authority-

xxxxx

xxxxx

xxxxx

(c) to raise interim finance provided that no security interest shall be created over any encumbered property of the corporate debtor without the prior consent of the creditors whose debt is secured over such encumbered property;

The Committee are of the opinion that when the interest of a creditor is over secured, he could unreasonably withhold his consent. To obviate this possibility, it need to be provided that the consent of such creditor shall not be required where and, to the extent, the value of encumbered property is more than twice the interest of such creditor.

The Committee in view of the above decide that the following proviso may be inserted after Clause 20(2)(c):-

“Provided that no prior consent of the creditor shall be required where the value of such property is not less than the amount equivalent to twice the amount of the debt.”

21. Role of Operational Creditors - Clause 24

Some of the stakeholders in the memorandum/views furnished before the Committee were of the opinion that whereas operation creditor has right to make application for initiation of corporate insolvency resolution process, operational creditors like workmen, employees, suppliers have not been given any representation in the Committee of Creditors which is pivotal in whole resolution process. In this regard, one of the stakeholders has suggested that Committee of Creditors may contain operational creditors as well, with some thresholds.

In this context, while appreciating that the operational creditors are important stakeholders in a company, the Committee took note of the rationale of not including operational creditors in the committee of creditors as indicated in notes on Clause 21 appended with the Bill which states as under:-

“The committee has to be composed of members who have the capability to assess the commercial viability of the corporate debtor and who are willing to modify the terms of the debt contracts in negotiations between the creditors and the corporate debtor. Operational creditors are typically not able to decide on matters relating to commercial viability of the corporate debtor, nor are they typically willing to take the risk of restructuring their debts in order to make the corporate debtor a going concern. Similarly, financial creditors who are also operational creditors will be given representation on the committee of creditors only to the extent of their financial debts. Nevertheless, in order to ensure that the financial creditors do not treat the operational creditors unfairly, any resolution plan must ensure that the operational creditors receive an amount not less than the liquidation value of their debt (assuming the corporate debtor were to be liquidated).

All decisions of the Committee shall be taken by a vote of not less than seventy-five per cent of the voting share. In the event there are no financial creditors for a corporate debtor, the composition and decision-making processes of the corporate debtor shall be specified by the Insolvency and Bankruptcy Board. The Committee shall also have the power to call for information from the resolution professional.”

The Committee after due deliberations are of the view that, if not voting rights, operational creditors at least should have presence in the committee of creditors to present their views/concerns on important issues considered at the meetings so that their views/concerns are taken into account by the committee of

creditors while finalizing the resolution plan. The Committee, therefore, decide to modify clause 24(3) and (4) as given under:-

Modified Clause 24(3)

“The resolution professional shall give notice of each meeting of the committee of creditors to-

- (a) members of committee of creditors;
- (b) members of the suspended Board of Directors or the partners of the corporate persons, as the case may be;
- (c) operational creditors or their representatives if the amount of their aggregate dues is not less than ten per cent of the debt”

Modified Clause 24(4)

“The directors, partners and one representative of operational creditors as referred to in sub-section (3), may attend the meetings of committee of creditors, but shall not have any right to vote in such meetings:

Provided that the absence of any such director, partner or representative of operational creditors, as the case may be, shall not invalidate proceedings of such meeting”.

22. Replacement of resolution professional/bankruptcy trustee- Clause 26(1), Clause 27, Clause 89(1), 89 (2), and 89 (3), Clause 98(1), Clause 145(1) and 145 (2):-

The aforesaid clauses provide for replacement of resolution professionals/bankruptcy trustee by the committee of creditors/debtor or creditor.

In clause 26(1), in case of corporate insolvency, the grounds for replacement of resolution professional have been mentioned as non performing his duties in accordance with the provision of this chapter (Chapter-II). The grounds for replacement of resolution professional by financial creditor or corporate debtor have been mentioned in clause 27(1) from (a) to (i).

In case of ‘Fresh Start Process’, clause 89 (1)(a) to (f) provides grounds for replacement of resolution professional by debtor or creditor. Again, in Chapter III, Insolvency Resolution Process, the ground for replacement of resolution professional have been indicated under 98(1) (a) to (d). Similarly, in the Chapter namely Insolvency Resolution Process, under clause 145(1)(a), from (i) to (vi) as well as under clause

145(1)(b), grounds for replacement of bankruptcy trustee have been given. Further clause 145(2) provides for *suo motu* replacement of bankruptcy trustee on the grounds mentioned in clause 145(1) by the Adjudicating Authority.

The Committee after deliberations feel that notwithstanding the right of committee of creditors to replace the insolvency resolution professional/bankruptcy trustee, the grounds as mentioned in the aforesaid clauses which may affect the career of the professional are not required, particularly when these professionals are well regulated entities by the regulator i.e. the Board as well as by the Insolvency Professional Agencies, with whom they will be registered as per the provisions made under the Bill and penalties have been prescribed for them in the Chapter offences and penalties. (Clause 185) for deliberately contravening the provisions of the Act in exercising powers.

In view of the above, the Committee decide to modify the aforesaid clauses as under:

Clause 25 (3)

Clause 25 (3) may be substituted by the following renumbered clause i.e. clause 26;

“Application for avoidance of transactions not to affect proceedings

The filing of an avoidance application under clause (j) of sub-section (2) of section 25 by the resolution professional shall not affect the proceedings of the corporate insolvency resolution process”.

Clause 26 may be renumbered as clause 27.

Clause 26 (1) may be modified as under;

‘Where, at any time during the corporate insolvency resolution process, the committee of creditors is of the opinion that a resolution professional appointed under section 22 is required to be replaced, it may replace him with another resolution professional in the manner provided under this section.’

Clause 27 –

Clause 27 may be omitted.

Clause 28 (5) may be modified as under:

“The committee of creditors may report the actions of the resolution professional under sub-section (4) to the Board for taking necessary actions against him under this Code.

Clause 89(1), (2) & (3) may be modified as under:

“89(1) –Where the debtor or the creditor is of the opinion that the resolution professional appointed under section 82 is required to be replaced, he may apply to the Adjudicating Authority for the replacement of such resolution professional.

(2) The Adjudicating Authority shall within seven days of the receipt of the application under sub-section (1) make a reference to the Board for replacement of the resolution professional.

(3) The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (2), recommend the name of an insolvency professional to the Adjudicating Authority against whom no disciplinary proceedings are pending”.

Clause 98(1), (2) & (3) may be modified as under:

“98(1) Where the debtor or the creditor is of the opinion that the resolution professional appointed under section 97 is required to be replaced, he may apply to the Adjudicating Authority for the replacement of ~~the~~ such resolution professional.”

(2) The Adjudicating Authority shall within seven days of the receipt of the application under sub-section (1) make a reference to the Board for replacement of the resolution professional.

(3) The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (2), recommend the name of the resolution professional to the Adjudicating Authority against whom no disciplinary proceedings are pending”.

Clause 98(5) may be modified as under:

98 (5) ‘Where the Adjudicating Authority admits an application made under sub-section (1) or sub-section (4), it shall direct the Board to confirm that there are no disciplinary proceedings pending against the proposed resolution professional’

Clause 125(1) & (2) relating to appointment of insolvency professional as a bankruptcy trustee may also be modified as under:

“125(1)If an insolvency professional is proposed as a bankruptcy trustee in the application for bankruptcy under section 122 or section 123, the Adjudicating Authority shall direct the Board within seven days of receiving the application for bankruptcy to confirm that there are no disciplinary proceedings pending against such professional.

(2) The Board shall within ten days of the receipt of the direction under sub-section (1), in writing, either –

(a) confirm the appointment of the proposed insolvency professional as the bankruptcy trustee for the bankruptcy process; or

(b) reject the appointment of the proposed insolvency professional as the bankruptcy trustee and nominate another bankruptcy trustee for the bankruptcy process”.

Clause 145

Clause 145 may be modified as under:

“145. (1) Where committee of creditors is of the opinion that at any time during the bankruptcy process, a bankruptcy trustee appointed under section 125 is required to be replaced, it may replace him with another bankruptcy trustee in the manner provided under this section.

(2) The committee of creditors may, at a meeting, by a vote of seventy five per cent of voting share, propose to replace the bankruptcy trustee appointed under section 125 with another bankruptcy trustee.

(3) The committee of creditors may apply to the Adjudicating Authority for the replacement of the bankruptcy trustee.

(4) The Adjudicating Authority shall within seven days of the receipt of the application under sub-section (3) direct the Board to recommend for replacement of bankruptcy trustee.

(5) The Board shall, within ten days of the direction of the Adjudicating Authority under sub-section (4), recommend a bankruptcy trustee for replacement against whom no disciplinary proceedings are pending.

(6) The Adjudicating Authority shall, by an order, appoint the bankruptcy trustee as recommended by the Board under sub-section (5) within fourteen days of receiving such recommendation.

(7) The earlier bankruptcy trustee shall deliver possession of the estate of the bankrupt to the bankruptcy trustee appointed under sub-section (6), on the date of his appointment.

(8) The Adjudicating Authority may give directions to the earlier bankruptcy trustee-

(a) to share all information with the new bankruptcy trustee in respect of the bankruptcy process; and

(b) to co-operate with the new bankruptcy trustee in such matters as may be required.

(9) The earlier bankruptcy trustee replaced under this section shall be released in accordance with the provisions of section 148.

(10) The bankruptcy trustee appointed under this section shall give a notice of his appointment to the bankrupt within seven days of his appointment”.

As a consequential amendment, clauses 89(6), 98(9) and 145(9) which provide for taking action by the Board against the resolution professional/bankruptcy trustee may also be omitted.

23. Approval of resolution plan by the Adjudicating Authority – Clause 31(1):-

‘Clause 31(1) (a) and (b) provides for parameters for approval of resolution plan by the Adjudicating Authority which include (a) the resolution plan as approved by the committee of creditors under sub- section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30; and (b) there is no material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period’.

The Committee observe that sufficient parameters for resolution plan have been indicated in clause 30(2) from (a) to (d), for which the Adjudicating Authority has to ensure compliance under clause 31(1)(a) before approving the resolution plan. The ground of material irregularity as provided in clause 31(1)(b) is vague and open ended which may provide discretion/scope to the Adjudicating Authority to reject the resolution plan on any procedural/technical ground. The Committee in view of this decide to omit clause 31(1)(b). The modified clause 31 (1) may accordingly be as under;

“If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan.”

As a consequential amendment words ‘clauses (a) and (b) of’ as appearing in clause 31 (2) may be omitted.

24. Approval of resolution plan – Addition of a new clause providing the manner of continued management of the corporate debtor.

The Committee after detailed deliberations are of the view that there is a need for proper monitoring of implementation of the resolution plan by the committee of creditors. Besides a provision need to be added for the manner of continued management of the corporate debtor in the resolution plan itself. The Committee, therefore, decide that clause 30(2) may be modified as under:-

“Clause 30(2)-The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan-

- (a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the corporate debtor;
- (b) provides for the repayment of the debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the corporate debtor under section 53;
- (c) provides for the management of the affairs of the corporate debtor after approval of the resolution plan;
- (d) the implementation and supervision of the resolution plan;
- (e) does not contravene any of the provisions of the law for the time being in force; and
- (f) conforms to such other requirements as may be specified by the Board”.

25. Initiation of Liquidation – Clause 33(5) - Proviso

Second proviso to clause 33(5) provides as under:

‘Provided further that nothing in this sub-section shall apply to any proceeding pending in appeal before the Supreme Court or a High Court’.

Keeping in view the fact that to appeal before the Supreme Court or a High Court is the right of every citizen, the Committee find this Clause redundant. The Committee, therefore decide to omit the second proviso to clause 33(5).

26. Assistance and cooperation to the liquidator – Clause 34(3):

The Committee feel that the words ‘mutatis mutandis’ as appearing in clause 34(3) may be substituted by simple words. The Committee, therefore, decide to modify 34(3) as under:

“The personnel of the corporate debtor shall extend all assistance and cooperation to the liquidator as may be required by him in managing the affairs of the corporate debtor and provisions of section 19 shall apply in relation to voluntary liquidation process as they apply in relation to liquidation process with the substitution of references to the liquidator for references to the interim resolution professional”.

Similarly, words `mutatis mutandis' as appearing in clause 59(6) may also be substituted by simple words. Clause 59(6) is accordingly modified as under:-

“The provisions of sections 35 to 53 of Chapter III and Chapter VII shall apply to voluntary liquidation proceedings for corporate persons with such modifications as may be necessary”.

27. Exclusion of provident fund, pension fund and the gratuity fund from the liquidation estate assets and estate of bankrupt – Clause 36(4) and 155(2)

The representative of EPFO during the course of deliberations stated that the priority of payment of debts under the Code is changed and EPF dues in the Bill have been placed on a lower priority and the Eleventh Schedule of the Code proposes that Section 326 and 327 shall not be applicable in the event of liquidation under the Code. By this the provisions of Section 11 of the EPF and MP Act are rendered null and void. The representative drew the attention of the Committee to the Supreme Court Judgment whereby it was held that the EPF dues shall get priority over all other debts including secured creditors.

Similarly, PFRDA in the memorandum has stated that the investment for old age security/pension should be given higher priority in case of liquidation of assets of bankrupt entities in line with the priority given to the dues of employees. Further, as most of the subscribers under NPS regulated by PFRDA are from Government sector and the NPS Life (Scheme for Economically Weaker Section), where the share of the contribution is from the Government funds also, higher priority should be given to the dues to pension fund investments to the bankrupt entities.

The Committee after in depth examination are of the view that provident fund, pension fund and the gratuity fund provide the social safety net to the workmen and employees and hence need to be secured in the event of liquidation of a company or bankruptcy of partnership firm. The Committee, therefore, feel

that all sums due to any workman or employee from the provident fund, the pension fund and the gratuity fund should not be included in the liquidation estate assets and estate of the bankrupt.

In view of the above the Committee decide that the Clause 36(4)(a)(iii) may be substituted by the following:

‘all sums due to any workman or employee from the provident fund, the pension fund and the gratuity fund’

Similarly, the following new sub-Clause 155(2)(d) may be added after Clause 155(2)(c).

‘all sums due to any workman or employee from the provident fund, the pension fund and the gratuity fund’.

Clause 155(2)(c) may accordingly be renumbered 155(2)(d).

28. Clause 53 and 178

Clause 53 relates to order of priority with regard to distribution of the proceeds from the sale of the liquidation asset of a company in case of corporate insolvency. Clause 178 provides priority of payment of debts in case of bankruptcy and partnership firms.

Clause 53(1)(a), (b) and (c) provides as under:-

“(1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period as may be specified, namely:—

(a) the insolvency resolution process costs and the liquidation costs paid in full;

(b) the following debts which shall rank equally between and among the following:—

(i) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52; and

(ii) workmen’s dues for the period of twelve months preceding the liquidation commencement date;

(c) wages and any unpaid dues owed to employees other than workmen for the period of twelve months preceding the liquidation commencement date”;

Besides Clause 178 (1) (a) and (b) provides as under:-

“(1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or the State Legislature for the time being in force, in the distribution of the final dividend, the following debts shall be paid in priority to all other debts—

(a) firstly, the costs and expenses incurred by the bankruptcy trustee for the bankruptcy process in full;

(b) secondly,—

(i) debts owed to secured creditors; and

(ii) wages and unpaid dues owed to workmen of the bankrupt for the whole or any part of the period of twelve months preceding the bankruptcy commencement date”;

Some of the stakeholders in the memoranda submitted to the Committee/views presented before the Committee were of the view that restriction of period of twelve months with regard to dues to workers and employees should be removed. It was also pointed out that as per section 325(3)(b) of the Companies Act, 2013, workmen dues means all the unpaid dues comprising of earned salary including all accrued holiday remuneration, provident fund, pension fund, the gratuity etc. maintained by the Company in the event of its winding up.

The Committee observe that workers are the nerve centre of any company. In the event of any company becoming insolvent or bankrupt, the workmen to get affected adversely and, therefore, priority has to be given to their outstanding dues. The Committee in this regard note that whereas amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State is to be paid in respect of the whole or any part of the period of two years preceding the liquidation commencement date as per Clause 53(1)(e)(i) and Clause 178 (1) (b), workmen and employees dues have been restricted to the period of twelve months preceding the liquidation commencement date as per the provisions given above. To protect the interest of the workmen, the Committee are of the view that workmen dues for a period of twelve months as provided in the waterfall under Clause 53 and 178 may be increased to twenty-four months preceding liquidation commencement date. Notwithstanding debts owed to

secured creditors being *pari passu* with the workmen's dues and wages & unpaid dues to workmen of an insolvent company/bankrupt individual/partnership firm as per Clause 53(1)(b) and Clause 178(1)(b) respectively, the Committee decide that wages and unpaid dues may be placed under item no.1 and debts owed to secured creditor at item no.2 under Clause 53(1)(b) and 178(1)(b).

The Committee, therefore, decide to modify Clause 53(1)(a), (b) and (c) and 178(1)(a) &(b) as under:-

Clause 53(1)(a), (b) and (c):-

(1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period and in such manner as may be specified, namely:—

- (a) the insolvency resolution process costs and the liquidation costs paid in full;
- (b) the following debts which shall rank equally between and among the following:—
 - (i) workmen's dues for the period of twenty-four months preceding the liquidation commencement date; and
 - (ii) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52.
- (c) wages and any unpaid dues owed to employees other than workmen for the period of twelve months preceding the liquidation commencement date;

Modified Clause 178(1)(a), (b), and (c):-

(1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or the State Legislature for the time being in force, in the distribution of the final dividend, the following debts shall be paid in priority to all other debts—

- (a) firstly, the costs and expenses incurred by the bankruptcy trustee for the bankruptcy process in full;
- (b) secondly,—

- (i) the workmen's dues for the period of twenty-four months preceding the bankruptcy commencement date; and
- (ii) debts owed to secured creditors.

(c) thirdly, wages and any unpaid dues owed to employees, other than workmen, of the bankrupt for the period of twelve months preceding the bankruptcy commencement date;

29. Adjudicating Authority for Corporate persons – Clause 60 and 79(14)(e)

FICCI in the memorandum submitted to the Committee was of the view that the exclusion of moratorium period from calculation of limitation period applies only in the context of suit or application in the name or on behalf of the corporate debtor. It is not clear as such exclusion also applies in respect of suits against the company by the creditors which are also subject to stay under the moratorium provisions. It was, therefore, suggested that the words "or against the corporate debtor" may be added after the words "corporate debtor" under Clause 60(6) of the Bill.

The Committee while agreeing to the suggestion of FICCI, decide that clause 60(6) may be modified as under:-

"Notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the time being in force, in computing the period of limitation specified for any suit or application by or against a corporate debtor for which an order of moratorium has been made under this Part, the period during which such moratorium is in place shall be excluded'.

Further clause 60(1) provides that Adjudicating Authority for corporate persons including personal guarantors shall be National Company Law Tribunal. Since clause 79(14)(e) is contrary to clause 60(1), as a consequential amendment, clause 79(14)(e) may be omitted.

30. Designating the authority to impose penalty –Clause 65

Clause 65 of the Bill provides as under:

- (1) If, any person initiates the insolvency resolution process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for the

resolution of insolvency, he shall be liable for a penalty which may extend to one crore rupees .

(2) If, any person initiates voluntary liquidation proceedings with the intent to defraud any person he shall be liable to a penalty which shall not be less than one lakh rupees and which may extend to one crore rupees

The Committee are of the view that it is essential to designate the competent authority to impose penalty. As such Adjudicating Authority may be designated the competent authority in the aforesaid situation. The Committee, therefore, decide that for words ‘he shall be liable for’, as appearing in sub-clauses (1) and (2) of Clause 65, the Adjudicating Authority may impose upon such person’ may be substituted. Besides, in clause 65(2) minimum penalty is provided which shall not be less than one lakh rupees. But minimum penalty is not provided in sub-clause (1). The Committee decide to modify clause 65(1) to provide the minimum penalty which shall not be less than one lakh rupees. The clause 65(1) may be modified as under:

“If, any person initiates the insolvency resolution process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, as the case may be, the adjudicating authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees”.

31. Punishment for various offences and penalties – Clause 68 to 74, 76 and 77 and clause 184 to 187

The Committee note that for various offences by any person, officer, insolvency professional/insolvency trustee, debtor, creditor, operational creditor, punishment has been prescribed under clause 68 to 77 and clause 184 to 187. The Committee further find that under the aforesaid clauses imprisonment and fine both have been provided for offences. The Committee are of the view that it is appropriate to leave it to the court to impose either imprisonment or fine or with both. In view of this, the Committee decide to modify the aforesaid clauses accordingly.

32. Fraudulent trading or wrongful trading- Clause 66(1)

Clause 66(1) of the Code provides that if during the corporate insolvency resolution process or a liquidation process, it is found that any business of the corporate debtor has been carried on with intent to defraud creditors of the corporate debtor or

creditors of any other person, or for any fraudulent purpose, the Adjudicating Authority on the application of the resolution professional may pass an order that the persons who were knowingly parties to the carrying on of the business in such manner shall be liable to make such contributions to the assets of the corporate debtor as it may deem fit.

The Committee feel that liability to make contributions to the assets of the corporate debtor in case it is found that any business of the corporate debtor has been carried on with intent to defraud creditor of any other person is not justified and as such decide to omit words ‘or creditors of any other person’ as appearing in clause 66(1) .

33. Applicability of the provisions made under Part-III of the Bill – Clause78(1)

Clause 78(1) provides that Part-III of the Bill shall apply to the whole of India except the State of Jammu and Kashmir. The Committee note that under Clause 1(2) of the Bill that it has been provided that it extends to the whole of India, provided that Part-III of this Code shall not extend to the State of Jammu and Kashmir. The Committee are of the view that the provisions made under clause 78(1) are redundant in view of specific provision made with regard to applicability of the whole Code under clause 1(2) of the Code. The Committee, therefore decide to omit clause 78(1).

34. Definition of bankrupt – Clauses 78(3) and 79(2)

Clause 78(3) provides for adjudicating authority for Part III. However, the term ‘adjudicating authority’ has been defined in Part II in clause 5(1). The Committee decide that the said term may be defined in clause 79(1). The modified clause 79(1) is as under :

“In this part, unless the context otherwise requires,-

Adjudicating Authority means the Debt Recovery Tribunal constituted under sub-section (1) of section 3 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993”

Clause 79(2) defines bankrupt as under:-

“bankrupt” means –

(a) a debtor who has been adjudged as bankrupt by a bankruptcy order under section 126; or

(b) each of the partners of a firm, where a bankruptcy order under section 126 has been made against a firm”

The Committee are of the view that any person adjudged as an undischarged insolvent may also be included in the definition of bankrupt. A new sub-clause 79(2)(c) (renumbered as 79(3)(c) as given under may accordingly be included:-

“(c) any person adjudged as an undischarged insolvent”.

Due to insertion of new clause 79(1), the Committee decide to renumber subsequent sub-clauses of 79.

35. Excluded assets –Clause 79 (13)

Clause 79 (13) enumerates the items with regard to excluded assets for the purposes of Part-III Chapter-I i.e. Insolvency Resolution and Bankruptcy for Individual and Partnership Firms. Any unencumbered personal ornaments of the debtor or his immediate family which cannot be parted with, in accordance with religious usage is one of excluded assets as provided under clause 79(13) (renumbered as 79(14) of the Code.

The Committee are of the view that personal ornaments beyond a prescribed limit should not fall under the category of excluded assets. The Committee, therefore, decide to modify clause 79(13) (renumbered as 79(14) (c) as under:

‘Any unencumbered personal ornaments of such value, as may be prescribed, of the debtor or his immediate family which cannot be parted with, in accordance with religious usage’.

36. Performance bond and performance security to be furnished by the Insolvency Professional Agency and Insolvency Professional – Clause 82(7), 91(4)(b), 92(5)(b), 97(7), 115(3)(b), 118(5)(b), 119(3)(b), 125(6), 138(3)(b),142(3)(b), 206 and 208(2)(d)

Clause 206 provides to post a performance bond by the insolvency professional agency with the Board as well as to deposit a performance security by the insolvency professional with the insolvency professional agency. It was submitted to the Committee by one of the stakeholder that such a provision may increase the threshold for the entry

of insolvency professionals and insolvency professional agencies, thus making it unviable for them to take up resolution process for companies with high value assets.

The Committee observe that insolvency resolution professional are pivotal in the whole scheme of insolvency resolution and liquidation both in case of companies and individuals as well as partnership firms in the Code. Moreover, insolvency resolution professionals are the regulated entities and as per the provisions made under 199 and 207 they have to register themselves with the Board and the insolvency professional agency. Not only that they are subject to penalties for deliberately contravening the provisions of the Code as per clause 185 of the Bill. Considering all these aspects, the Committee are of the view that such a provision for performance bond for insolvency professional agencies and performance security for insolvency professional may act as a deterrent for these professionals. Performance security may likely to be an impediment for the resolution professional to take up resolution process. The Committee, therefore, decide that clause 206 may be omitted. Besides as a consequential changes clause 82(7), 91(4)(b), 92(5)(b), 97(7), 115(3)(b), 118(5)(b), 119(3)(b), 125(1)(b), 125(6), 138(3)(b), 142(3)(b), and 208(2)(d) may also be omitted. The relevant clauses consequent to omission of this clause may be accordingly renumbered.

37. The details regarding the personal information of the debtor and the creditor – Clause 95(4)(a)

Clause 95(4)(a) provides for details that have to be accompanied with the application by a creditor to initiate insolvency resolution process so as to get it admitted by the Adjudicating Authority. One of the conditions as mentioned at Clause 95(4)(a) is the personal information regarding the debtor that the creditor has in his possession. The Committee after deliberations decide that clause 95(4)(a) may be omitted. The subsequent sub-clauses may accordingly be renumbered.

38. Prohibiting transfer alienation and encumbrance or disposing of assets by the debtor – Clause 101(2)(b)

Clause 101(2)(b) states about the effect of moratorium during the insolvency resolution process initiated by a debtor or a creditor during the insolvency for individuals and partnership firms. The Committee are of the opinion that it is important to keep the debtor's assets together during the moratorium period. In this regard, one of the

stakeholders in the memorandum submitted before the Committee has stated that the Code places enough restrictions on the actions that can be taken against the debtor, with no thought on the restrictions that must be put on the debtor with respect to his assets. It has, therefore, been suggested that the Code must explicitly preclude the debtor from alienating any of his assets during the moratorium.

The Committee note that whereas in case of corporate insolvency, Clause 14(1)(b) prohibit the corporate debtor from transferring, encumbering, alienating or disposing of any of its assets or any legal right or beneficial interest therein, no such provision has been made in case of moratorium under individual/partnership insolvency. The Committee as such decide that a new sub Clause 101(2)(c) as given under may be added;

“the debtor shall not transfer, alienate, encumber or dispose of any of his assets or his legal right or beneficial interest therein”

39. Redrafting of Clause 105 and 106

The plain reading of Clause 105 and 106 indicates that under Clause 105 the debtor shall prepare a repayment plan in consultation with the resolution professional. Under Clause 106 the repayment plan prepared under section 105 shall be submitted to the adjudicating authority. The submission of repayment plan to the adjudicating authority has been mentioned twice in Clause 105(2) and 106(1). **The Committee feel that submission of repayment plan may be indicated under Clause 106 only to bring clarity about the order of preparation/submission of resolution plan as envisaged under the aforesaid Clauses. The Committee, therefore, decide to omit Clause 105(2). Besides Clause 106(1) may also be redrafted as under:**

“The resolution professional shall submit the repayment plan under section 105 along with his report on such plan to the Adjudicating Authority within a period of twenty one days from the last date of submission of claims under section 102.”

Further the Committee note that under clause 114, the nature of order of Adjudication Authority on the basis of report of resolution professional has not been explicitly mentioned. The Committee, therefore, decide to modify clause 114 as under :

“114. (1) The Adjudicating Authority shall by an order approve or reject the repayment plan on the basis of the report of the meeting of the creditors submitted by the resolution professional under section 112:

Provided that where a meeting of creditors is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under section 106.

(2) The order of the Adjudicating Authority approving the repayment plan may also provide for directions for implementing the repayment plan.

(3) Where the Adjudicating Authority is of the opinion that the repayment plan requires modification, it may direct the resolution professional to re-convene a meeting of the creditors for reconsidering the repayment plan”.

Consequent to modifications made in clause 114, clause 115 may also be modified as under:

“115. (1) Where the Adjudicating Authority has approved the repayment plan under section 114, such repayment plan shall –

(a) take effect as if proposed by the debtor in the meeting; and

(b) be binding on creditors mentioned in the repayment plan and the debtor.

(2) Where the Adjudicating Authority rejects the repayment plan under section 114, the debtor and the creditors shall be entitled to file an application for bankruptcy under Chapter IV.

(3) A copy of the order passed by the Adjudicating Authority under subsection (2) shall be provided to the Board, for the purpose of recording an entry in the register referred to in section 196”.

40. Nomination of another person to act on behalf of resolution professional/bankruptcy trustee as well as replacement/appointment of additional resolution professionals- Clause108(2),(3) and (6), Clause 116(4),(5),(6) as well as Clause 134(4)

The Committee note that Clause 108(2) and (3) provides that the resolution professional may nominate another person qualified to act as a resolution professional to act on his behalf, if for any reason he is unable to attend the meeting of the creditors. Similar provision for bankruptcy trustee has been made under Clause 134(4) of the Code.

The Committee after deliberations are of the opinion that the aforesaid provision for nomination of another person by resolution professional or bankruptcy trustee himself to act on his behalf is not justified, particularly when the resolution professional/bankruptcy trustee is appointed by the adjudicating

authority after getting confirmation from the Board as per the provisions made under the Code. The Committee are of the view that the resolution professional appointed by Adjudicating Authority should not be empowered to create a substitute for himself. In view of this the Committee decide to delete Clause 108(2), 108 (3) and 134(4).

The Committee further note that as per Clause 108(6), the creditors have been authorized to replace the resolution professional or appoint additional resolution professional for implementation of the repayment plan. The Committee feel that the provision of appointment of additional resolution professional by the creditors will create confusion and creditors should not have such authority. The Committee, therefore, decide to delete Clause 108(6).

Further at the stage of implementation and supervision of repayment plan, the creditors have been given the power to replace or appoint additional resolution professional under clause 116(4), (5) & (6). The only difference in this case is that the adjudicating authority has been authorized to pass an order to give effect to such decision of the creditors. The Committee after examination feel that it would be appropriate if the resolution professional who has been consistently involved in preparation of repayment plan continue at the stage of implementation of repayment plan. In view of this, the provision to provide for replacement of the resolution professional or appointing additional resolution professional at this stage would not be justified. The Committee, therefore, decide to omit clause 116(4), (5) & (6).

As a consequential modification, the Committee decide to modify the following sub-clauses:

- (i) Under clause 151(e) words 'act in his behalf' may be substituted with the words 'assist him';
- (ii) Under section 98(4) reference of words 'under sub-section (6) of section 108' may be omitted.

41. Voting rights in meeting of creditors – resolution professional to assign the estimated value of debt – Clause 109

In case of voting for repayment plan for individuals and partnership firms, Clause 109(3) provides that a creditor shall not be entitled to vote in respect of a debt for an unliquidated amount, or any debt the value of which is not ascertained, except where the resolution professional agrees to assign an estimated value to the debt for the

purpose of entitlement to vote. Similar provision has been made for voting in case of bankruptcy order for individual and partnership firms under Clause 135(3).

The Committee find that it is not desirable to vest the resolution professional/ bankruptcy trustee with the powers to assign the estimated value of debt. Hence, the Committee decide that words ‘or any debt the value of which is not ascertained, except where the resolution professional agrees to assign an estimated value to the debt for the purpose of entitlement to vote’, as appearing under clause 109(3) may be omitted. Similarly, words ‘or any debt the value of which is not ascertainable, except where the bankruptcy trustee agrees to assign a value to such debt for the purposes of entitling the creditor to vote under sub-section(l), as appearing under clause 135(3) may be omitted. Besides the existing formulation under clause 109(2) and 135(2) may be substituted by the following:

‘109(2) The resolution professional shall determine the voting share to be assigned to each creditor in the manner specified by the Board’.

42. Effect of discharge – Clause 138 and 139

The Committee note that clause 139 provides for the effect of discharge the orders for which shall be passed by the Adjudicating Authority on an application by the bankruptcy trustee as per clause 138(2) of the Code. Since the implementation of discharge order is the action consequent to passing the discharge order, words ‘application’ as appearing under clause 139(1)(a) & (b) are creating confusion.

The Committee, therefore, decide to modify clause 138 and 139 as under for the purpose of clarity.

“138. (1) The bankruptcy trustee shall apply to the Adjudicating Authority for a discharge order—

(a) on the expiry of one year from the bankruptcy commencement date; or

(b) within seven days of the approval of the committee of creditors of the completion of administration of the estate of bankrupt under section 137, where such approval is obtained prior to the period mentioned in clause (a)

(2) The Adjudicating Authority shall pass a discharge order on an application by the bankruptcy trustee under sub-section (1).

(3) A copy of the discharge order shall be provided to the Board, for the purpose of recording an entry in the register referred to in section 196”.

139. The discharge order under sub-section (2) of section 138 shall release the bankrupt from all the bankruptcy debt:

Provided that discharge shall not-

(a) affect the functions of the bankruptcy trustee; or

(b) affect the operation of the provisions of Chapters IV and V of Part III; or

(c) release the bankrupt from any debt incurred by means of fraud or breach of trust to which he was a party; or

(d) discharge the bankrupt from any excluded debt.

43. Disqualification of bankrupt – Clause 140(1)

Clause 140(1) provides the bankrupt shall, from the bankruptcy commencement date, be subject to the disqualifications mentioned in this section, unless exempted by the Adjudicating Authority. The Committee are not inclined to give discretion to the Adjudicating Authority to exempt the bankrupt from the disqualifications after completing the detailed process under the Code. In view of this the Committee decide that the words ‘unless exempted by the Adjudicating Authority’ may be omitted from the clause 140(1).

44. Annulment of bankruptcy order – Clause 142

Clause 142(1) provides for annulment of bankruptcy order by the Adjudicating Authority, (a) on any ground existing at the time the bankruptcy order was made, the bankruptcy order should not to have been made; and (b) both the bankruptcy debts and the expenses of the bankruptcy have, after the making of the bankruptcy order, either been paid for or secured to the satisfaction of the Adjudicating Authority.

A view has been expressed by one of the stakeholders that there exists a provision for appeal against admission of a bankruptcy order in the Code as such there is no reason for a bankruptcy order to be annulled at a later stage despite having been examined before.

The Committee tend to agree to the views expressed of the stakeholders and therefore, decide that word ‘annul’ as appearing in clause 142(1) may be

substituted by 'modify or recall'. The consequential modification may be made in clause 141(2)(a), 142(2) and 142(4).

The Committee further feel that the provisions for modify or recall bankruptcy order may suo motu may also be provided to the Adjudicating Authority. The Committee therefore, decide that the words 'on an application or suo motu may be added after 'may' under clause 142(1), page 66, line 26.

The Committee further note words 'on any ground existing at the time of bankruptcy order was made' as appearing in clause 142(1)(a), provide open ended discretion to the Adjudicating Authority and hence decide that clause 142(1)(a) should be substituted by the following :

“142(1)(a) there exists an error apparent on the face of such order, or”.

45. To rectify the action of the bankruptcy trustee by the committee of creditors – Clause 153(2)

Clause 153 (2) provides that where the bankruptcy trustee has done anything without the approval required under sub-section (1), the committee of creditors may ratify the actions of the bankruptcy trustee only where the bankruptcy trustee has acted due to an urgency and he has sought ratification without undue delay.

The Committee find that the aforesaid provision give wide powers to the bankruptcy trustee. Not only that the actions taken by the bankruptcy trustee if not rectified by the committee of creditors are fraught with legal complications. The Committee, therefore, decide to omit clause 153(2) of the Code.

46. Continuance of proceedings on death of bankrupt –Clause 169

Clause 169 provides that if a bankrupt dies, the bankruptcy proceedings shall, unless the Adjudicating Authority directs otherwise, be continued as if he were alive.

The Committee are not inclined to give discretion to Adjudicating Authority to decide to close the bankruptcy proceeding on the death of a bankrupt and therefore, decide to delete the words appearing in clause 169 'unless the Adjudicating Authority directs otherwise' .

47. Head office of the Board- Clause 188(3)

Clause 188(3) provides that the Head office of the Board shall be at Mumbai. The Secretary, DEA during the course of deliberation was of the view that the head

office of the board may be located in NCR region as head office of NCLT, BIFR and Head offices of Institute of Chartered Accountants of India and Institute of Company Secretaries of India are located in NCR region. The Committee while examining the issue find that the suggestion of Secretary, DEA merits considerations as it would help in better coordination with such bodies or Institutions.

The Committee therefore, decide that the clause 188(3) may be substituted by following:

‘The head office of the Board shall be at such place in the National Capital Region as the Central Government may, by notification, specify’.

Explanation – For the purposes of this section, the expression ‘National Capital Region’ shall have the same meaning as assigned to it in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985’.

48. Composition of selection committee – Clause 189(3)

Clause 189(1) of the Code provides for constitution of ‘The Insolvency and Bankruptcy Board’. Further Clause 189(3) provides that every appointment other than the appointment of an *ex officio* shall be made after obtaining the recommendation of a selection committee consisting of a chairperson and three independent experts from the field of law, finance and accountancy to be nominated by the Central Government.

The Committee are of the view that the composition of the selection committee should be specific and defined in the Code. The Committee, therefore, decide to substitute Clause 189(3) with the following:

“Appointment of the Chairperson and the members of the Board other than the appointment of an ex-officio member, under this section shall be made after obtaining the recommendation of a selection committee consisting of-

- (a) Cabinet Secretary – Chairperson;**
- (b) Secretary to the Government of India to be nominated by the Central Government – Member;**
- (c) Chairperson of the Insolvency and Bankruptcy Board of India (in case of selection of members of the Board) – Member;**
- (d) three experts of repute from the field of finance, law, management, insolvency and related subjects, to be nominated by the Central Government – Members.”**

49. Appointment of officers and employees by the Board – Clause 194(2)

Clause 194(2) provides that the Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Code.

The Committee are of the view that the rules terms and regulations of appointment should be specified in the regulations made under the Code. The Committee, therefore, decide to substitute words ‘under this Code’ as appearing in Clause 194(2) by the words ‘in such manner as may be specified’.

50. Model bye laws to be framed by the Board – New Clause 196(2)

(i) The Committee are of the view that regulations and guidelines with regard to mechanism for time bound disposal of the assets of the corporate debtor or debtor need to be made. In view of this, the Committee decide to add a new sub-clause 196(1)(t) in this regard.

(ii) As per Clause 205 of the Code every professional agency is required to make bye- laws. The Committee note that although various parameters for making such bye-laws have been given in Clause 205, no model bye-law has been provided in the Code in the absence of which every professional agency may have its own bye-laws. Since it is envisaged that there would be multiple IPAs, which may lead to lack of uniformity in the bye-laws to be followed by different insolvency professional agencies.

The Committee, therefore, decide that a new sub Clause 196(2) may be added after Clause 196(1).

“196(2) The Board may make model bye-laws to be adopted by insolvency professional agencies which may provide for —

- (a) the minimum standards of professional competence of the members of insolvency professional agencies;**
- (b) the standards for professional and ethical conduct of the members of insolvency professional agencies;**
- (c) requirements for enrolment of persons as members of insolvency professional agencies which shall be non-discriminatory;**

***Explanation.*— For the purposes of this clause, the term "non-discriminatory" means lack of discrimination on the grounds of religion, caste, gender or place of birth and such other grounds as may be specified;**

- (d) the manner of granting membership;**
- (e) setting up of a governing board for internal governance and management of insolvency professional agency in accordance with the regulations specified by the Board;**

- (f) the information required to be submitted by members including the form and the time for submitting such information;
- (g) the specific classes of persons to whom services shall be provided at concessional rates or for no remuneration by members;
- (h) the grounds on which penalties may be levied upon the members of insolvency professional agencies and the manner thereof;
- (i) a fair and transparent mechanism for redressal of grievances against the members of insolvency professional agencies;
- (j) the grounds under which the insolvency professionals may be expelled from the membership of insolvency professional agencies;
- (k) the quantum of fee and the manner of collecting fee for inducting persons as its members;
- (l) the procedure for enrolment of persons as members of insolvency professional agency;
- (m) the manner of conducting examination for enrolment of insolvency professional;
- (n) *the manner of monitoring and reviewing the working of insolvency professionals who are members;*
- (o) *the duties and other activities to be performed by members;*
- (p) *the manner of conducting disciplinary proceedings against its members and imposing penalties;*
- (q) *the manner of utilizing the amount received as penalty imposed against any insolvency professional”.*

51. Insolvency Agencies to make bye-laws Clause 205

The Committee note that Clause 205 provides for making of bye-laws by insolvency professional agencies. Consequent to the amendments made in Clause 196(2), the Clause 205 has been modified as under:

“Subject to the provisions of this Code and any rules or regulations made thereunder and after obtaining the approval of the Board every insolvency professional agency shall make bye-laws consistent with the model bye-laws specified by the Board under sub-section (2) of section 196,”

52. Specifying professional streams for insolvency professionals – new Clause 206

The Committee are of the view that the Code should itself specify as to from which professional streams, the insolvency professional shall be drawn. The Committee, therefore, decide that the Clause 207(1) may be renumbered as Clause 206 A and modified as under-

206 A “No person shall render his services as insolvency professional under this Code without being enrolled as a member of an insolvency professional agency and registered with the Board.”

Besides 207(2) may be renumbered as 207(1) and a new clause 207(2) may be inserted as under:

“207.(2) The Board may specify categories of professionals or persons possessing such qualifications and experience in the fields of finance, law, management or insolvency or such other field, as it deems fit.”

53. Registration of information utility – Clause 210(2)

The Committee note that the proviso to Clause 210(2) provides that no order shall be made under this sub-section unless the information utility concerned has been given a reasonable opportunity of being heard. After some deliberations on this proviso the Committee decide to omit this proviso.

54. Interoperability of data with information utility – Clause 214

The Code proposes to set up Information utilities to collect, collate, authenticate and disseminate financial information to facilitate insolvency, liquidation and bankruptcy proceedings under Chapter V of the Code. Clause 214 provides for obligation of information utility whereby it has been provided that every information utility shall create and store financial information in a universally accessible format. It also provides to get the information received from various persons authenticated by all concerned parties before storing such information and provide access to the financial information stored by it to any person who intends to access such information in such manner as may be specified by regulations.

The Committee note that there may be multiple information utilities for the purposes provided in the Code as elaborated above. However, the Code does not make provision for interoperability i.e. having a Central Depository or a network system to have a seamless network for the information being created and stored

by the various information utilities. The Committee are of the opinion that there should be interoperability amongst various information utilities to facilitate getting and accessing the information from any of the information utility. The Committee, therefore, decide to add the following new sub-clause 214(h) after 214(g)

‘214(h) have interoperability with other information utilities’.

55. One time registration fee for submission of information to Information Utilities – Clause 215(1)

Clause 215(1) provides that any person who intends to submit financial information to the information utility or access the information from the information utility shall pay such fee and submit information in such form and manner as may be specified by regulations. While noting the fact that these Information Utilities have to work on a commercial model, the Committee feel that charging fee every time while submitting the data by any person to the Information Utilities may put financial strain and as such deter voluntary submission of financial information to these Information Utilities. The Committee, therefore, are of the view that while submitting financial information, there should be one time registration fee for a person whereby registration one time may entitle a person to submit information any number of time at any of the Information Utility. However, the accessing of information by any person may be on payment of the requisite fee each time. Further, fee for submission may be periodical. The Committee are of the opinion that to achieve these objectives, the Board may specify necessary regulations in this regard.

56. Making the provision of submission of financial information in case operational creditor as optional – Clause 215 (2) and (3)

As per clause 215(2), a financial creditor or, an operational creditor is required to submit financial information and information relating to assets in relation to which any security interest has been created, in such form and manner as may be specified by regulations.

The Committee note that operational creditors may include employees, workmen, trade creditors, who may not have the adequate resources to pay as fee to the information utility for submission of information as provided under the aforesaid clause.

The Committee, therefore, decide that words 'or, as the case may be, an operational creditor' as appearing in clause 215(2) may be deleted. Besides a new sub-clause as given under may be inserted after clause 215(2);

'215(3) An operational creditor may submit financial information to the information utility in such form and manner as may be specified'

57. Removal of the information from records of information utility – Clause 216

Clause 216 provides as under:-

"A person who submits financial information to an information utility shall have the following rights, namely: —

(a) to correct errors or update or modify any financial information so submitted in a manner and within such time as may be specified;

(b) to demand the information utility to remove from its records the information so submitted, with the concurrence of all counterparties to any contracts or agreements, in a manner and within such time as may be specified."

The Committee after deliberations are not inclined to agree to the provision to demand the information utility to remove from its records the information so submitted by a person who submits financial information to an information utility, with the concurrence of all counterparties to any contracts or agreements. With regard to 216(1)(a) the Committee are of the view that the provision to correct errors or update or modify any financial information to an information utility may be on an application made to the information utility stating reasons therefor. The Committee, therefore, decide to modify clause 216(1) as under:-

"A person who intends to update or modify or rectify errors in the financial information submitted under section 215, may make an application to the information utility for such purpose stating reasons therefor, in such manner and within such time, as may be specified."

58. Complaints against insolvency professional agency or its member or information utility - Clause 217

While deliberating on this Clause, the Committee note that a complaint to be filed to the Board should also be filed within a fixed time. To provide for this, the words 'within such time' may be inserted after the words 'in such form'.

59. Imposition of monetary penalty by the disciplinary committee – Clause 220(3)

The Committee deliberated on the provision and felt that this Clause may be redrafted to make it more clear. Accordingly, the Committee decide to modify the Clause 220(3) as under –

“Where any insolvency professional agency or insolvency professional or an information utility has contravened any provision of this Code or rules or regulations made thereunder, the disciplinary committee may impose penalty which shall be —

(i) three times the amount of the loss caused, or likely to have been caused, to persons concerned on account of such contravention; or

(ii) three times the amount of the unlawful gain made on account of such contravention,

whichever is higher:

Provided that where such loss or unlawful gain is not quantifiable, the total amount of the penalty imposed shall not exceed more than one crore rupees.”

60. Specifying the purposes for withdrawal of funds from insolvency and bankruptcy Fund – Clause 224(3)

The Committee while deliberating on this Clause felt that there is a need to specify the purposes for which a person who has contributed to the Fund may make withdrawals from the Fund. Accordingly, the Committee decided to modify Clause 224(3) as under –

“(3) A person who has contributed any amount to the Fund may, in the event of proceedings initiated in respect of such person under this Code before an Adjudicating Authority, make an application to such Adjudicating Authority for withdrawal of funds not exceeding the amount contributed by it, for making payments to workmen, protecting the assets of such persons, meeting the incidental costs during the proceedings or such other purposes as may be prescribed.”

61. (a) Delegation of powers of the Board to any person– Clause 230

Clause 230 of the Bill provides that the Board may Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Code as it may deem necessary.

The Committee note that clause 196(1) of the Code allows the Board to perform a number of functions while giving it significant powers for the same, 'subject to the general directions of the Central Government'. The Committee are of the opinion that delegating the powers of the Board to any other person is not desirable as it may constitute excessive delegation of power. The Committee further note that clause 230 provides for delegation of power by Board except the powers under section 217. In this context, the Committee find that clause 217 provides for complaints against insolvency professional agency. There is section 238 which provides the power to make regulations. The Committee find that clause 217 has been indicated as a mistake which should have been clause 238. The Committee, therefore, decide that words 'or any other person' as appearing in clause 230 may be omitted. Besides section 217 may be substituted by section 236.

62. Insertion of new provisions relating to cross border insolvency after clause 233– New Clause 233A and 233B

The Insolvency and Bankruptcy Code, 2015 does not provide the provisions to deal with the issues relating to cross border insolvency. The report of the Bankruptcy Law Reforms Committee which was constituted to study the corporate bankruptcy framework in India in its report has mentioned as under:

'The Committee has taken up, and attempted to comprehensively solve, the question of bankruptcy and insolvency insofar as it is a purely domestic question. This is an important first milestone for India. The next frontier lies in addressing cross-border issues. This includes Indian financial firms having claims upon defaulting firms which are global, or global financial persons having claims upon Indian defaulting firms. Some important elements of internationalization – foreign holders of corporate bonds issued in India, or borrowing abroad by an Indian firm – are dealt with by the present report. However, there are many other elements of cross-border insolvency which are not addressed by this report. Examples of these problems include thousands of Indian firms have become multinationals, and Indian financial investors that lend to overseas persons. The Committee proposes to take up this work in the next stage of its deliberations'.

Shri T.K. Viswanathan during the course of deposition before the Committee stated as under:

‘xxx the UNCITRAL and other international conventions are debating that India should become a party to cross border insolvency. We have not so far formalized our views because first we want to put this Bill and the court into action and then explore how best we should handle that. So, we have not fully formalized our views on that’.

The Department of Economic Affairs in the written replies submitted to the Committee has stated that Cross Border Insolvency is a complicated issue where internationally there is no uniformity in procedure. Post Global economic crisis, Institutions such as G-20 and Financial Stability Board (FSB) are working on this matter. It has also been stated by the Ministry that the Government at an appropriate time will come out with a framework for Cross Border Insolvency.

The Committee deliberated the issue and noted that ‘The Code at present does not explicitly deal with issues and text related to cross border insolvency. However given that many corporate transactions and businesses today involve an international and cross border element, the implications of cross border insolvency cannot be ignored for too long if India is to have a comprehensive and long lasting insolvency law as the Code aims to achieve. Not incorporating this will lead to an incomplete Code’

On insistence of the Committee, the Secretary, DEA, while considering the general suggestion of the members of the Committee during the course of Clause-by-Clause consideration stated as under-

“we have examined this. Supposing any entity in India – it may be foreign company, it may be a foreign owned company – they will be covered under this law. Suppose, there is an insolvency proceeding which has been done. The company is located here but the assets are located abroad. How do you get those assets? The current procedure under various law is that we have to approach the competent authority in other countries. So, to deal with such situations, we have formulated in consultation with the Legislative Department. After the earlier meeting, the Legislative Department have drafted two new sections which will be inserted and the other sections will be re-numbered. We have prepared a

formulation. The title of the two new sections is Agreements with Foreign Countries and the other one is Letter of Request to a country outside India in certain cases.”

The representative of the Ministry further stated that as per the proposed formulation, it will be an enabling mechanism. But cross border insolvency has a larger issue. There can be a multinational company having branches elsewhere and they actually go for liquidation somewhere. That may have a ramification. There are various other issues. Later on, these issues perhaps could be considered.

The Committee after deliberations decide to incorporate after clause 233 the following new provisions relating to cross border insolvency with the marginal heading ‘Agreement with foreign countries (new Clause 233A) and new Clause 233B with the marginal heading as Letter of request to a country outside India in certain cases’, as suggested by the Department of Economic Affairs, as a beginning:

“ 233A. (1) The Central Government may enter into an agreement with the Government of any country outside India for enforcing the provisions of this Code.

(2) The Central Government may, by notification in the Official Gazette, direct that the application of provisions of this Code in relation to assets or property of corporate debtor or debtor, including a personal guarantor of a corporate debtor, as the case may be, situated at any place in a country outside India with which reciprocal arrangements have been made, shall be subject to such conditions as may be specified.

233B. (1) Notwithstanding anything contained in this Code or any law for the time being in force if, in the course of insolvency resolution process, or liquidation or bankruptcy proceedings, as the case may be, under this Code, the resolution professional, liquidator or bankruptcy trustee, as the case may be, is of the opinion that assets of the corporate debtor or debtor, including a personal guarantor of a corporate debtor, are situated in a country outside India with which reciprocal arrangements have been made under section 232, he may make an application to the Adjudicating Authority that evidence or action relating to such assets is required in connection with such process or proceeding.

(2) The Adjudicating Authority on receipt of an application under sub-section (1) and, on being satisfied that evidence or action relating to assets under sub-section (1) is required in connection with insolvency resolution process or liquidation or bankruptcy proceeding, may issue a letter of request to a court or an authority of such country competent to deal with such request.”

The Committee also decide to make consequential change in the definition of 'property' in Clause 3(27) by substituting the **word** 'anywhere' **with words** 'in India or outside India'

63. Deletion of Clause 236(3)

Clause 236(3) provides as under –

“The matters in respect of which rules may be made or notification issued are matters of procedure or administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.”

The Committee note that the aforesaid provisions are usually provided in the Memorandum regarding Delegated Legislation as appended with a Bill. The provisions have in fact been provided in the Memorandum. The Committee in view of above decide to omit Clause 236(3) being redundant.

64. Trial of offences by the Special Court – Clause 240 (renumbered as clause 233c)

Clause 240 provides as under –

“Notwithstanding anything in the Code of Criminal Procedure, 1973, offences under Part II and offences by any insolvency professional under Part III of this Code shall be tried by the Special Court established under Chapter XXVIII of the Companies Act, 2013.”

The Committee decide that words “Part II and offences by any insolvency professional under Part III of” as appearing in Clause 240(1) may be deleted.

The Committee while deliberating on the aforesaid provision are of the view that the issues relating to who will take a statement and file a charge-sheet, may be looked into and therefore decide to add new sub-Clauses (2),(3) and (4) as given under in clause 240, renumbered as 233. –

“(2) No Court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Board or the Central Government or any person authorised by the Central Government in this behalf. ,

(3) The provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in case of complaint under sub-section (2), the presence of the person authorized by the Central Government or the Board before the Court trying the offences shall not be necessary unless the Court requires his personal attendance at the trial.”

65. Appeal and revision - Clause 243 (renumbered as clause 233D)

The Committee noted that consequent to the amendments made to Clause 243, the provisions relating to appeal and revision to High Court need to be provided in the court. Accordingly, new clause 233D is provided as under:

“The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court”.

66. Timelines for various processes under the Code

The Committee reviewed the timelines provided for various processes during the course of insolvency, liquidation and bankruptcy and decide to reduce the time period given under the following Clauses to some extent to expedite these processes. Besides the Committee also decide to specify timelines under some of the provisions:

Clause No.	The provision for which timelines are reviewed	Decision Taken
61(2)	To prefer and appeal by an aggrieved person to NCLAT	In clause 61(2) and in proviso to clause 61(2), the period of forty-five days to be changed to thirty days.
62(1)	(i) To file an appeal to the Supreme Court by any person aggrieved by order of NCLAT	(i) In clause 62(1), the period of sixty days to be changed to forty-five days.
62(2)	(ii) To file an appeal to the Supreme Court by any person aggrieved by order of NCLAT	(ii) In Clause 62(2) the period of ninety days be changed to forty-five days.
62(2)	(iii) To extend the period of such appeal by the Supreme Court	(iii) In Clause 62(2), the period of thirty days to be changed to fifteen days
89(2) and 98(2)	The period of examination of application	In Clause 89(2) and 98(2), the period of examination of application may be reduced to

		seven days
102(1)	To issue a public notice by the Adjudicating Authority inviting claims from all creditors.	Under clause 102(1), the period of ten days to issue a public notice inviting claims from all creditors by the Adjudicating Authority, may be changed to seven days.
102(2)(c)	Last date for filling of Claims	The specific timelines of twenty-one days with regard to the last date for filling of claims by the creditors should be given.
121(2)	Filling of an application for bankruptcy	The period of six months for filling of an application for bankruptcy may be changed from within a period of six months of the date of the order passed by the Adjudicating Authority to three months.
130(1)(b)	Issue of a public notice by the Adjudicating Authority	The specific timelines of fourteen days with regard to the last date for filling of claims by the creditors should be given.
133(1)	Summoning of meeting of creditors by the bankruptcy trustee	The period of sixteen days from the bankruptcy commencement days for issue of a notice by the bankruptcy trustee for calling a meeting of the creditors may be changed to twenty –one days.
181(1)	(i) To file an appeal to DRAT	(i) In clause 181(1), the period of forty-five days to be changed to thirty days.
181(2)	(ii) period of file an appeal to DRAT	(ii) In Clause 181(2), the period of forty-five days for filling an appeal to DRAT may be changed to thirty days.
181(2)	(ii) Extension of time by DRAT	(iii) The period of extension of time of thirty days as appearing in Clause 181(2) may be changed to fifteen days.
182(1)	(i) To file an appeal to the Supreme Court by any person aggrieved by order of DRAT	(i) in clause 182(1), the period of ninety days to be changed to forty-five days.
	(ii) To file an appeal to the Supreme Court by any person aggrieved by order of DRAT	(ii) In Clause 182(2) the period of ninety days be changed to forty-five days.

	(iii) To extend the period of such appeal by the Supreme Court	(iii) In Clause 182(2), the period of thirty days to be changed to fifteen days
183	Extension of period by DRT and DRAT	The days for extension by DRT and DRAT may be specified by inserting words 'but not exceeding ten days' at the end of clause 183

67. The Committee reviewed the timelines provided for various processes during the course of insolvency, liquidation and bankruptcy and decide to increase the timelines of two, three and five days under the following Clauses to seven days to provide the reasonable period for the purpose specified in the relevant Clause:

Sl. No.	Clause No.	Decision taken
1.	Clause 7(5)(b)	To substitute the period of three days to seven days
2.	Clause 7(7)(b)	To substitute the period of two days to seven days
3.	Proviso to Clause 9(5)(ii)	To substitute the period of three days to seven days
4.	Clause 21(10)	To substitute the period of three days to seven days
5.	Clause 22(1)	To substitute the period of three days to seven days
6.	Clause 37(3)	To substitute the period of three days to seven days
7.	Clause 40(2)	To substitute the period of three days to seven days
8.	Clause 59(4)	To substitute the period of two days to seven days
9.	Clause 82(1)	To substitute the period of two days to seven days
10.	Clause 82(3)	To substitute the period of two days to seven days
11.	Clause 83(4)	To substitute the period of five days to seven days
12.	Clause 84(3)	To substitute the period of two days to seven days
13.	Clause 92(1)	To substitute the period of five days to seven days
14.	Clause 97(1)	To substitute the period of two days to seven days
15.	Clause 97(2)	To substitute the period of two days to seven days
16.	Clause 97(3)	To substitute the period of two days to seven days
17.	Clause 99(5)	To substitute the period of three days to seven days
18.	Clause 100(3)	To substitute the period of two days to seven days
19.	Clause 108(7)	To substitute the period of five days to seven days
20.	Clause 125(1)	To substitute the period of two days to seven days
21.	Clause 125(3)	To substitute the period of two days to seven days
22.	Clause 126(2)	To substitute the period of two days to seven days
23.	Clause 129(1)	To substitute the period of five days to seven days
24.	Clause 134(6)	To substitute the period of three days to seven days
25.	Clause 138(1)(b)	To substitute the period of two days to seven days
26.	Clause 145(11)	To substitute the period of two days to seven days
27.	Clause 146(2)	To substitute the period of two days to seven days
28.	Clause 146(7)	To substitute the period of two days to seven days
29.	Clause 147(7)	To substitute the period of two days to seven days
30.	Clause 150(2)	To substitute the period of five days to seven days

68. Drafting corrections/improvement

The Committee during the course of deliberations noted certain drafting errors in the Code. Legislative Department also brought in the notice of the Committee a number of the Clauses in which drafting correction/language improvement was required for the purpose of clarity. The Committee decide that the following modifications with the purpose of drafting improvement may be made in the Code.

Sl. No.	Clause No.	Drafting corrections/improvement
1.	Clause 2(d)	Page No. 2, line no. 12 after word "such" add word "other"
2.	Clause 2	Page No. 2, line no. 15 for the line 'to the extent of insolvency, liquidation or bankruptcy, as the case may be' Substitute 'in relation to their insolvency, liquidation, voluntary liquidation or bankruptcy, as the case may be.'
3.	Clause 3(9)(a)	Page 2, line no. 41 For 'a' Substitute 'as'
4.	Clause 3(11)	Page 3, line no. 6 Delete 'and' after 'financial debt' (ii) Add 'and bankruptcy debt' after 'operational debt'
5.	Clause 3(16)	Page 3, line no. 33 Add 'services, namely:-- ' after 'following' Page 3, line no. 34 (ii) For 'acceptance' Substitute 'accepting'
6.	Clause 3(24)	Page 4, line no. 35 Add 'as' before the word 'assigned'

7.	Clause 3(37)	<p>Page 5, line no. 21 – 25</p> <p>For</p> <p>‘(37) words and expressions used but not defined in this Code but defined in the Indian Contract Act, 1872, the Securities Contact (Regulation) Act, 1956, the Securities Exchange Board of India Act, 1992, the Limited Liability Partnership Act, 2008 and the Companies Act, 2013, shall have the meanings respectively assigned to them in those Acts.’</p> <p>Substitute</p> <p>‘(37) Words and expressions used but not defined in this Code but defined in the Indian Contract Act, 1872, the Indian Partnership Act, 1932, the Securities Contact (Regulation) Act, 1956, the Securities Exchange Board of India Act, 1992, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the Limited Liability Partnership Act, 2008 and the Companies Act, 2013, shall have the meanings respectively assigned to them in those Acts.’</p>
8.	Clause 5(4)	<p>Page 5, line no. 42</p> <p>For</p> <p>‘association or’</p> <p>Substitute</p> <p>‘association,’</p> <p>(ii) For</p> <p>‘partnership agreement’</p> <p>Substitute</p> <p>‘incorporation document’</p>
9.	Clause 5(14)	<p>Page 7, line no. 11</p> <p>For</p> <p>‘commencing on’</p> <p>Substitute</p> <p>‘beginning from’</p>
10.	Clause 5(20)	<p>Page 7, line no.29, omit “(including a person resident outside India)”</p>

11.	Clause 5(23)	Page 7, line no. 37 For 'and designated partners' Substitute ' , designated partners'
12.	Clause 5(28)	Page 8, line no. 41 For 'is' Substitute 'means' (ii) For 'and' Substitute 'which'
13.	Clause 8(2)(a)	Page 10, line no. 10 For 'prior to' Substitute 'before'
14.	Clause 9(3)(d)	Page 10, line no. 36 Delete 'or'
15.	Proviso to Clause 9(5)	Page 11, line no. 17 For 'prior to' Substitute 'shall before'
16.	Clause 14(1)(b)	Page 12, line no. 38 – 39 For '(b) the corporate debtor from transferring, encumbering, alienating or disposing of any of its assets or any legal right or beneficial interest therein;' Substitute '(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or

		beneficial interest therein'.
17.	Clause 16(2)	Page 13, line no. 32 Add 'if no disciplinary proceedings are pending against him' After 'interim resolution professional'
18.	Clause 16(3)(b)	Page 13, line no. 38 Omit 'operational creditor and'
19.	Clause 17(1)(c)	Page 14, line no. 11 For 'demanded' Substitute 'required'
20.	Clause 17(2)(a)	Page 14, line no. 18 For 'do all acts' Substitute 'act'
21.	Clause 19(1)	Page 15, line no. 17 For words 'corporate debtor and its promoters or any person connected' Substitute 'corporate debtor, its promoters or any other person associated'
22.	Clause 19(2)	Page 15, line no. 21 Add 'its promoter' after 'corporate debtor'
23.	Clause 20(2)(a)	Page 15, line no. 34 Delete 'counsel' and 'such'
24.	Clause 20(2)(d)	Page 15, line no. 42 For 'its personnel' Substitute 'personnel of the corporate debtor'

25.	Clause 24(1)	Page 17, line no. 32 Delete 'other'
26.	Clause 25(2)(d)	Page 18, line no. 19 For 'lawyers and other advisors' Substitute 'legal or other professionals'
27.	Clause 26(2)	Page 18, line no. 38 Delete 'by them'
28.	Clause 26(4)	Page 18, line no. 44 Delete 'sub-section (4) and (5) of'
29.	Clause 26(4)	Page 19, lines 1 -3 Proviso to clause 26(4) For 'Provided that where any disciplinary proceedings are pending against the proposed resolution professional, the resolution professional appointed under section 22 shall continue for the remaining corporate insolvency resolution process period.' Substitute 'Where any disciplinary proceedings are pending against the provided resolution professional under sub-section (3) the resolution professional appointed under section 22 shall continue till the appointment of another resolution professional under this section.'
30.	Clause 30(2)(b)	Page 21, line no. 9 Add 'as may be' after 'manner'
31.	Clause 34(5)	Page 23, line no. 14 For 'to be a liquidator' Substitute 'to be appointed as a liquidator'

32.	Clause 50(1)	<p>Page No. 30, line no. 9</p> <p>For</p> <p>'part of a credit transaction'</p> <p>Substitute</p> <p>'a party to an extortionate credit transaction'</p>
33.	Clause 56(1)	<p>Page 33, line no. 13</p> <p>Add 'the provisions of' after 'subject to'</p>
34.	Clause 56(2)	<p>Page 33, line no. 17</p> <p>Delete words 'way of'</p>
35.	Clause 56(3)	<p>Page 33, line no.19 -22</p> <p>For</p> <p>“On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that fast track corporate insolvency resolution process cannot be completed within a period of ninety days, it may by order extend the duration of such process beyond the said period of ninety days:</p> <p>Provided that any extension of the fast track corporate insolvency resolution process period granted by the Adjudicating Authority under this section shall not be beyond a period of forty five days:</p> <p>Provided further that any extension of the fast track corporate insolvency resolution process under this section shall not be granted more than once.”</p> <p>Substitute</p> <p>“On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that fast track corporate insolvency resolution process cannot be completed within a period of ninety days, it may by order extend the duration of such process beyond the said period of ninety days by such further period as it thinks fit but not exceeding forty-five days:</p> <p>Provided that any extension of the fast track corporate</p>

		insolvency resolution process under this section shall not be granted more than once.”
36.	Clause 57	Page 33, line no. 29 (i) For 'initiated' Substitute 'filed' (ii) For 'by furnishing' Substitute 'alongwith'
37.	Clause 59(2)	Page 33, line no.42 Omit `process for' after `The'
38.	Clause 59(8)	Page 34, line no. 42 Add 'an' before 'application' Page 34, line no.43 Omit `order' before `that'
39.	Clause 60 (1)	Page 35, line no. 6 For 'a company' Substitute 'the corporate person'
40.	Clause 60 (2)	Page 35, line no. 11 For 'the' Substitute 'such'
41.	Proviso to Clause 61(2)	Page 35, line no. 39 For 'Appellate Tribunal' Substitute

		'National Company Law Appellate Tribunal'
42.	Clause 64(1)	Page 36, line no 18 Omit words 'Notwithstanding anything contained in the Companies Act, 2013'
43.	Clause 64(2)	Page 36, line no.27 Omit `by or' after `Tribunal'
44.	Clause 66(1)	Page 36, line no.38 For `on may' Substitute `an'
45.	Clause 66(2)	Page 36, line no. 41 Omit words 'conduct of a' Page 36, line no.42 For `may order' Substitute `may by an order direct'
46.	Clause 67(1)	Page 37, line no. 9 For 'passes' Substitute 'has passed'
47.	Explanation to Clause 67	Page 37, line no. 21 For 'made liable under clause (a) of this sub-section' Substitute 'held liable under clause (a)' Page 37, Line no. 24 (ii) For 'declaration has' Substitute

		'directions have'
48.	Clause 67(2)	<p>Page 37, line no. 25-29</p> <p>For</p> <p>'Where the Adjudicating Authority makes an order under sub-section (1) or (2) of section 66, as the case may be, in relation to a person who is a creditor of the corporate debtor, it may direct by an order that the whole or any part of any debt owed by the corporate debtor to that person and any interest thereon shall rank in priority after all other debts owed by the corporate debtor and after any interest on those debts.'</p> <p>Substitute</p> <p>'Where the Adjudicating Authority has passed an order under sub-section (1) or sub-section (2) of section 66, as the case may be, in relation to a person who is a creditor of the corporate debtor, it may, by an order direct that the whole or any part of any debt owed by the corporate debtor to that person and any interest thereon shall rank in the order of priority of payment under section 53 after all other debts owed by the corporate debtor'.</p>
49.	Clause 68(i)(a)	<p>Page 37' line no. 37</p> <p>Add 'or' after 'more'</p>
50.	Clause 68 (i) (g)	<p>Page 38, line no. 6</p> <p>Add word 'clause' before '(e)'</p> <p>Page 38, line no.11</p> <p>For</p> <p>'receives'</p> <p>Substitute</p> <p>'received'</p>
51.	Clause 69(b)	<p>Page 38, line no.25</p> <p>Omit word 'since, or'</p>
52.	Clause 70(1)(b)	<p>Page 38, line no.40</p> <p>Omit words '(or as he directs)'</p>
53.	Clause 70(1)(d)	<p>Page 38, line no. 46</p> <p>For</p>

		<p>'of his'</p> <p>Substitute</p> <p>'the information in his'</p>
54.	Proviso to Clause 70(1)	<p>Page 39, line no.11</p> <p>For</p> <p>`defraud or to conceal'</p> <p>Substitute</p> <p>`do so in relation to'</p>
55.	Clause70(2)	<p>(92) Page 39, line no. 13</p> <p>For</p> <p>'the Act'</p> <p>Substitute 'this part'</p> <p>(ii) Page 39, line no.16</p> <p>Add 'but' after 'one lakh rupees'</p>
56.	Clause73	<p>Page 39, line no. 29</p> <p>For '73.(1)' read '73'</p>
57.	Clause 75- Marginal heading	<p>Page 40</p> <p>For</p> <p>`Penalties for false information furnished in application'</p> <p>Substitute</p> <p>`Punishment for false information furnished in application'</p>
58.	Clause 76- Marginal heading	<p>Page 40</p> <p>For</p> <p>`Penalty for non-disclosure of dispute or repayment of debt by operational creditor'</p> <p>Substitute</p> <p>`Punishment for non-disclosure of dispute or repayment of debt by operational creditor'</p>
59.	Clause 77- Marginal heading	<p>Page 40</p> <p>For</p> <p>`Penalty for providing false information in application made by</p>

		creditor debtor' Substitute 'Punishment for providing false information in application made by creditor debtor'
60.	Clause 77- Explanation	Page 40, line no.34 Add 'and sections 75 and 76' after 'purposes of this section'
61.	Clause 79(19)	Page 42, line no.43 Omit 'à' after 'for'
62.	Clause 81(1)	Page 43, line no. 26 – 29 For '81. (1) When an application is filed under section 80 by a debtor— (a) an interim-moratorium shall commence on the date of filing of said application in relation to all the debts and shall cease to have effect on the date of admission or rejection of such application, as the case may be; and (b) during the interim-moratorium period (i) any pending legal action or legal proceeding in respect of any of his debts shall be deemed to have been stayed; and (ii) no creditor shall initiate any legal action or proceedings in respect of such debt' Substitute 81. (1) When an application is filed under section 80 by a debtor, an interim-moratorium shall commence on the date of filing of said application in relation to all the debts and shall cease to have effect on the date of admission or rejection of such application, as the case may be. (2) During the interim-moratorium period, - (i) any legal action or legal proceeding pending in respect of any of his debts shall be deemed to have been stayed; and (ii) no creditor shall initiate any legal action or proceedings in respect of such debt. The subsequent sub-clauses of 81 may be renumbered.

63.	Clause 81(3)(d)	<p>(i) Page 44, line no.1 Omit `for’</p> <p>(ii)Page 44, line no.5 For `process’ Substitute `proceedings’</p>
64.	Clause 82(1) and 82(1)(a)	<p>Page 44, line no. 10-14 For ‘82 Where an application under section 80 is filed by the debtor through a resolution professional, the Adjudicating Authority shall direct the Board within two days of the date of receipt of the application and shall seek confirmation from the Board that— (a) there are no disciplinary proceedings against the resolution professional who has submitted the application; and’</p> <p>Substitute ‘(82) Where an application under section 80 is filed by the debtor through a resolution professional, the Adjudicating Authority shall direct the Board within seven days of the date of receipt of the application and shall seek confirmation from the Board that there are no disciplinary proceedings against the resolution professional who has submitted such application.’</p>
65.	Clause 85(3)(f)	<p>Page 46, line no. 3 For ‘(f) travel overseas only with the permission of the Adjudicating Authority.’ Substitute ‘(f) not travel outside India except with the permission of the Adjudicating Authority.’</p>

66.	Clause 85(3)	Page 46, line no. 4 For 'six months' Substitute 'one hundred and eighty days' Page 46, line no. 4 (ii) For '85(3)'read '85(4)'
67.	Clause 86(6)	Page 46, line no. 20 – 22 For '(6) The resolution professional may <i>suo motu</i> examine on any matter that appears to him to be relevant to the making of a final list of qualifying debts for the purposes of section 92.' Substitute '(6) The resolution professional may examine any matter that appears to him to be relevant to the making of a final list of qualifying debts for the purposes of section 92.'
68.	Clause 86(7)	Page 46, line no. 23 For 'investigations' substitute 'examination'
69.	Clause 86(7)(c)	Page 46, line no. 29 For 'take any other steps in relation to the debtor.' Substitute "take such other steps as he considers necessary in relation to the debtor."
70.	Clause 87(3)	Page 46, line no. 42 – 44 For 'Where the application under sub-section (1) has been

		<p>allowed by the Adjudicating Authority, it shall forward its order to the Board and the Board may take action against the resolution professional under section 219.'</p> <p>Substitute</p> <p>'Where the application under sub-section (1) has been allowed by the Adjudicating Authority, it shall forward its order to the Board and the Board may take such action as may be required under chapter VI of Part IV against the resolution professional.'</p>
71.	Clause 90(1)(b)	<p>Page 47, line no.42</p> <p>For</p> <p>'on'</p> <p>Substitute</p> <p>'of'</p>
72.	Clause 95(7)	<p>Page 50, line no.5</p> <p>For '(2)' Substitute '(4)'</p>
73.	Clause 96(1)(b)(i)	<p>Page 50, line 12-13</p> <p>For</p> <p>'any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed; and'</p> <p>Substitute</p> <p>'any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed; and'</p>
74.	Clause 99(3)	<p>(i) Page 52, line no. 14</p> <p>Omit 'or the debts'</p> <p>(ii) Page 52, Line no. 15</p> <p>For</p> <p>'contest'</p> <p>Substitute</p> <p>'dispute'</p> <p>(iii) Page 52, Line no. 16</p> <p>For</p>

		'the' Substitute 'such'
75.	Clause 99(4)	(i) Page 52, line no. 17-18 For 'call for' Substitute 'seek'
76.	Clause 99(8)	Page 52, line 30 For 'issue' substitute 'submit'
77.	Clause 100(4)	Page 53, line 3 Omit 'or' after 'professional'
78.	Clause 102(2)(c)	Page 53, line 27 For 'filing' substitute 'submission'
79.	Marginal heading to Clause 112	Page 56 'on repayment plan' to be added after words 'creditors', in the marginal heading to clause 112 in line 12.
80.	Clause 118(3)	Page 57, lines 42-43 and Page 58, lines 1-3 For '(3) The Adjudicating Authority shall pass an order on the basis of the report submitted by the resolution professional stating that— (a) the repayment plan has not been completely implemented; and (b) the debtor or the creditor, whose claims have not been

		<p>fully satisfied, shall be entitled to apply for a bankruptcy order under Chapter IV.</p> <p>substitute</p> <p>‘(3) The Adjudicating Authority shall pass an order on the basis of the report submitted under sub-section (2) by the resolution professional that the repayment plan has not been completely implemented.</p> <p>(4) The debtor or the creditor, whose claims under repayment plan have not been fully satisfied, shall be entitled to apply for a bankruptcy order under Chapter IV of this Part.’</p>
81.	Clause 119(4)	<p>Page 58, line no. 29</p> <p>For</p> <p>‘the debts of the debtor’</p> <p>Substitute</p> <p>‘his debt’</p>
82.	Clause 126(1)	<p>Page 61, line 21</p> <p>Add ‘confirmation or’ before ‘nomination’</p>
83.	Clause 128(2)	<p>(i) Page 62, line 9</p> <p>For</p> <p>‘steps’</p> <p>Substitute</p> <p>‘any action’</p> <p>(ii) Page 61, line 10</p> <p>For</p> <p>‘one month’</p> <p>Substitute</p> <p>‘thirty days’</p>
84.	Clause 130(2) & sub clause 130(2)(a)	<p>Page 62 page 34-38</p> <p>For</p> <p>‘(2) The public notice under clause (b) of sub-section (1) shall include the time within which the claims shall be filed and such matters and details as may be prescribed and shall be—</p>

		<p>(a) published in at least one English and one vernacular newspaper which is in circulation in the state where the bankrupt reside’.</p> <p>Substitute</p> <p>‘(2) The public notice under clause (b) of sub-section (1) shall include the last date up to which the claims shall be submitted and such other matters and details as may be prescribed and shall be -</p> <p>(a) published in leading newspapers, one in English and another in vernacular having sufficient circulation where the bankrupt resides’.</p>
85.	Clause 136	<p>Page 64, line 24</p> <p>Add ‘of this Part’ after ‘Chapter V’</p>
86.	Clause 137(1)	<p>Page 64, line 27</p> <p>Add ‘of this Part’ after ‘Chapter V’</p>
87.	Clause 140(2)(e)	<p>Page 66, line 1</p> <p>‘(e)’ may be substituted by ‘d’</p>
88.	Clause 167	<p>Page 76, line 32</p> <p>For</p> <p>‘is’</p> <p>Substitute</p> <p>‘which is’</p>
89.	Clause 170 (2)	<p>Page 77, line 13</p> <p>For</p> <p>‘him’</p> <p>Substitute</p> <p>‘them’</p>
90.	Marginal heading of Clause 185	<p>Page 82</p> <p>For</p> <p>‘Liability of resolution professional.’</p> <p>Substitute</p>

		'Punishment for contravention of provisions'
91.	Marginal heading of Clause 187	Page 83 For 'Liability of bankruptcy trustee.' Substitute 'Punishment for certain actions'
92.	Clause 194(3)	Page 85, line 2 For 'sub-section (1)' Substitute 'sub-section(2)'
93.	Clause 196(1)(k)	Page 85, line 35 For 'relating so' Substitute 'relating to'
94.	Clause 209	Page 90, lines 23 to 25 For 'Save as otherwise provided in this Code, no information utility shall carry on its business under this Code except under and in accordance with a certificate of registration issued in that behalf by the Board' Substitute 'Save as otherwise provided in this Code, no person shall carry on its business as information utility under this Code without a certificate of registration issued in that behalf by the Board.'
95.	Clause 210(5)(b)	Page 91, line 5 For 'of the regulations made' Substitute 'specified'
96.	Clause 214(1)	Page 91, line 24 For

		<p>'While'</p> <p>Substitute</p> <p>'For the purpose of'</p>
97.	Clause 218(1)	<p>Page 92, line 16</p> <p>(i) Omit '<i>suo-motu</i>'</p> <p>Page 92, line 20 – 21</p> <p>For</p> <p>'authorised in this behalf (hereinafter referred to as the Investigating Authority in this Chapter)'</p> <p>substitute</p> <p>'to act as the Investigating Authority'</p>
98.	Clause 220(2)	<p>Page 93, line no. 11</p> <p>Delete 'monetary'</p>
99.	Clause 224(4)	<p>Page 94, line 44</p> <p>Omit 'form and'</p>
100.	Clause 231	<p>(i) Page 96, line 7 and 10</p> <p>For 'Board'</p> <p>Substitute</p> <p>'Adjudicating Authority'</p> <p>(ii) Page 96 line 10</p> <p>Omit ', or'</p>
101.	Clause 233	<p>Page 96</p> <p>(i) After clause 233 insert clauses '233A' and '233B'</p> <p>(ii) After clause 233B insert clauses '233C' and '233D'</p> <p>Clause 240 renumbered as 233C(i)</p>
102.	Clause 237 renumbered as 239	<p>Page 101, line 30</p> <p>(i) Insert 'and' after every rule</p> <p>(ii) omit every 'bye law'</p> <p>(iii) in line 40 to 45 for words 'rule, regulation or bye laws' substitute 'rule or regulation'</p>
103.	Clause 240	<p>Page 103</p> <p>Omit lines 1 to 3</p>
104.	Short title of the	For

	Bill	'2015' Substitute '2016'
105.	Long title of the Bill	For 'Insolvency and Bankruptcy Fund' Substitute 'Insolvency and Bankruptcy Board of India'
106.	Enacting Formula	For 'Sixty-sixth Year' Substitute 'Sixty-seventh Year'
107.	Clause 1	Page 1, line 1 For '2015' Substitute '2016'

ELEVENTH SCHEDULE, PAGE 107 – 113, THE MODIFICATIONS ARE AS UNDER –

	Serial Number of the schedule	Drafting Corrections/improvement
108.	Sl. No. 1	Page 107, line 8 Omit 'of this Act'
109.	Sl. No. 2	Page 107, line 13 (i) For 'In sub-section (9) of section 8' Substitute ' In section 8, in sub-section (9),' Page 107, line 14 (ii) For 'for used' Substitute 'formed'
110.	Sl. no. 3	Page 107, line 16 For 'In sub-section (8) of section 66, ' Substitute 'In section 66, in sub-section (8),'
111.	Sl. no. 4	Page 107, line 20 (i) For 'and 230, ' Substitute 'In sub-section (3),' (ii) Omit 'wherever they occur' Page 107, line 21 (iii) Add 'appointed' after 'figures'
112.	Sl. no. 5	Page 107, line 23 (i) For 'In Clause (f) of sub-section (3) of section 117' Substitute 'In section 117, in sub-section (3), in clause (f)' Page 107, line 24 (ii) For 'section 56' Substitute

		'section 59'
113.	Sl. no. 6	Page 107, line 26 (i) For 'In sub-section (2), of section 224, Substitute 'In section 224, in sub-section(2),' Page 107, line 27 Add 'under' after 'or'
114.	Sl. no. 6 A	6A In Section 230 – '(a) in sub-section(1), after the word 'liquidator', the words 'appointed under this Act or under the Insolvency and Bankruptcy Code, 2016, as the case may be,' shall be inserted'. (b) in sub-section (6), after the word 'on the liquidator', the words 'appointed under this Act or under the Insolvency and Bankruptcy Code, 2016, as the case may be,' shall be inserted.'
115.	Sl. No. 7	Page 107, line 28 For (i) '7. For clause (e) of sub-section (1) of section 249,' Substitute ' 8. In section 249, in sub - section (1), for Clause (e),' Page 107, line 30 (ii) Add 'under' after 'or'
116.	Sl. no. 8	Page 107, line 32 For '268' Substitute '269'
117.	Sl. no. 9	Page 107, line 33 Omit '9. Section 269 shall be omitted'
118.	Sl. no. 10	Page 107, line 35 (i) For 'this Act with respect to winding up ' Substitute ' Part I '
119.	Sl. no. 12	Page 108, line 13 (i) Omit 'together' Page 108, line 27 (ii) Omit 'any of'

		<p>Page 108, line 28 (iii) Omit 'sub'</p> <p>Page 108, line 31 (iv) For 'also' Substitute 'further'</p>
120.	New Sl. no. 16	<p>Page 109, line 17 - 19</p> <p>15A The heading “Part II.—Voluntary winding up”, shall be omitted.</p>
121.	Sl. no. 20	<p>Page 110, line 37 For 'encumbrance' Substitute 'encumbrancer '</p>
122.	Sl. no. 22	<p>In section 336, in sub-section (1), in the opening paragraph, for the words ‘whether by the Tribunal or voluntarily, or which is subsequently ordered to be wound up by the Tribunal or which subsequently passes a resolution for voluntary winding up’ the words ‘by the Tribunal under this Act or which is subsequently ordered to be wound up by the Tribunal under this Act’ shall be substituted.</p>
123.	Sl. no. 24	<p>Page 111, line 5 For ' sub-sections (2), (3) and (4) of section 342' Substitute ' In section 342, sub-sections (2), (3) and (4)'</p>
124.	Sl. no. 25	<p>Page 111, line 6 For ' for sub-section (1) of section 343' Substitute ' In section 343, for sub-section (1) '</p>
125.	Sl. no. 26	<p>Page 111, line 24 (i)For ' for sub-section (1) of section 347' Substitute ' In section 347, for sub-section (1) '</p> <p>Page 111, line 27 (ii)For ' its' Substitute</p>

		' the' Page 111, line 27 (iii) Add 'of such company' after 'papers'
126.	Sl. no. 27	Page 111, line 29 For ' for sub-section (1) of section 348' Substitute ' In section 348, for sub-section (1)'
127.	Sl. no. 30	Page 112, line 1 (i) Add 'of' after 'or' Page 112, line 2 (ii) For 'as applicable' Substitute 'as the case may be'
128.	Sl. nos. 31 - 33	Page 112, lines 3 - 9 Omit '31. In clause (b) of sub-section (3) of section 375, for the words “is unable to pay its debts”, the words “has defaulted on its debts, within the meaning of the Insolvency and Bankruptcy Code, 2015” shall be inserted. 32. Sub-section (4) of section 375 shall be omitted. 33. In sub-section (1) of section 377, after the words “winding up of companies by the Tribunal”, the words “, or the provisions of the Insolvency and Bankruptcy Code, 2015” shall be inserted.'
129.	Sl. no. 34	Page 112, line 10 For 'for sub-section (4) of section 419' Substitute 'In section 419, for sub-section (4)'
130.	Sl. no. 35	Page 112, line 18 (i) Omit 'sub-section(1) of' Page 112, line 19 (ii) Add 'in sub-section (1)' before 'after' Page 112, line 20 (iii) For '2015' Substitute '2016' Page 112, line 21

		<p>(iv) Add 'in sub-section (2)' before 'after'</p> <p>Page 112, line 22</p> <p>(v) For '2015' Substitute '2016'</p>
131.	Sl. no. 36	<p>Page 112, line 23 - 28</p> <p>For</p> <p>'In section 429, for sub-section (1) of section 429, the following sub-section shall be substituted, namely—</p> <p>(i) for the words “relating to a sick company or winding up of any other company”, the words “under the Insolvency and Bankruptcy Code, 2015 or winding up of a company under this Act” shall be substituted;</p> <p>(ii) for the words “of such sick or other company”, the words “of the relevant legal person” shall be substituted.'</p> <p>Substitute</p> <p>'In section 429, for sub-section (1), the following sub-section shall be substituted, namely—</p> <p>(1) The Tribunal may, in any proceedings for winding up of a company under this Act or in any proceedings under the Insolvency and Bankruptcy Code, 2015, in documents, request, in writing, the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector within whose jurisdiction any such property, books of account or other documents of such company under this Act or of corporate persons under the said Code, are situated or found, to take possession thereof, and the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector, as the case may be, shall, on such request being made to him,—</p> <p>(a) take possession of such property, books of account or other documents; and</p> <p>(b) cause the same to be entrusted to the Tribunal or other persons authorised by it.”.</p>
132.	Sl. No. 37	<p>Page 113, line 6</p> <p>For 'Code' Substitute 'Act'</p>
133.	Sl. no. 38	<p>Page 113, line 8</p> <p>(i) For 'for sub-section (2), of section 468' Substitute ' In section 468, for sub-section (2)'</p>

134.	Sl. no. 39	Page 113, line 28 For 'For clause (b) of section III, of Schedule V,' Substitute 'In Schedule V, in Part II, in section III, for Clause (b)'
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The formulations with regard to the schedules in the Code are yet to be submitted by the Legislative Department.

68. GENERAL RECOMMENDATIONS

Setting up of NCLT, NCLAT, DRT, DRAT and their capacity building

The Insolvency and Bankruptcy Code, 2015 seeks to provide for designating the National Company Law Tribunal (NCLT) and Debt Recovery Tribunal (DRT) as the Adjudicating Authorities for corporate persons and firms and individuals, respectively, for resolution of insolvency, liquidation and bankruptcy. Clause 61 provides that any person aggrieved by the order of the Adjudicating Authority may prefer an appeal to the National Company Law Appellate Tribunal (NCLAT). Besides clause 181 provides that an appeal from an order of the Debt Recovery Tribunal shall be filed before the Debt Recovery Appellate Tribunal (DRAT).

Whereas as per clause 239(2)(i), all proceedings with regard to insolvency and bankruptcy of individuals and partnership firms, pending under pending under and relating to the Presidency Towns Insolvency Act, 1909, and the Provincial Insolvency Act 1920, immediately before the commencement of the Code shall continue to be governed under the aforementioned Acts, and heard and disposed of by the concerned courts or tribunals, in case of corporate insolvency, Clause 252 of the Code seeks to amend the Companies Act, 2013 as specified in the Eleventh Schedule of the Code. Clause 434(1) of the Eleventh Schedule proposes to modify section 434 of the Companies Act, 2013. As per this section, all matters, proceedings or cases pending before the Board of Company Law Administration (herein in this section referred to as the Company Law Board) constituted under sub-section (1) of section 10E of the Companies Act, 1956, immediately before such date shall stand transferred to the Tribunal.

The Department of Financial Services in the presentation before the Committee has apprised that the Companies Act, 1956 was amended in 2002 to provide for

establishment of NCLT and NCLAT. The provisions were challenged in the Madras High Court by Madras Bar Association (MBA). An appeal was filed in the Supreme Court thereafter. The Supreme Court delivered its judgement in 2010. Companies Act, 2013 retained the provisions of NCLT and NCLAT with changes as per judgement of Supreme Court except for Technical Members and Selection Committee. The provisions of Companies Act, 2013 were again challenged in the Supreme Court by MBA in 2013. It was referred to Constitution Bench, which delivered its judgement in May 2015. The Constitution Bench reiterated the position as per the 2010 judgement and allowed establishment of NCLT & NCLAT. The Committee have also been apprised that steps have been initiated for setting up of NCLT & NCLAT immediately after passing of orders by the Hon'ble Supreme Court in May 2015. 11 Benches and 1 Circuit Bench of NCLT are being established at 10 locations as given under:-

1. Delhi (2 Nos)
2. Mumbai (2 Nos)
3. Chennai (1 No)
4. Kolkata (1 No)
5. Bangaluru (1 No)
6. Ahmedabad (1 No)
7. Hyderabad (1 No)
8. Allahabad (1 No)
9. Chandigarh (1 No)
10. Circuit Bench at Guhawati (1 No)

NCLAT is being established in New Delhi. Besides process for appointment of Presiding Officers and Members is at an advanced stage. The Ministry has also apprised that the Tribunals are expected to start functioning in first quarter of 2016-17. So far as DRTs and DRATs are concerned, the Committee have been apprised that there are 33 DRTs and 5 DRATs functioning in various parts of the Country. Six new DRTs are being established across the country (Bangalore, Chandigarh, Dehradun, Ernakulam, Hyderabad and Siliguri).

So far as work load of DRTs is concerned, the Committee have been apprised that since the inception of DRTs, they have disposed 1,34,433 cases which have resulted in recovery of an amount of Rs. 70,725 crore of the public money (as on 31.10.2015). With regard to pendency of cases, it has been stated by the Ministry that as on 30.11.2015, there are 67,974 cases pending in DRTs.

The analysis of companies under liquidation as on 31.10.2015 as furnished by Department of Financial Services is as under:-

Particular	0-5 years	5-10 years	10-20 years	20 years and above	Total
Court winding up	955	782	1625	1274	4636
Voluntary winding up	163	93	84	205	545
Total	1118	875	1709	1479	5181

When enquired whether any assessment with regard to work load going shifted on NCLTs with the operationalisation of the Code, has been done and whether the Government is thinking of having phased manner approach for dealing with pendency of insolvency/liquidation cases in various Courts, the Committee have been apprised that in order to provide flexibility to manage the transfer of existing cases from various Courts and not to clog the NCLT on its very inception, amendment in Section 434 of the Companies Act, 2013 is proposed wherein the Central Government may, by way of rules, prescribe a stage at which the pending proceedings can be transferred to the NCLT. The Ministry has also apprised the Committee that in law, no cap on number of benches has been provided. However, both NCLT and DRT would need capacity enhancement.

The Committee note that NCLTs and DRTs will be designated as the Adjudicating Authorities for insolvency and liquidation of corporates as well as bankruptcy for individuals and partnership firms respectively, once the Insolvency and Bankruptcy Code, 2015 becomes operational. Not only that as per the amendments proposed with regard to the Companies Act, 2013 in the Courts, proceedings or cases pending before the Board of Company Law Administration constituted under sub-section (1) of section 10E of the Companies Act, 1956, immediately before such date shall stand transferred to the tribunal.

The Committee note that the Companies Act, 1956 was amended in 2002 to provide for establishment of NCLT and NCLAT. The setting up of the tribunal/appellate authority was delayed as the provisions for constitution were challenged in Courts. Due to these reasons, the provisions of 'The Companies Act, 2013' relating to winding up of companies could not be implemented. The Committee further find that the Constitution Bench of Supreme Court in its judgement delivered in May, 2015 has now allowed establishment of NCLT and NCLAT and as per the Department's reply, 11 Benches and

1 Circuit Bench of NCLT are being established at various locations in the country. So far as DRTs and DRATs are concerned, the Committee note 33 DRTs and 5 DRATs at present are functioning in various parts of the Country. From the data furnished by the Department of Financial Services, the Committee note that 881 cases are pending in BIFR as on 14 January, 2016. Besides there are 67,974 cases pending in DRTs.

The Committee observe that implementation of provisions of the Code, 2015 would be a great challenge with the existing status of setting up of NCLT and NCLAT as well as functioning of DRTs and DRATs. Not only that handling the workload of pending proceedings before the Board of Company Law Administration which with the operationalization of the Code would stand referred to the NCLTs would further add to this challenge. Thus, there is an urgent need to work in the mission mode and expedite setting up adequate Benches of these adjudicating authorities/appellate authorities. Besides the issues relating to adequate infrastructure which include recruiting more people, taking care of need of computerization, etc. need to be addressed. To fastrack the insolvency, bankruptcy as well as liquidation processes, the Committee strongly recommend to provide/upgrade IT infrastructure in these tribunals/appellate authorities.

69. Need for setting up NCLT, DRT and Courts at one place

The Committee note that lawyers who take up cases in Civil Courts also take up cases relating to insolvency, bankruptcy and liquidation etc.

The Committee feel that in order to achieve objectives of the Code for speedy and efficient resolution of the insolvency, bankruptcy and liquidation matters, it is desirable that the Civil Courts and adjudicating authorities (NCLT and DRT) are located/set up within one complex to the extent possible. Where these Courts and Authorities cannot be set up within one complex, the Government may consider to set up them adjacent to each other as far as possible.

70. Capacity building for the professionals/officials of NCLT/DRT/NCLAT/DRAT and inclusion of curriculum relating to insolvency, bankruptcy and liquidation process in the courses

The Committee note that insolvency professionals will play a key role in the process of insolvency, liquidation and bankruptcy proceedings under the provisions of

the Code. These professionals are to be drawn from the field of finance, law, management, insolvency etc.

Considering the facts that the insolvency and bankruptcy Code is new generation law and the need to enhance the capacity building of the professionals in this field, the Committee recommend to include chapter/part relating to insolvency, liquidation and bankruptcy in the curriculum of law /commerce/accountancy/management degree/higher level courses. The matter in this regard may be taken up with the Ministry of Human Resource Development.

Capacity building of the officials manning the adjudicating authorities/appellate authorities will be another challenge for which emphasis need to be given to trainings. The expert trainers for the purposes of the provisions made in the Code will be another area, for which advance action need to be taken to identify these experts who may be training the persons manning the adjudicating authorities/appellate authorities.

71. Increasing awareness of the Insolvency and Bankruptcy Law among the professionals, the business and industries and also the general public

The Committee note that the issues related to insolvency, bankruptcy and liquidation have implications for variety of professionals who will be engaged as insolvency professionals, the business industry and also public at large as well as individuals.

The Committee feel that there is a need to increase awareness of this law in the country to ensure better understanding and speedy implementation of the provisions of the Code. The Committee, therefore, recommend that the Government may organise workshops, seminars, etc. at different places in the country in this regard.

72. Setting up of The Insolvency and Bankruptcy Board of India expeditiously

The Code seeks to provide for establishment of the Insolvency and Bankruptcy Board of India (Board) for regulation of insolvency professionals, insolvency professional agencies and information utilities as per Clause 188(1) of the Code. Besides, the Central Government shall exercise all powers of the Board or designate any financial sector regulator to exercise the powers and functions of the Board, till the Board is established as per Clause 195 of the Code.

The Committee note that Clause 196(1) of the Code specifies the functions of the Board which include registration of insolvency professional agencies, insolvency professionals and information utilities, levy fee or other charges and monitoring their performance as well as to specify mechanism for redressal of grievances against them. Making regulations and guidelines on matters relating to insolvency and bankruptcy under the Code is another function of the Board. Keeping in view the important role of the Regulator i.e. the Insolvency and Bankruptcy Board of India, the Committee strongly recommend that the Board should be established expeditiously for the effective implementation of the provisions of the Code.

73. Administrative Ministry/Department for the purposes of the Code

The Committee note that the administrative Ministry for the purpose of the Insolvency and Bankruptcy Code, 2015 is the Department of Economic Affairs. For the purpose of Companies Act, the Ministry of Corporate Affairs is the administrative Ministry. The powers of registration and striking off names of the company is with the Registrar of Companies for which the administrative Ministry is the Ministry of Corporate Affairs.

When enquired as to how the coordination between the Department of Economic Affairs and the Ministry of Corporate Affairs would be maintained in administering the new Code, the Committee have been informed that the Department of Economic Affairs is mandated with only the legislation on this subject as per the Allocation of Business Rules. The charge of administration of the Code is to be decided by the Central Government after passing of the Code. Current institutional structure will be taken into account while finalizing the administrative role.

The Committee note that various provisions of the Code, as per the existing state of affairs, would be administered by various Ministries/Departments such as Ministry of Corporate Affairs, Department of Financial Services, Department of Economic Affairs, etc. The Committee are concerned to note that the administrative Ministry for administering the provisions of the Code is yet to be decided by the Union Government. The Committee, therefore, recommend that the decision with regard to the Nodal Ministry/Department having charge of

administration of the Code should be taken expeditiously by the Government for smooth and effective implementation of the provisions of the Code.

The Joint Committee recommend that the Bill as amended be passed.

**New Delhi
27 April, 2016**

**Bhupender Yadav,
Chairman,
Joint Committee on Insolvency
and Bankruptcy Code, 2015.**

THE INSOLVENCY AND BANKRUPTCY CODE, 2015

AS REPORTED BY THE JOINT COMMITTEE

THE INSOLVENCY AND BANKRUPTCY CODE, 2016

[Words underlined indicate the amendments suggested by the Joint Committee and asterisks indicate omissions]

	A	
	BILL	
	to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximisation of value of assets of <u>such</u> persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy <u>*Board of India</u> , and for matters connected therewith or incidental thereto.	
	BE it enacted by Parliament in the Sixty- <u>seventh</u> Year of the Republic of India as follows:-	
	PART I PRELIMINARY	
	1. (1) This Code may be called the Insolvency and Bankruptcy Code, <u>2016</u> .	Short title, extent and commencement.
	(2) It extends to the whole of India: Provided that Part III of this Code shall not extend to the State of Jammu and Kashmir.	
	(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint: Provided that different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the commencement of that provision.	

<p>18 of 2013</p> <p>6 of 2009</p>	<p>2.The provisions of this Code shall apply to—</p> <p>(a) any company incorporated under the Companies Act, 2013 or under any previous company law;</p> <p>(b) any other company governed by any special Act for the time being in force, except in so far as the said provisions are inconsistent with the provisions of such special Act;</p> <p>(c) any Limited Liability Partnership incorporated under the Limited Liability Partnership Act, 2008 ;</p> <p>(d) such <u>other</u>body incorporated under any law for the time being in force, as the Central Government may, by notification, specify in this behalf; and</p> <p>(e) partnership firms and individuals,</p> <p>**in relation to their insolvency, liquidation, <u>voluntary liquidation</u> or bankruptcy, as the case may be.</p>	<p>Application.</p>
	<p>3.In this Code, unless the context otherwise requires, -</p>	<p>Definitions.</p>
<p>18 of 2013</p> <p>6 of 2009</p>	<p>(1)“Board” means the Insolvency and Bankruptcy Board of India established under sub-section (1) of section 188;</p> <p>(2)“bench” means a bench of the Adjudicating Authority;</p> <p>(3)“bye-laws” mean the bye-laws made by the insolvency professional agency under section 205;</p> <p>(4) “charge” means an interest or lien created on the property or assets of any person or any of its undertakings or both, as the case may be, as security and includes a mortgage;</p> <p>(5)“Chairperson” means the Chairperson of the Board;</p> <p>(6) “claim” means –</p> <p>(a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured;</p> <p>(b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured or unsecured;</p> <p>(7)“corporate person” means a company as defined in clause (20) of section 2 of the Companies Act, 2013, a limited liability partnership, as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act,</p>	

2008, or any other person incorporated with limited liability under any law for the time being in force but shall not include any financial service provider;

(8)“corporate debtor” means a corporate person who owes a debt to any person;

(9)“core services” means services rendered by an information utility for –

(a)accepting electronic submission of financial information in such form and manneras may be specified;

(b)safe and accurate recording of financial information;

(c)authenticating and verifying the financial information submitted by a person; and

(d)providing access to information stored with the information utility to persons as may be specified;

(10)“creditor” means any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor, an unsecured creditor and a decree-holder;

(11)“debt” means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;

(12)“default” means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not repaid by the debtor or the corporate debtor, as the case may be;

(13)“financial information”, in relation to a person, means one or more of the following categories of information, namely :-

(a)records of the debt of the person;

(b)records of liabilities when the person is solvent;

(c)records of assets of person over which security interest has been created;

(d)records, if any, of instances of default by the person against any debt; ***

(e)records of the balance sheet and cash-flow statements of the person; and

(f) such other information as may be specified.

<p>2 of 1934</p> <p><u>18 of 2013</u></p>	<p>(14)“financial institution” means-</p> <p>(a) a scheduled bank;</p> <p>(b) financial institution as defined in section 45-I of the Reserve Bank of India Act, 1934; ***</p> <p><u>(c) Public financial institution as defined in clause (72) of section 2 of the Companies Act, 2013; and</u></p> <p>(d) such other institution as the Central Government may by notification specify as a financial institution;</p> <p>(15) “financial product” means securities, contracts of insurance, deposits, credit arrangements including loans and advances by banks and financial institutions, retirement benefit plans, small savings instruments, foreign currency contracts other than contracts to exchange one currency (whether Indian or not) for another which are to be settled immediately, or any other instrument as may be prescribed;</p> <p>(16) “financial service” includes any of the following<u>services, namely:-</u></p> <p>(a) <u>accepting</u> of deposits;</p> <p>(b)safeguarding and administering assets consisting of financial products, belonging to another person, or agreeing to do so;</p> <p>(c)effecting contracts of insurance;</p> <p>(d)offering, managing or agreeing to manage assets consisting of financial products belonging to another person;</p> <p>(e)rendering or agreeing, for consideration, to render advice on or soliciting for the purposes of—</p> <p>(i)buying, selling, or subscribing to, a financial product;</p> <p>(ii)availing a financial service; or</p> <p>(iii)exercising any right associated with a financial product or financial service;</p> <p>(f)establishing or operating an investment scheme;</p> <p>(g)maintaining or transferring records of ownership of a financial product;</p> <p>(h)underwriting the issuance or subscription of a financial product; or</p>	
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	<p>(i) selling, providing, or issuing stored value or payment instruments or providing payment services;</p> <p>(17) “financial service provider” means a person engaged in the business of providing financial services in terms of authorisation issued or registration granted by a financial sector regulator;</p> <p>(18) “financial sector regulator” means an authority or body constituted under any law for the time being in force to regulate services or transactions of financial sector and includes the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory Authority and such other regulatory authorities as may be notified by the Central Government;</p> <p>(19) “insolvency professional” means a person enrolled under <u>section 206</u> with an insolvency professional agency as its member and registered with the Board as an insolvency professional under section 207;</p> <p>(20) “insolvency professional agency” means any person registered with the Board under section 201 as an insolvency professional agency;</p> <p>(21) “information utility” means a person who is registered with the Board as an information utility under section 210;</p> <p>(22) “notification” means a notification published in the Official Gazette, and the terms “notified” and “notify” shall be construed accordingly;</p> <p>(23) “person” includes -</p> <ul style="list-style-type: none"> (a) an individual; (b) a Hindu Undivided Family; (c) a company; (d) a trust; (e) a partnership; (f) a limited liability partnership; and (g) any other entity established under a statute; <p>and includes a person resident outside India;</p> <p>(24) “person resident in India” shall have the meaning assigned to such term in clause (v) of section 2 of the</p>	
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<p>42 of 1999</p> <p>14 of 1947</p>	<p>Foreign Exchange Management Act, 1999;</p> <p>(25)“person resident outside India” means a person other than a person resident in India;</p> <p>(26)“prescribed” means prescribed by rules made by the Central Government;</p> <p>(27)“property” includes money, goods, actionable claims, land and every description of property situated* <u>in India or outside India</u>and every description of interest including present or future or vested or contingentinterest arising out of, or incidental to, property;</p> <p>(28)“regulations” means the regulations made by the Board under this Code;</p> <p>(29) “Schedule” means the Schedule annexed to this Code;</p> <p>(30)“secured creditor” means a creditor in favour of whom security interest is created;</p> <p>(31)“security interest” means right, title or interest or a claim to property, created in favour of, or provided for a secured creditor by a transaction which secures payment or performance of an obligation and includes mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement securing payment or performance of any obligation of any person:</p> <p>Provided that security interest shall not include aperformance guarantee;</p> <p>(32)“specified” means specified by regulations made by the Board under this Code and the term “specify” shall be construed accordingly;</p> <p>(33)“transaction” includes a agreement or arrangement in writing for the transfer of assets, or funds, goods or services, from or to the corporate debtor;</p> <p>(34)“transfer” includes sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien;</p> <p>(35) “transfer of property” means transfer of any property and includes a transfer of any interest in the property and creation of any charge upon such property;</p> <p>(36)“workman” shall have the same meaning as assigned to it in clause (s) of section 2 of the Industrial Disputes Act,</p>	
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<p>9 of 1872 9 of 1932 42 of 1956 15 of 1992 51 of 1993 6 of 2009 18 of 2013</p>	<p>1947; (37) words and expressions used but not defined in this Code but defined in the Indian Contract Act, 1872, <u>the Indian Partnership Act, 1932</u>, the Securities Contract (Regulation) Act, 1956, the Securities Exchange Board of India Act, 1992, <u>the Recovery of Debts Due to Banks and Financial Institutions Act, 1993</u>, the Limited Liability Partnership Act, 2008 and the Companies Act, 2013, shall have the meanings respectively assigned to them in those Acts.</p>	
	<p>PART II INSOLVENCY RESOLUTION AND LIQUIDATION FOR CORPORATE PERSONS CHAPTER I PRELIMINARY</p>	
	<p>4.(1) This Part shall apply to matters relating to the insolvency and liquidation of corporate debtors where the <u>minimum</u> amount of the default is ** one lakh rupees: <u>Provided that the Central Government may, by notification, specify the minimum amount of default of higher value which shall not be more than one crore rupees.</u></p>	<p>Application of this Part.</p>
	<p>5.In this Part, unless the context otherwise requires,—</p>	<p>Definitions.</p>
<p>18 of 2013 XXXVIII of 1949</p>	<p>(1) “Adjudicating Authority”, for the purposes of this Part, means National Company Law Tribunal constituted under section 408 of the Companies Act, 2013; (2)“auditor” means a chartered accountant certified to practice as such by the Institute of Chartered Accountants of India under section 6 of the Chartered Accountants Act, 1949; (3)“Chapter” means a Chapter under this Part; (4) “constitutional document”, in relation to a corporate person, includes articles of association, memorandum of association of a company and <u>*incorporation document</u> of a Limited Liability Partnership; (5) “corporate applicant” means – (a) corporate debtor ;or (b) a member or partner of the corporate debtor who is authorised to make an application for the corporate</p>	

	<p>insolvency resolution process under the constitutional document of the corporate debtor; or</p> <p>(c) an individual who is in charge of managing the *operations and resources of the corporate debtor; or</p> <p>(d) a person who has the control and supervision over the financial affairs of the corporate debtor;</p> <p>(6) “dispute” includes a suit or arbitration proceedings relating to—</p> <p>(a) the existence * of the amount of debt;</p> <p>(b) the quality of goods or service; or</p> <p>(c) the breach of a representation or warranty;</p> <p>(7) “financial creditor” means any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to;</p> <p>(8) “financial debt” means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes—</p> <p>(a) money borrowed against the payment of interest;</p> <p>(b) any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent;</p> <p>(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;</p> <p>(d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;</p> <p>(e) receivables sold or discounted other than any receivables sold on non-recourse basis;</p> <p>(f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;</p> <p>(g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;</p>	
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	<p>(h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;</p> <p>(i) the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause;</p> <p>(9) “financial position”, in relation to any person, means the financial information of a person as on a certain date;</p> <p>(10) “information memorandum” means a memorandum prepared by resolution professional under sub-section (1) of section 29;</p> <p>(11) “initiation date” means the date on which a financial creditor, corporate applicant or operational creditor, as the case may be, makes an application to the Adjudicating Authority for initiating corporate insolvency resolution process;</p> <p>(12) “insolvency commencement date” means the date of admission of an application for initiating corporate insolvency resolution process by the Adjudicating Authority under sections 7, 9 or section 10, as the case may be;</p> <p>(13) “insolvency resolution process costs” means –</p> <ul style="list-style-type: none"> (a) the amount of any interim finance and the costs incurred in raising such finance; (b) the fees payable to any person acting as a resolution professional; (c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern; (d) any costs incurred at the expense of the Government to facilitate the insolvency resolution process; and (e) any other costs as may be specified by the Board; <p>(14) “insolvency resolution process period” means the period of one hundred and eighty days * <u>beginning from</u> the insolvency commencement date and ending on one hundred and eightieth day;</p> <p>(15) “interim finance” means any financial debt raised by the resolution professional during the insolvency resolution</p>	
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<p>18 of 2013 6 of 2009</p>	<p>process period;</p> <p>(16) “liquidation cost” means any cost incurred by the liquidator during the period of liquidation subject to such regulations, as may be specified by the Board;</p> <p>(17) “liquidation commencement date” means the date on which proceedings for liquidation commence in accordance with section 33 or section 59, as the case may be;</p> <p>(18) “liquidator” means an insolvency professional appointed as a liquidator in accordance with the provisions of Chapter III or Chapter V of this Part, as the case may be.</p> <p>(19) “officer” for the purposes of Chapter VII of this Part, means an officer who is in default, as defined in clause (60) of section 2 of the Companies Act, 2013 or a designated partner as defined in clause (j) of section 2 of the Limited Liability Partnership Act, 2008, as the case may be;</p> <p>(20) “operational creditor” means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred;*</p>	
<p>18 of 2013 6 of 2009</p>	<p>(21) “operational debt” means a claim in respect of the provision of goods or services including employment or a debt in respect of the repayment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority;</p> <p>(22) “personal guarantor” means an individual who is the surety in a contract of guarantee to a corporate debtor;</p> <p>(23) “personnel” includes the directors, managers, key managerial personnel,*designated partners and employees, if any, of the corporate debtor;</p> <p>(24) “related party”, in relation to a corporate debtor, means-</p> <p>(a) a director or partner of the corporate debtor or a relative of a director or partner of the corporate debtor;</p> <p>(b) a key managerial personnel of the corporate debtor or a relative of a key managerial personnel of the corporate debtor;</p> <p>(c) a limited liability partnership or a partnership firm in which a director, partner, or manager of the corporate debtor or his relative is a partner;</p> <p>(d) a private company in which a director, partner or manager of the corporate debtor is a director and holds along</p>	

- with his relatives, more than two per cent of its share capital;
- (e) a public company in which a director, partner or manager of the corporate debtor is a director and holds along with relatives, more than two percent of its paid- up share capital;
- (f) anybody corporate whose board of directors, managing director or manager, in the ordinary course of business, act on the advice, directions or instructions of a director, partner or manager of the corporate debtor;
- (g) any limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;
- (h) any person on whose advice, directions or instructions, a director, partner or manager of the corporate debtor is accustomed to act;
- (i) a body corporate which is a holding, subsidiary or an associate company of the corporate debtor, or a subsidiary of a holding company to which the corporate debtor is a subsidiary;
- (j) any person who controls more than twenty per cent of voting rights in the corporate debtor on account of ownership or a voting agreement;
- (k) any person in whom the corporate debtor controls more than twenty per cent of voting rights on account of ownership or a voting agreement;
- (l) any person who can control the composition of the board of directors or corresponding governing body of the corporate debtor;
- (m) any person who is associated with the corporate debtor on account of-
- (i) participation in policy making processes of the corporate debtor; or
 - (ii) having more than two directors in common between the corporate debtor and such person; or
 - (iii) interchange of managerial personnel between the corporate debtor and such person; or
 - (iv) provision of essential technical information to, or from, the corporate debtor;

	<p>(25) “resolution applicant” means any person who submits a resolution plan to the resolution professional;</p> <p>(26) “resolution plan” means a plan proposed by any person for insolvency resolution of the corporate debtor as a going concern in accordance with Part II;</p> <p>(27) “resolution professional”, for the purposes of this Part, means an insolvency professional appointed to conduct the corporate insolvency resolution process and includes an interim resolution professional; and</p> <p>(28) “voting share” * <u>means</u> the share of the voting rights of a single financial creditor in the committee of creditors * <u>which</u> is based on the proportion of the financial debt owed to such financial creditor in relation to the ***financial debt owed by the corporate debtor.</p>	
	<p>CHAPTER II</p> <p>CORPORATE INSOLVENCY RESOLUTION PROCESS</p>	
	<p>6.Where any corporate debtor commits a default, a financial creditor, an operational creditor or the corporate debtor itself may initiate corporate insolvency resolution process in respect of such corporate debtor in the manner as provided under this Chapter.</p>	<p>Persons who may initiate corporate insolvency resolution process.</p>
	<p>7.(1)A financial creditor either by itself or jointly with other financial creditors may file an application for initiating corporate insolvency resolution process against a corporate debtor before the Adjudicating Authority when a default has occurred.</p> <p><i>Explanation.</i> - For the purposes of this sub-section, a default includes a default in respect of a financial debt owed not only to the applicant financial creditor but to any other financial creditor of the corporate debtor.</p>	<p>Initiation of corporate insolvency resolution process by financial creditor.</p>
	<p>(2) The financial creditor shall make an application under sub-section (1) in such form and manner and accompanied with such fee as may be prescribed.</p>	
	<p>(3) The financial creditor shall, along with the application furnish -</p> <p>(a) record of the default recorded with the information utility or such other record or evidence of default as may be specified;</p> <p>(b) the name of the resolution professional proposed to act as</p>	

	<p>an interim resolution professional; and</p> <p>(c) any other information as may be specified by the Board.</p>	
	<p>(4) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3).</p>	
	<p>(5) Where the Adjudicating Authority is satisfied that –</p> <p>(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application; or</p> <p>(b) default has not occurred or the application under sub-section (2) is incomplete or any disciplinary proceeding is pending against the proposed resolution professional, it may, by order, reject such application:</p> <p>Provided that the Adjudicating Authority <u>shall</u>, before rejecting the application ***under clause (b) of sub-section (5),*** give a notice to the applicant to rectify the defect in his application within <u>seven</u> days of receipt of such notice from the Adjudicating Authority.</p>	
	<p>(6) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (5).</p>	
	<p>(7) The Adjudicating Authority shall communicate-</p> <p>(a) the order under clause (a) of sub-section (5) to the financial creditor and the corporate debtor;</p> <p>(b) the order under clause (b) of sub-section (5) to the financial creditor,</p> <p>within* <u>seven</u> days of admission or rejection of such application, as the case may be.</p>	
	<p>8. (1) An operational creditor may, on the occurrence of a default, deliver a demand notice of unpaid operational debtor copy of an invoice demanding payment of the amount involved in the default to the corporate debtor in such form <u>and manner***as may be prescribed.</u></p>	<p>Insolvency resolution by operational creditor.</p>
	<p>(2) The corporate debtor shall, within a period of ten days of the receipt of the demand notice or copy of the invoice mentioned</p>	

	<p>in sub-section (1) bring to the notice of the operational creditor -</p> <p>(a) existence of a dispute, if any, and record of the pendency of the suit or arbitration proceedings filed * <u>before</u> the receipt of such notice or invoice in relation to such dispute;***</p> <p>(b) the repayment of unpaid operational debt-</p> <p>(i) by sending an attested copy of the record of electronic transfer of the unpaid amount from the bank account of the corporate debtor; or</p> <p>(ii) by sending an attested copy of record that the operational creditor has encashed a cheque issued by the corporate debtor.</p> <p><i>Explanation.</i> – For the purposes of this section, a “demand notice” means a notice served by an operational creditor to the corporate debtor demanding repayment of the operational debt in respect of which the default has occurred.</p>	
	<p>9. (1) After the expiry of the period of ten days from the date of delivery of the notice or invoice demanding payment under sub-section (1) of section 8, if the operational creditor does not receive payment from the corporate debtor or notice of the dispute under sub-section (2) of section 8, the operational creditor may file an application before the Adjudicating Authority for initiating a corporate insolvency resolution process.</p>	<p>Application for initiation of corporate insolvency resolution process by operational creditor.</p>
	<p>(2) The application under sub-section (1) shall be filed in such form and manner and accompanied with such fee as may be prescribed.</p>	
	<p>(3) The operational creditor shall, along with the application furnish-</p> <p>(a) a copy of the invoice demanding payment or demand notice delivered by the operational creditor to the corporate debtor;</p> <p>(b) an affidavit to the effect that there is no notice given by the corporate debtor relating to a dispute of the unpaid operational debt;</p> <p>(c) a copy of the certificate from the financial institutions maintaining accounts of the operational creditor confirming that there is no payment of an unpaid operational debt by</p>	

	<p>the corporate debtor; and</p> <p>(d) such other information *** as may be specified.</p>	
	<p>(4) An operational creditor initiating a corporate insolvency resolution process under this section, may propose a resolution professional to act as an interim resolution professional.</p>	
	<p>(5) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), by an order–</p>	
	<p>(i) admit the application and communicate such decision to the operational creditor and the corporate debtor if, -</p> <p style="padding-left: 40px;">(a) the application made under sub-section (2) is complete;</p> <p style="padding-left: 40px;">(b) there is no repayment of the unpaid operational debt;</p> <p style="padding-left: 40px;">(c) the invoice or notice for payment to the corporate debtor has been delivered by the operational creditor;</p> <p style="padding-left: 40px;">(d) no notice of dispute has been received by the operational creditor or there is no record of dispute in the information utility; and</p> <p style="padding-left: 40px;">(e) there is no disciplinary proceeding pending against any resolution professional proposed under sub-section (4), if any.</p>	
	<p>(ii) reject the application and communicate such decision to the operational creditor and the corporate debtor, if -</p> <p style="padding-left: 40px;">(a) the application made under sub-section (2) is incomplete;</p> <p style="padding-left: 40px;">(b) there has been repayment of the unpaid operational debt;</p> <p style="padding-left: 40px;">(c) the creditor has not delivered the invoice or notice for payment to the corporate debtor;</p> <p style="padding-left: 40px;">(d) notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility; or</p> <p style="padding-left: 40px;">(e) any disciplinary proceeding is pending against any proposed resolution professional:</p>	
	<p>Provided that Adjudicating Authority, shall * <u>before</u> rejecting an application under sub-clause (a) of clause (ii) *** give a</p>	

	notice to the applicant to rectify the defect in his application within * <u>seven</u> days of the date of receipt of such notice from the adjudicating Authority.	
	(6) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (5) of this section.	
	10. (1) Where a corporate debtor has committed a default, a corporate applicant thereof may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.	Initiation of corporate insolvency resolution process by corporate applicant.
	(2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.	
	(3) The corporate applicant shall, along with the application furnish the information relating to – (a) its books of account and such other documents relating to such period as may be specified; and (b) the resolution professional proposed to be appointed as an interim resolution professional.	
	(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order- (a) admit the application, if it is complete; or (b) reject the application, if it is incomplete: <u>Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.</u>	
	(5) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (4) of this section.	
	11. The following persons shall not be entitled to make an application to initiate corporate insolvency resolution process under this Chapter, namely:- (a) a corporate debtor undergoing a corporate insolvency resolution process; or (b) a corporate debtor having completed corporate insolvency resolution process twelve months preceding the	Persons not entitled to make application.

	<p>date of making of the application; or</p> <p>(c) a corporate debtor or a financial creditor who has violated any of the terms of resolution plan which was approved twelve months before the date of making of an application under this Chapter; or</p> <p>(d) a corporate debtor in respect of whom a liquidation order has been made.</p> <p><i>Explanation.</i> - For the purposes of this section, a corporate debtor includes a corporate applicant in respect of such corporate debtor.</p>	
	<p>12.(1) Subject to sub-section (2), the corporate insolvency resolution process shall be completed within a period of one hundred and eighty days from the date of admission of the application to initiate such process.</p> <p>(2) The resolution professional shall file an application to the Adjudicating Authority to extend the period of the corporate insolvency resolution process beyond one hundred and eighty days, if instructed to do so by a resolution passed at a meeting of the committee of creditors by a vote of seventy-five percent of the voting shares.</p> <p>(3) On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that corporate insolvency resolution process cannot be completed within one hundred and eighty days, it may by order extend the duration of such process beyond one hundred and eighty days by such further period as it thinks fit, but not exceeding ninety days:</p> <p>Provided that any extension of the period of corporate insolvency resolution process under this section shall not be granted more than once.</p>	<p>Time-limit for completion of insolvency resolution process.</p>
	<p>13. (1) The Adjudicating Authority, after admission of the application under section 7 or section 9 or section 10, shall, by an order –</p> <p>(a) declare a moratorium for the purposes referred to in section 14;</p> <p>(b) cause a public announcement of the initiation of corporate insolvency resolution process and call for the submission of claims under section 15; and</p> <p>(c) appoint an interim resolution professional in the manner</p>	<p>Declaration of moratorium and public announcement.</p>

	<p>as laid down in section 16.</p> <p>(2) The public announcement referred to in clause (b) of sub-section (1) shall be made immediately after the appointment of the interim resolution professional.</p>	
54 of 2002	<p>14.(1)Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:-</p> <p>(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;</p> <p>(b)**transferring, encumbering, alienating or disposing of by <u>the corporate debtor</u> any of its assets or any legal right or beneficial interest therein;</p> <p>(c)any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;</p> <p>(d)the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.</p> <p>(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.</p> <p>(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.</p> <p>(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:</p> <p>Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.</p>	Moratorium.

	<p>15.(1) The public announcement of the corporate insolvency resolution process under the order referred to in section 13 shall contain the following information, namely: –</p> <p>(a) name and address of the corporate debtor under the corporate insolvency resolution process;</p> <p>(b) name of the authority with which the corporate debtor is incorporated or registered;</p> <p>(c) the last date for submission of claims;</p> <p>(d) details of the interim resolution professional who shall be vested with the management of the corporate debtor and be responsible for receiving claims;</p> <p>(e) penalties for false or misleading claims; and</p> <p>(f) the date on which the corporate insolvency resolution process shall close, which shall be the one hundred and eightieth day from the date of the admission of the application under sections 7, 9 or section 10, as the case may be.</p>	<p>Public announcement of corporate insolvency resolution process.</p>
	<p>(2) The public announcement under this section shall be made in such manner as may be specified.</p>	
	<p>16.(1) The Adjudicating Authority shall appoint an interim resolution professional within fourteen days from the insolvency commencement date.</p> <p>(2) Where the application for corporate insolvency resolution process is made by a financial creditor or the corporate debtor, as the case may be, the resolution professional, as proposed respectively in the application under section 7 or section 10, shall be appointed as the interim resolution professional, <u>if no disciplinary proceedings are pending against him.</u></p> <p>(3) Where the application for corporate insolvency resolution process is made by an operational creditor and-</p> <p>(a) no proposal for an interim resolution professional is made, the Adjudicating Authority shall make a reference to the Board for the recommendation of an insolvency professional who may act as an interim resolution professional;</p> <p>(b) ***a proposal for an interim resolution professional is made under sub-section (4) of section 9, the resolution professional as proposed, shall be appointed as the interim resolution professional, <u>if no disciplinary proceedings are</u></p>	<p>Appointment and tenure of interim resolution professional.</p>

	<p><u>pending against him.</u></p> <p>(4)The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (3),recommend the name of an insolvency professional to the Adjudicating Authority <u>against whom no disciplinary proceedings are pending.</u></p> <p>***</p> <p>(5) The term of the interim resolution professional shall not exceed thirty days from date of his appointment.</p>	
	<p>17.(1) From the date of appointment of the interim resolution professional, -</p> <p>(a)the management of the affairs of the corporate debtor shall vest in the interim resolution professional;</p> <p>(b)the powers of the board of directors or the partners of the corporate debtor, as the case may be, shall stand suspended and be exercised by the interim resolution professional;</p> <p>(c) the officers and managers of the corporate debtor shall report to the interim resolution professional and provide access to such documents and records of the corporate debtor as may be * <u>required</u>by the interim resolution professional;</p> <p>(d) the financial institutions maintaining accounts of the corporate debtor shall act on the instructions of the interim resolution professional in relation to such accounts and furnish all information relating to the corporate debtor available with them to the interim resolution professional.</p> <p>(2) The interim resolution professional vested with the management of the corporate debtor shall-</p> <p>(a) <u>act</u>and execute in the name and on behalf of the corporate debtor all deeds, receipts, and other documents, if any;</p> <p>(b) take such actions, in the manner and subject to such restrictions, as may be specified by the Board;</p> <p>(c) have the authority to access the electronic records of corporate debtor from information utility having financial information of the corporate debtor;</p> <p>(d) have the authority to access the books of accounts, records and other relevant documents of corporate debtor</p>	<p>Management of affairs of corporate debtor by interim resolution professional.</p>

	available with government authorities, statutory auditors, accountants and such other persons as may be specified.	
	<p>18.(1)The interim resolution professional shall perform the following duties, namely:-</p> <p>(a) collect all information relating to the assets, finances and operations of the corporate debtor for determining the financial position of the corporate debtor, including information relating to -</p> <p>(i) business operations for the previous two years;</p> <p>(ii) financial and operational payments for the previous two years;</p> <p>(iii) list of assets and liabilities as on the initiation date; and</p> <p>(iv) such other matters as may be specified;</p> <p>(b) receive and collate all the claims submitted by creditors to him, pursuant to the public announcement made under sections 13 and 15;</p> <p>(c) constitute a committee of creditors;</p> <p>(d) monitor the assets of the corporate debtor and manage its operations until a resolution professional is appointed by the committee of creditors;</p> <p>(e) file information collected with the information utility, if necessary; and</p> <p>(f) take control and custody of any asset over which the corporate debtor has ownership rights as recorded in the balance sheet of the corporate debtor, or with information utility or the depository of securities or any other registry that records the ownership of assets including -</p> <p>(i) assets over which the corporate debtor has ownership rights which may be located in a foreign country;</p> <p>(ii) assets that may or may not be in possession of the corporate debtor;</p> <p>(iii) tangible assets, whether movable or immovable;</p> <p>(iv) intangible assets including intellectual property;</p> <p>(v) securities including shares held in any subsidiary of the corporate debtor, financial instruments, insurance policies;</p>	Duties of interim resolution professional.

	<p>(vi) assets subject to the determination of ownership by a court or authority:</p> <p>(g) to perform such other duties as may be specified by the Board.</p> <p><i>Explanation.</i> –For the purposes of this sub-section, the term “assets” shall not include the following,namely:-</p> <p>(a) assets owned by a third party in possession of the corporate debtor held under trust or under contractual arrangements including bailment ;</p> <p>(b) assets of any Indian or foreign subsidiary of the corporate debtor; and</p> <p>(c) such other assets as may be notified by the Central Government in consultation with any financial sector regulator.</p>	
	<p>19. (1)The personnel of the corporate debtor, *its promoters or any <u>other</u> person * <u>associated</u> with the management of the corporate debtor shall extend all assistance and cooperation to the interim resolution professional as may be required by him in managing the affairs of the corporate debtor.</p> <p>(2)Where any personnel of the corporate debtor, <u>its promoter</u> or any other person required to assist or cooperate with the interim resolution professional does not assist or cooperate, the interim resolution professional may make an application to the Adjudicating Authority for necessary directions.</p> <p>(3)The Adjudicating Authority, on receiving an application under sub-section (2), shall by an order, direct such personnel or other persons to comply with the instructions of the resolution professional and to cooperate with him in collection of information and management of the corporate debtor.</p>	<p>Personnel to extend co-operation to interim resolution professional.</p>
	<p>20.(1) The interim resolution professional shall make every endeavour to protect and preserve the value of the property of the corporate debtor and manage the operations of the corporate debtor as a going concern.</p> <p>(2) For the purposes of sub-section (1), the interim resolution professional shall have the authority-</p> <p>(a) to appoint accountants, legal *or *other professionals as may be necessary;</p> <p>(b) to enter into contracts on behalf of the corporate debtor or to amend or modify the contracts or transactions which</p>	<p>Management of operations of corporate debtor as going concern.</p>

	<p>were entered into before the commencement of corporate insolvency resolution process;</p> <p>(c) to raise interim finance provided that no security interest shall be created over any encumbered property of the corporate debtor without the prior consent of the creditors whose debt is secured over such encumbered property:</p> <p><u>Provided that no prior consent of the creditor shall be required where the value of such property is not less than the amount equivalent to twice the amount of the debt.</u></p> <p>(d) to issue instructions to <u>*personnel of the corporate debtor</u> as may be necessary for keeping the corporate debtor as a going concern; and</p> <p>(e) to take all such actions as are necessary to keep the corporate debtor as a going concern.</p>	
	<p>21.(1) The interim resolution professional shall after collation of all claims received against the corporate debtor and determination of the financial position of the corporate debtor, constitute a committee of creditors.</p> <p>(2)The committee of creditors shall comprise all financial creditors of the corporate debtor:</p> <p>Provided that a related party to whom a corporate debtor owes a financial debt shall not have any right of representation, participation or voting in a meeting of the committee of creditors.</p> <p>(3)Where the corporate debtor owes financial debts to two or more financial creditors as part of a consortium or agreement, each such financial creditor shall be part of the committee of creditors and their voting share shall be determined on the basis of the financial debts owed to them.</p> <p>(4)Where any person is a financial creditor as well as an operational creditor,-</p> <p>(a) such person shall be a financial creditor to the extent of the financial debt owed by the corporate debtor, and shall be included in the committee of creditors, with voting share proportionate to the extent of financial debts owed to such creditor;</p> <p>(b) such person shall be considered to be an operational creditor to the extent of the operational debt owed by the corporate debtor to such creditor.</p>	<p>Committee of creditors.</p>

	<p>(5)Where an operational creditor has assigned or legally transferred any operational debt to a financial creditor, the assignee or transferee shall be considered as an operational creditor to the extent of such assignment or legal transfer.</p> <p>(6)Where the terms of the financial debt extended as part of a consortium arrangement or syndicated facility or issued as securities provide for a single trustee or agent to act for all financial creditors, each financial creditor may-</p> <ul style="list-style-type: none"> (a)authorise the trustee or agent to act on his behalf in the committee of creditors to the extent of his voting share; (b) represent himself in the committee of creditors to the extent of his voting share; (c) appoint an insolvency professional (other than the resolution professional) at his own cost to represent himself in the committee of creditors to the extent of his voting share; or (d) exercise his right to vote to the extent of his voting share with one or more financial creditors jointly or severally. <p>(7)The Board may specify the manner of determining the voting share in respect of financial debts issued as securities under sub-section (6).</p> <p>(8)All decisions of the committee of creditors shall be taken by a vote of not less than seventy - five per cent of voting share of the financial creditors:</p> <p>Provided that where a corporate debtor does not have any financial creditors, the committee of creditors shall be constituted and comprise of such persons to exercise such functions in such manner as may be specified by the Board.</p> <p>(9) The committee of creditors shall have the right to require the resolution professional to furnish any financial information in relation to the corporate debtor at any time during the corporate insolvency resolution process.</p> <p>(10)The resolution professional shall make available any financial information so required by the committee of creditors under sub-section (9) within a period of <u>*sevendays</u> of such requisition.</p>	
	<p>22.(1) The first meeting of the committee of creditors shall be held within <u>*sevendays</u> of the constitution of the committee of</p>	<p>Appointment of resolution professional.</p>

	<p>creditors.</p> <p>(2)The committee of creditors, may, in the first meeting, by a majority vote of not less than seventy- five percent of the voting share of the financial creditors, either resolve to appoint the interim resolution professional as a resolution professional or to replace the interim resolution professional by another resolution professional.</p>	
	<p>(3)Where the committee of creditors resolves under sub-section (2)-</p> <p>(a)to continue the interim resolution professional as resolution professional, it shall communicate its decision to the interim resolution professional, the corporate debtor and the Adjudicating Authority; or</p> <p>(b) to replace the interim resolution professional, it shall file an application before the Adjudicating Authority for the appointment of the proposed resolution professional.</p> <p>(4)The Adjudicating Authority shall forward the name of the resolution professional proposed under clause (b) of sub-section(3) to the Board for its confirmation and shall make such appointment after confirmation by the Board.</p> <p>(5)Where the Board does not confirm the name of the proposed resolution professional within ten days of the receipt of the name of the proposed resolution professional, the Adjudicating Authority shall, by order, direct the interim resolution professional to continue to function as the resolution professional until such time as the Board confirms the appointment of the proposed resolution professional.</p>	
	<p>23. (1) Subject to section <u>27</u>, the resolution professional shall conduct the entire corporate insolvency resolution process and manage the operations of the corporate debtor during the corporate insolvency resolution process period.</p> <p>(2)The resolution professional shall exercise powers and perform duties as are vested or conferred on the interim resolution professional under this Chapter.</p> <p>(3)In case of any appointment of a resolution professional under sub-sections (4) of section 22, the interim resolution professional shall provide all the information, documents and records pertaining to the corporate debtor in his possession and knowledge to the resolution professional.</p>	<p>Resolution professional to conduct corporate insolvency resolution process.</p>

	<p>24.(1)The members of the committee of creditors may meet in person or by such *electronic means as may be specified.</p> <p>(2)All meetings of the committee of creditors shall be conducted by the resolution professional.</p> <p>(3)The resolution professional shall give notice of each meeting of the committee of creditors to*** —</p> <p style="padding-left: 40px;"><u>(a) members of Committee of creditors;</u></p> <p style="padding-left: 40px;"><u>(b) members of the suspended Board of Directors or the partners of the corporate persons, as the case may be;</u></p> <p style="padding-left: 40px;"><u>(c) operational creditors or their representatives ifthe amount of their aggregate dues isnot less than ten per cent of the debt.</u></p> <p>(4) The directors,* partners <u>and one representative of operational creditors</u>,asreferred to in sub-section (3), may attend the meetings of committee of creditors, but shall not have any right to vote in such meetings:</p> <p>Provided that the absence of any such director, partneror <u>representative of operational creditors</u>, as the case may be, shall not invalidate proceedings of such meeting.</p> <p>(5)Any creditor who is a member of the committee of creditors may appoint an insolvency professional other than the resolution professional to represent such creditor in a meeting of the committee of creditors:</p> <p>Provided that the fees payable to such insolvency professional representing any individual creditor will be borne by such creditor.</p> <p>(6)Each creditor shall vote in accordance with the voting share assigned to him based on the financial debts owed to such creditor.</p> <p>(7)The resolution professional shall determine the voting share to be assigned to each creditor in the manner specified by the Board.</p> <p>(8)The meetings of the committee of creditors shall be conducted in such manner as may be specified.</p>	<p>Meeting of committee of creditors.</p>
	<p>25.(1)It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.</p>	<p>Duties of resolution professional.</p>

	<p>(2)For the purposes of sub-section (1), the resolution professional shall undertake the following actions, namely:-</p> <p>(a) take immediate custody and control of all the assets of the corporate debtor, including the business records of the corporate debtor;</p> <p>(b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial or arbitration proceedings;</p> <p>(c) raise interim finances subject to the approval of the committee of creditors under section 28;</p> <p>(d) appoint accountants, ** legal or other professionals in the manner as specified by Board;</p> <p>(e) maintain an updated list of claims;</p> <p>(f) convene and attend all meetings of the committee of creditors;</p> <p>(g) prepare the information memorandum in accordance with section 29;</p> <p>(h) invite prospective lenders, investors, and any other persons to put forward resolution plans;</p> <p>(i) present all resolution plans at the meetings of the committee of creditors;</p> <p>(j) file application for avoidance of transactions in accordance with Chapter III, if any; and</p> <p>(k) such other actions as may be specified by the Board.</p> <p>***</p>	
<p><u>Application for avoidance of transactions not to affect proceedings</u></p>	<p><u>26. The filing of an avoidance application under clause (j) of sub-section (2) of section 25 by the resolution professional shall not affect the proceedings of the corporate insolvency resolution process.</u></p>	
	<p><u>27.(1) Where,at any time during the corporate insolvency resolution process, the committee of creditors is of the opinion that a resolution professional appointed under section 22***is required to be replaced, it may replace him with another resolution professional in the manner provided under this section.</u></p> <p>(2) The committee of creditors may, at a meeting, by a vote of seventy five per cent of voting shares, propose to replace the resolution professional appointed ***under section 22 with</p>	<p>Replacement of resolution professional by committee of creditors.</p>

	<p>another resolution professional.</p> <p>(3) The committee of creditors shall forward the name of the insolvency professional proposed by them to the Adjudicating Authority.</p> <p>(4) The Adjudicating Authority shall forward the name of the proposed resolution professional to the Board for its confirmation and a resolution professional shall be appointed in the same manner as laid down in **section 16.</p> <p><u>(5)**Where any disciplinary proceedings are pending against the proposed resolution professional under sub-section (3), the resolution professional appointed under section 22 shall continue***till the appointment of another resolution professional under this section.</u></p>	
	<p>***** *** ***</p>	
	<p>28.(1) Notwithstanding anything contained in any other law for the time being in force, the resolution professional, during the corporate insolvency resolution process, shall not take any of the following actions without the prior approval of the committee of creditors namely:-</p> <p>(a) raise any interim finance in excess of the amount as may be decided by the committee of creditors in their ***meeting;</p> <p>(b) create any security interest over the assets of the corporate debtor;</p> <p>(c) change the capital structure of the corporate debtor, including by way of issuance of additional securities, creating a new class of securities or buying back or redemption of issued securities in case the corporate debtor is a company;</p> <p>(d) record any change in the ownership interest of the corporate debtor;</p> <p>(e) give instructions to financial institutions maintaining accounts of the corporate debtor for a debit transaction from any such accounts in excess of the amount as may be decided by the committee of creditors in their ***meeting;</p> <p>(f) undertake any related party transaction;</p> <p>(g) amend any constitutional documents of the corporate debtor;</p>	<p>Approval of committee of creditors for certain actions.</p>

	<p>(h) delegate its authority to any other person;</p> <p>(i) dispose of or permit the disposal of shares of any shareholder of the corporate debtor or their nominees to third parties;</p> <p>(j) make any change in the management of the corporate debtor or its subsidiary;</p> <p>(k) transfer rights or financial debts or operational debts under material contracts otherwise than in the ordinary course of business;</p> <p>(l) make changes in the appointment or terms of contract of such personnel as specified by the committee of creditors; or</p> <p>(m) make changes in the appointment or terms of contract of statutory auditors or internal auditors of the corporate debtor.</p> <p>(2) The resolution professional shall convene a meeting of the committee of creditors and seek the vote of the creditors prior to taking any of the actions under sub-section (1).</p> <p>(3) No action under sub-section (1) shall be approved by the committee of creditors unless approved by a vote of seventy five percent of the voting shares.</p> <p>(4) Where any action under sub-section (1) is taken by the resolution professional without seeking the approval of the committee of creditors in the manner as required in this section, such action shall be void.</p> <p>(5) The committee of creditors may report the actions of the resolution professional under sub-section (4) to the Board for <u>taking necessary actions against him under this Code.</u></p>	
	<p>29.(1)The resolution professional shall prepare an information memorandum in such form and manner containing such relevant information as may be specified by the Board for formulating a resolution plan.</p> <p>(2) The resolution professional shall provide to the resolution applicant access to all relevant information in physical and electronic form,provided such resolution applicant undertakes-</p> <p>(a) to comply with provisions of law for the time being in force relating to confidentiality and insider trading;</p> <p>(b) to protect any intellectual property of the corporate debtor it may have access to; and</p>	<p>Preparation of information memorandum.</p>

	<p>(c) not to share relevant information with third parties unless clauses (a) and (b) of this sub-section are complied with.</p> <p><i>Explanation.</i>—For the purposes of this section, “relevant information” means the information required by the resolution applicant to make the resolution plan for the corporate debtor, which shall include the financial position of the corporate debtor, all information related to disputes by or against the corporate debtor and any other matter pertaining to the corporate debtor as may be specified.</p>	
	<p>30.(1) A resolution applicant may submit a resolution plan to the resolution professional prepared on the basis of the information memorandum.</p> <p>(2) The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan -</p> <p>(a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the corporate debtor;</p> <p>(b) provides for the repayment of the debts of operational creditors in such manner <u>as may be</u> specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the corporate debtor under section 53;</p> <p><u>(c) provides for the management of the affairs of the Corporate debtor after approval of the resolution plan;</u></p> <p><u>(d) the implementation and supervision of the resolution plan;</u></p> <p><u>(e) does not contravene any of the provisions of the law for the time being in force.</u></p> <p><u>(f) conforms to such other requirements as may be specified by the Board.</u></p> <p>(3) The resolution professional shall present to the committee of creditors for its approval such resolution plans which confirm the conditions referred to in sub-section (2).</p> <p>(4) The committee of creditors may approve a resolution plan by a vote of not less than seventy five per cent of voting share of the financial creditors.</p> <p>(5) The resolution applicant may attend the meeting of the</p>	<p>Submission of resolution plan.</p>

	<p>committee of creditors in which the resolution plan of the applicant is considered:</p> <p>Provided that the resolution applicant shall not have a right to vote at the meeting of the committee of creditors unless such resolution applicant is also a financial creditor.</p> <p>(6) The resolution professional shall submit the resolution plan as approved by the committee of creditors to the Adjudicating Authority.</p>	
	<p>31.(1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 <u>meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan.</u></p> <p>***</p> <p>***</p> <p>(2) Where the Adjudicating Authority is satisfied that the resolution plan does not conform to the requirements referred to in **sub-section(1), it may, by an order, reject the resolution plan.</p> <p>(3) After the order of approval under sub-section (1), -</p> <p>(a) the moratorium order passed by the Adjudicating Authority under section 14 shall cease to have effect; and</p> <p>(b) the resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the Board to be recorded on its database.</p>	Approval of resolution plan.
	<p>32. Any appeal from an order approving the resolution plan shall be in the manner and on the grounds laid down in sub-section (3) of section 61.</p>	Appeal.
	<p style="text-align: center;">CHAPTER III</p> <p style="text-align: center;">LIQUIDATION PROCESS</p>	
	<p>33. (1) Where the Adjudicating Authority, -</p> <p>(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section</p>	Initiation of liquidation.

56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein,

it shall -

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

(3) Where the resolution plan approved by the Adjudicating Authority is contravened by the concerned corporate debtor, any person other than the corporate debtor, whose interests are prejudicially affected by such contravention, may make an application to the Adjudicating Authority for a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

(4) On receipt of an application under sub-section(3), if the Adjudicating Authority determines that the corporate debtor has contravened the provisions of the resolution plan, it shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

(5) Subject to section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor:

Provided that a suit or other legal proceeding may be instituted by the liquidator, on behalf of the corporate debtor, with the prior approval of the Adjudicating Authority.

(6) The provisions of sub-section (5) shall not apply to legal proceedings in relation to such transactions as may be notified

	<p>by the Central Government in consultation with any financial sector regulator.</p> <p>(7) The order for liquidation under this section shall be deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor, except when the business of the corporate debtor is continued during the liquidation process by the liquidator.</p>	
	<p>34. (1) Where the Adjudicating Authority passes an order for liquidation of the corporate debtor under section 33, the resolution professional appointed for the corporate insolvency resolution process under Chapter II shall act as the liquidator for the purposes of liquidation unless replaced by the Adjudicating Authority under sub-section (4).</p> <p>(2) On the appointment of a liquidator under this section, all powers of the board of directors, key managerial personnel and the partners of the corporate debtor, as the case may be, shall cease to have effect and shall be vested in the liquidator.</p> <p>(3) The personnel of the corporate debtor shall extend all assistance and cooperation to the liquidator as may be required by him in managing the affairs of the corporate debtor and provisions of section 19 shall apply***<u>in relation to voluntary liquidation process as they apply in relation to liquidation process with the substitution of references to the liquidator for references to the interim resolution professional.</u></p> <p>(4) The Adjudicating Authority shall by order replace the resolution professional, if—</p> <p style="padding-left: 40px;">(a) the resolution plan submitted by the resolution professional under section 30 was rejected for failure to meet the requirements mentioned in sub-section (2) of section 30; or</p> <p style="padding-left: 40px;">(b) the Board recommends the replacement of a resolution professional to the Adjudicating Authority for reasons to be recorded in writing.</p> <p>(5) For the purposes of clause (a) of sub-section (4), the Adjudicating Authority may direct the Board to propose thename of another insolvency professional to be <u>appointed as</u> a liquidator.</p> <p>(6) The Board shall propose the name of another insolvency professional within ten days of the direction issued by the Adjudicating Authority under sub-section (5).</p>	<p>Appointment of liquidator and fee to be paid.</p>

	<p>(7) The Adjudicating Authority shall, on receipt of the proposal of the Board for the appointment of an insolvency professional as liquidator, by an order appoint such insolvency professional as the liquidator.</p>	
	<p>(8) An insolvency professional proposed to be appointed as a liquidator shall charge such fee for the conduct of the liquidation proceedings and in such proportion to the value of the liquidation estate assets, as may be specified by the Board.</p> <p>(9) The fees for the conduct of the liquidation proceedings under sub-section (8) shall be paid to the liquidator from the proceeds of the liquidation estate under section 53.</p>	
	<p>35.(1) Subject to the directions of the Adjudicating Authority, the liquidator shall have the following powers and duties, namely: -</p> <ul style="list-style-type: none"> (a) to verify claims of all the creditors; (b) to take into his custody or control all the assets, property, effects and actionable claims of the corporate debtor; (c) to evaluate the assets and property of the corporate debtor in the manner as may be specified by the Board and prepare areport; (d) to take such measures to protect and preserve the assets and properties of the corporate debtor as he considers necessary; (e) to carry on the business of the corporate debtor for its beneficial liquidation as he considers necessary; (f) subject to section 52, to sell the immovable and movable property and actionable claims of the corporate debtor in liquidation by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels in such manner as may be specified; (g) to draw, accept, make and endorse any negotiable instruments including bill of exchange, hundi or promissory note in the name and on behalf of the corporate debtor, with the same effect with respect to the liability as if such instruments were drawn, accepted, made or endorsed by or on behalf of the corporate debtor in the ordinary course of its business; 	<p>Powers and duties of liquidator.</p>

(h) to take out, in his official name, letter of administration to any deceased contributory and to do in his official name any other act necessary for obtaining payment of any money due and payable from a contributory or his estate which cannot be ordinarily done in the name of the corporate debtor, and in all such cases, the money due and payable shall, for the purpose of enabling the liquidator to take out the letter of administration or recover the money, be deemed to be due to the liquidator himself;

(i) to obtain any professional assistance from any person or appoint any professional, in discharge of his duties, obligations and responsibilities;

(j) to invite and settle claims of creditors and claimants and distribute proceeds in accordance with the provisions of this Code;

(k) to institute or defend any suit, prosecution or other legal proceedings, civil or criminal, in the name of or on behalf of the corporate debtor;

(l) to investigate the financial affairs of the corporate debtor to determine undervalued or preferential transactions;

(m) to take all such actions, steps, or to sign, execute and verify any paper, deed, receipt document, application, petition, affidavit, bond or instrument and for such purpose to use the common seal, if any, as may be necessary for liquidation, distribution of assets and in discharge of his duties and obligations and functions as liquidator;

(n) to apply to the Adjudicating Authority for such orders or directions as may be necessary for the liquidation of the corporate debtor and to report the progress of the liquidation process in a manner as may be specified by the Board; and

(o) to perform such other functions as may be specified by the Board.

(2) The liquidator shall have the power to consult any of the stakeholders entitled to a distribution of proceeds under section 53:

Provided that any such consultation shall not be binding on the liquidator:

Provided further that the records of any such consultation shall be made available to all other stakeholders not so consulted, in

	a manner specified by the Board.	
	<p>36.(1)For the purposes of liquidation, the liquidator shall form an estate of the assets mentioned in sub-section (3), which will be called the liquidation estate in relation to the corporate debtor.</p> <p>(2) The liquidator shall hold the liquidation estate as a fiduciary for the benefit of all the creditors.</p>	Liquidation Estate.
	<p>(3) Subject to sub-section (4), the liquidation estate shall comprise all liquidation estate assets which shall include the following :-</p> <p>(a) any assets over which the corporate debtor has ownership rights, including all rights and interests therein as evidenced in the balance sheet of the corporate debtor or an information utility or records in the registry or any depository recording securities of the corporate debtor or by any other means as may be specified by the Board, including shares held in any subsidiary of the corporate debtor;</p> <p>(b) assets that may or may not be in possession of the corporate debtor including but not limited to encumbered assets;</p> <p>(c) tangible assets, whether movable or immovable;</p> <p>(d) intangible assets including but not limited to intellectual property, securities (including shares held in a subsidiary of the corporate debtor) and financial instruments, insurance policies, contractual rights;</p> <p>(e) assets subject to the determination of ownership by the court or authority;</p> <p>(f) any assets or their value recovered through proceedings for avoidance of transactions in accordance with this Chapter;</p> <p>(g) any asset of the corporate debtor in respect of which a secured creditor has relinquished security interest;</p> <p>(h) any other property belonging to or vested in the corporate debtor at the insolvency commencement date; and</p> <p>(i) all proceeds of liquidation as and when they are realised.</p> <p>(4) The following shall not be included in the liquidation estate assets and shall not be used for recovery in the liquidation:-</p> <p>(a) assets owned by a third party which are in possession of</p>	

	<p>the corporate debtor, including -</p> <ul style="list-style-type: none"> (i) assets held in trust for any third party; (ii) bailment contracts; (iii) <u>***all sums due to any workman or employee from the provident fund, the pension fund and the gratuity fund;</u> (iv) other contractual arrangements which do not stipulate transfer of title but only use of the assets; and (v) such other assets as may be notified by the Central Government in consultation with any financial sector regulator; <p>(b) assets in security collateral held by financial services providers and are subject to netting and set-off in multi-lateral trading or clearing transactions;</p> <p>(c) personal assets of any shareholder or partner of a corporate debtor as the case may be provided such assets are not held on account of avoidance transactions that may be avoided under this Chapter;</p> <p>(d) assets of any Indian or foreign subsidiary of the corporate debtor; or</p> <p>(e) any other assets as may be specified by the Board, including assets which could be subject to set-off on account of mutual dealings between the corporate debtor and any creditor.</p>	
	<p>37.(1)Notwithstanding anything contained in any other law for the time being in force, the liquidator shall have the power to access any information systems for the purpose of admission and proof of claims and identification of the liquidation estate assets relating to the corporate debtor from the following sources, namely: -</p> <ul style="list-style-type: none"> (a) an information utility; (b) credit information systems regulated under any law for the time being in force ; (c) any agency of the Central, State or Local Government including any registration authorities; (d) information systems for financial and non-financial liabilities regulated under any law for the time being in force; 	<p>Powers of liquidator to access information.</p>

	<p>(e) information systems for securities and assets posted as security interest regulated under any law for the time being in force;</p> <p>(f) any database maintained by the Board; and</p> <p>(g) any other source as may be specified by the Board.</p> <p>(2) The creditors may require the liquidator to provide them any financial information relating to the corporate debtor in such manner as may be specified.</p> <p>(3) The liquidator shall provide information referred to in sub-section (2) to such creditors who have requested for such information within a period of * <u>sevendays</u> from the date of such request or provide reasons for not providing such information.</p>	
	<p>38.(1)The liquidator shall receive or collect the claims of creditors within a period of thirty days from the date of the commencement of the liquidation process.</p> <p>(2) A financial creditor may submit a claim to the liquidator by providing a record of such claim with an information utility: Provided that where the information relating to the claim is not recorded in the information utility, the financial creditor may submit the claim in the same manner <u>as</u>provided for the submission of claims for the operational creditor under sub-section (3).</p> <p>(3) An operational creditor may submit a claim to the liquidator in such form and in such manner and along with such supporting documents required to prove the claim as may be specified by the Board.</p> <p>(4)A creditor who is partly a financial creditor and partly an operational creditor shall submit claims to the liquidator to the extent of his financial debt in the manner as provided in sub-section (2) and to the extent of his operational debt under sub-section (3).</p> <p>(5) A creditor may withdraw or vary his claim under this section within fourteen days of its submission.</p>	Consolidation of claims.
	<p>39. (1) The liquidator shall verify the claims submitted under section 38 within such time as specified by the Board.</p> <p>(2) The liquidator may require any creditor or the corporate debtor or any other person to produce any other document or evidence which he thinks necessary for the purpose of verifying</p>	Verification of claims.

	the whole or any part of the claim.	
	<p>40.(1)The liquidator may, after verification of claims under section 39, either admit or reject the claim, in whole or in part, as the case may be:</p> <p>Provided that where the liquidator rejects a claim, he shall record in writing the reasons for such rejection.</p> <p>(2) The liquidator shall communicate his decision of admission or rejection of claims to the creditor and corporate debtor within <u>*sevendays</u> of such admission or rejection of claims.</p>	Admission or rejection of claims.
	41. The liquidator shall determine the value of claims admitted under section 40 in such manner as may be specified by the Board.	Determination of Valuation of claims.
	42. A creditor may appeal to the Adjudicating Authority against the decision of the liquidator rejecting the claims within fourteen days of the receipt of such decision.	Appeal against the decision of liquidator.
	<p>43. (1)Where the liquidator or the resolution professional, as the case may be, is of the opinion that the corporate debtor has at a relevant time given a preference in such transactions and in suchmanner as laid down in sub-section (2) to any persons as referred to in sub-section (4), he shall apply to the Adjudicating Authority for avoidance of preferential transactions and for, one or more of the orders referred to in section 44.</p> <p>(2) A corporate debtor shall be deemed to have given a preference, if–</p> <p>(a) there is a transfer of property or an interest thereof of the corporate debtor for the benefit of a creditor or a surety or a guarantor for or on account of an antecedent financial debt or operational debt or other liabilities owed by the corporate debtor; and</p> <p>(b) the transfer under clause (a) has the effect of putting such creditor or a surety or a guarantor in a beneficial position than it would have been in the event of a distribution of assets being made in accordance with section 53.</p> <p>(3) For the purposes of sub-section (2), a preference shall not include the following transfers–</p> <p>(a) transfer made in the ordinary course of the business or financial affairs of the corporate debtor or the transferee;</p> <p>(b) any transfer creating a security interest in property</p>	Preferential transactions and relevant time.

	<p>acquired by the corporate debtor to the extent that –</p> <p>(i) such security interest secures new value and was given at the time of or after the signing of a security agreement that contains a description of such property as security interest, and was used by corporate debtor to acquire such property; and</p> <p>(ii) such transfer was registered with an information utility on or before thirty days after the corporate debtor receives possession of such property:</p> <p>Provided that any transfer made in pursuance of the order of a court shall not, preclude such transfer to be deemed as giving of preference by the corporate debtor.</p> <p><i>Explanation.</i> –For the purpose of sub-section (3) of this section, “new value” means money or its worth in goods, services, or new credit, or release by the transferee of property previously transferred to such transferee in a transaction that is neither void nor voidable by the liquidator or the resolution professional under this Code, including proceeds of such property, but does not include a financial debt or operational debt substituted for existing financial debt or operational debt.</p>	
	<p>(4) A preference shall be deemed to be given at a relevant time, if –</p> <p>(a) It is given to a related party (other than by reason only of being an employee), during the period of two years preceding the insolvency commencement date; or</p> <p>(b) a preference is given to a person other than a related party during the period of one year preceding the insolvency commencement date.</p>	
	<p>44. (1) The Adjudicating Authority, may, on an application made by the resolution professional or liquidator under sub-section (1) of section 43, by an order :</p> <p>(a) require any property transferred in connection with the giving of the preference to be vested in the corporate debtor;</p> <p>(b) require any property to be so vested if it represents the application either of the proceeds of sale of property so transferred or of money so transferred;</p> <p>(c) release or discharge (in whole or in part) of any security interest created by the corporate debtor;</p>	<p>Orders in case of preferential transactions.</p>

(d) require any person to pay such sums in respect of benefits received by him from the corporate debtor, such sums to the liquidator or the resolution professional, as the Adjudicating Authority may direct;

(e) direct any guarantor, whose financial debts or operational debts owed to any person were released or discharged (in whole or in part) by the giving of the preference, to be under such new or revived financial debts or operational debts to that person as the Adjudicating Authority deems appropriate;

(f) direct for providing security or charge on any property for the discharge of any financial debt or operational debt under the order, and such security or charge to have the same priority as a security or charge released or discharged wholly or in part by the giving of the preference; and

(g) direct for providing the extent to which any person whose property is so vested in the corporate debtor, or on whom financial debts or operational debts are imposed by the order, are to be proved in the liquidation or the corporate insolvency resolution process for financial debts or operational debts which arose from, or were released or discharged wholly or in part by the giving of the preference:

Provided that an order under this section shall not -

(a) affect any interest in property which was acquired from a person other than the corporate debtor or any interest derived from such interest and was acquired in good faith and for value;

(b) require a person, who received a benefit from the preferential transaction in good faith and for value to pay a sum to the liquidator or the resolution professional.

Explanation-I.— For the purpose of this section, it is clarified that where a person, who has acquired an interest in property from another person other than the corporate debtor, or who has received a benefit from the preference or such another person to whom the corporate debtor gave the preference, -

(i) had sufficient information of the initiation or commencement of insolvency resolution process of the corporate debtor;

(ii) is a related party,

	<p>it shall be presumed that the interest was acquired or the benefit was received otherwise than in good faith unless the contrary is shown.</p> <p><i>Explanation-II.</i> – A person shall be deemed to have sufficient information or opportunity to avail such information if a public announcement regarding the corporate insolvency resolution process has been made under section 13.</p>	
	<p>45.(1) If the liquidator or the resolution professional, as the case may be, on an examination of the transactions of the corporate debtor referred to in sub-section (2) of section 43 determines that certain transactions were made during the relevant period under section 46, which were undervalued, he shall make an application to the Adjudicating Authority to declare such transactions as void and reverse the effect of such transaction in accordance with this Chapter.</p> <p>(2) A transaction shall be considered undervalued where the corporate debtor –</p> <ul style="list-style-type: none"> (a) makes a gift to a person; or (b) enters into a transaction with a person which involves the transfer of one or more assets by the corporate debtor for a consideration the value of which is significantly less than the value of the consideration provided by the corporate debtor, <p>and such transaction has not taken place in the ordinary course of business of the corporate debtor.</p>	<p>Avoidance of undervalued transactions.</p>
	<p>46.(1) In an application for avoiding a transaction at undervalue, the liquidator or the resolution professional, as the case may be, shall demonstrate that –</p> <ul style="list-style-type: none"> (i) such transaction was made with any person within the period of one year preceding the insolvency commencement date; or (ii) such transaction was made with a related party within the period of two years preceding the insolvency commencement date. <p>(2) The Adjudicating Authority may require an independent expert to assess evidence relating to the value of the transactions mentioned in this section.</p>	<p>Relevant period for avoidable transactions.</p>
	<p>47. (1) Where an undervalued transaction has taken place and</p>	<p>Application by creditor in cases</p>

	<p>the liquidator or the resolution professional as the case may be, has not reported it to the Adjudicating Authority, a creditor, member or a partner of a corporate debtor, as the case may be, may make an application to the Adjudicating Authority to declare such transactions void and reverse their effect in accordance with this Chapter.</p> <p>(2) <u>Where</u> the Adjudicating Authority, after examination of the application made under sub-section (1), is satisfied that -</p> <p>(a) undervalued transactions had occurred; and</p> <p>(b) liquidator or the resolution professional, as the case may be, after having sufficient information or opportunity to avail information of such transactions did not report such transaction to the Adjudicating Authority,</p> <p>it shall pass an order-</p> <p>(a) restoring the position as it existed before such transactions and reversing the effects thereof in the manner as laid down in section 45 and section 48;</p> <p>(b) requiring the Board to initiate disciplinary proceedings against the liquidator or the resolution professional as the case may be.</p>	<p>of undervalued transactions.</p>
	<p>48. (1)The order of the Adjudicating Authority under sub-section (1) of section 45 may provide for the following:-</p> <p>(a) require any property transferred as part of the transaction, to be vested in the corporate debtor;</p> <p>(b) release or discharge (in whole or in part) any security interest granted by the corporate debtor;</p> <p>(c) require any person to pay such sums, in respect of benefits received by such person, to the liquidator or the resolution professional as the case may be, as the Adjudicating Authority may direct; or</p> <p>(d) require the payment of such consideration for the transaction as may be determined by an independent expert.</p>	<p>Order in cases of undervalued transactions.</p>
	<p>49.(1)Where the corporate debtor has entered into an undervalued transaction as referred to in sub-section (2) of section 45 and the Adjudicating Authority is satisfied that such transaction was deliberately entered into by such corporate debtor -</p> <p>(a) for keeping assets of the corporate debtor beyond the</p>	<p>Transactions defrauding creditors.</p>

	<p>reach of any person who is entitled to make a claim against the corporate debtor; or</p> <p>(b) in order to adversely affect the interests of such a person in relation to the claim,</p> <p>the Adjudicating Authority shall make an order-</p> <p>(i) restoring the position as it existed before such transaction as if the transaction had not been entered into; and</p> <p>(ii) protecting the interests of persons who are victims of such transactions:</p> <p><i>Provided</i> that an order under this section -</p> <p>(a) shall not affect any interest in property which was acquired from a person other than the corporate debtor and was acquired in good faith, for value and without notice of the relevant circumstances, or affect any interest deriving from such an interest, and</p> <p>(b) shall not require a person who received a benefit from the transaction in good faith, for value and without notice of the relevant circumstances to pay any sum unless he was a party to the transaction.</p>	
	<p>50.(1) Where the corporate debtor has been <u>a party to an extortionate credit transaction</u> involving the receipt of financial or operational debt during the period within two years preceding the insolvency commencement date, the liquidator or the resolution professional as the case may be, may make an application for avoidance of such transaction to the Adjudicating Authority if the terms of such transaction required exorbitant payments to be made by the corporate debtor.</p> <p>(2) The Board may specify the circumstances in which a transactions which shall be covered under sub-section (1).</p> <p><i>Explanation</i> .- For the purpose of this section, it is clarified that any debt extended by any person providing financial services which is in compliance with any law for the time being in force in relation to such debt shall in no event be considered as an extortionate credit transaction.</p>	<p>Extortionate credit transactions.</p>
	<p>51. Where the Adjudicating Authority after examining the application made under sub-section (1) of section 50 is satisfied that the terms of a credit transaction required exorbitant payments to be made by the corporate debtor, it shall, <i>*by</i> an order –</p>	<p>Orders of Adjudicating Authority in respect of extortionate credit transactions.</p>

	<p>(a) * restore the position as it existed prior to such transaction;</p> <p>(b) set aside the whole or part of the debt created on account of the extortionate credit transaction;</p> <p>(c) modify the terms of the transaction;</p> <p>(d) require any person who is, or was, a party to the transaction to repay any amount received by such person; or</p> <p>(e) require any security interest that was created as part of the extortionate credit transaction to be relinquished in favour of the liquidator or the resolution professional, as the case may be.</p>	
	<p>52.(1) A secured creditor in the liquidation proceedings may-</p> <p>(a) relinquish its security interest to the liquidation estate and receive proceeds from the sale of assets by the liquidator in the manner specified in section 53; or</p> <p>(b) realise its security interest in the manner specified in this section.</p> <p>(2) Where the secured creditor realises security interest under clause (b) of sub-section (1), he shall inform the liquidator of such security interest and identify the asset subject to such security interest to be realised.</p> <p>(3) Before any security interest is realised by the secured creditor under this section, the liquidator shall verify such security interest and permit the secured creditor to realise only such security interest, the existence of which may be proved either –</p> <p>(a) by the records of such security interest maintained by an information utility; or</p> <p>(b) by such other means as may be specified by the Board.</p> <p>(4) A secured creditor may enforce, realise, settle, compromise or deal with the secured assets in accordance with such law as applicable to the security interest being realised and to the secured creditor and apply the proceeds to recover the debts due to it.</p> <p>(5) If in the course of realising a secured asset, any secured creditor faces resistance from the corporate debtor or any person connected therewith in taking possession of, selling or otherwise disposing off the security, the secured creditor may make an application to the Adjudicating Authority to facilitate</p>	<p>Secured creditor in liquidation proceedings.</p>

	<p>the secured creditor to realise such security interest in accordance with law for the time being in force.</p> <p>(6) The Adjudicating Authority, on the receipt of an application from a secured creditor under sub-section (5) may pass such order as may be necessary to permit a secured creditor to realise security interest in accordance with law for the time being in force.</p> <p>(7) Where the enforcement of the security interest under sub-section (4) yields an amount by way of proceeds which is in excess of the debts due to the secured creditor, the secured creditor shall-</p> <p>(a) account to the liquidator for such surplus; and</p> <p>(b) tender to the liquidator any surplus funds received from the enforcement of such secured assets.</p> <p>(8) The amount of insolvency resolution process costs, due from secured creditors who realise their security interests in the manner provided in this section, shall be deducted from the proceeds of any realisation by such secured creditors, and they shall transfer such amounts to the liquidator to be included in the liquidation estate.</p> <p>(9) Where the proceeds of the realisation of the secured assets are not adequate to repay debts owed to the secured creditor, the unpaid debts of such secured creditor shall be paid by the liquidator in the manner specified in clause (e) of sub-section (1) of section 53.</p>	
	<p>53.(1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period <u>and in such manner</u> as may be specified, namely :-</p> <p>(a) the insolvency resolution process costs and the liquidation costs paid in full;</p> <p>(b) the following debts which shall rank equally between and among the following :-</p> <p style="padding-left: 40px;"><u>(i)***workmen’s dues for the period of * twenty-four months preceding the liquidation commencement date; and</u></p> <p style="padding-left: 40px;"><u>(ii)***debts owed to a secured creditor in the event such</u></p>	<p>Distribution of assets.</p>

18 of 2013.	<p><u>secured creditor has relinquished security in the manner set out in section 52;</u></p> <p>(c) wages and any unpaid dues owed to employees other than workmen for the period of twelve months preceding the liquidation commencement date;</p> <p>(d) financial debts owed to unsecured creditors;</p> <p>(e) the following dues shall rank equally between and among the following :-</p> <p>(i) any amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the liquidation commencement date;</p> <p>(ii) debts owed to a secured creditor for any amount unpaid following the enforcement of security interest;</p> <p>(f) any remaining debts and dues;</p> <p>(g) preference shareholders, if any; and</p> <p>(h) equity shareholders or partners, as the case may be.</p> <p>(2) Any contractual arrangements between recipients under sub-section (1) with equal ranking, if disrupting the order of priority under that sub-section shall be disregarded by the liquidator.</p> <p>(3) The fees payable to the liquidator shall be deducted proportionately from the proceeds payable to each class of recipients under sub-section (1), and the proceeds to the relevant recipient shall be distributed after such deduction.</p> <p><i>Explanation.</i> –For the purpose of this section-</p> <p>(i) it is hereby clarified that at each stage of the distribution of proceeds in respect of a class of recipients that rank equally, each of the debts will either be paid in full, or will be paid in equal proportion within the same class of recipients, if the proceeds are insufficient to meet the debts in full; and</p> <p>(ii) the term “workmen’s dues” shall have the same meaning as assigned to it in section 326 of the Companies Act, 2013.</p>	
	<p>54. (1) Where the assets of the corporate debtor have been completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such</p>	Dissolution of Corporate Debtor.

	<p>corporate debtor.</p> <p>(2) The Adjudicating Authority shall on application filed by the liquidator under sub-section (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.</p> <p>(3) A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the corporate debtor is registered.</p>	
	<p>CHAPTER IV</p> <p>FAST TRACK CORPORATE INSOLVENCY RESOLUTION PROCESS</p>	
	<p>55. (1) A corporate insolvency resolution process carried out in accordance with this Chapter shall be called <u>as</u> fast track corporate insolvency resolution process.</p> <p>(2) An application for fast track corporate insolvency resolution process may be made in respect of the following corporate debtors, namely:-</p> <p>(a) a corporate debtor with assets and income below a level as may be notified by the Central Government; or</p> <p>(b) a corporate debtor with such class of creditors or such amount of debt as may be notified by the Central Government; or</p> <p>(c) such other category of corporate persons as may be notified by the Central Government.</p>	Fast track corporate insolvency resolution process.
	<p>56. (1) Subject to <u>the provisions of</u> sub-section (3), the fast track corporate insolvency resolution process shall be completed within a period of ninety days from the insolvency commencement date.</p> <p>(2) The resolution professional shall file an application to the Adjudicating Authority to extend the period of the fast track corporate insolvency resolution process beyond ninety days if instructed to do so by * a resolution passed at a meeting of the committee of creditors and supported by a vote of seventy five percent of the voting share.</p> <p>(3) On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that fast track corporate insolvency resolution</p>	Time period for completion of fast track corporate insolvency resolution process.

	<p>process cannot be completed within a period of ninety days, it may, by order, extend the duration of such process beyond the said period of ninety days <u>by such further period, as it thinks fit, but not exceeding forty-five days:</u></p> <p>***</p> <p>Provided*that any extension of the fast track corporate insolvency resolution process under this section shall not be granted more than once.</p>	
	<p>57.An application for fast track corporate insolvency resolution process may be * <u>filed</u> by a creditor or corporate debtor as the case may be, * <u>alongwith</u>—</p> <p>(a)the proof of the existence of default as evidenced by records available with an information utility or such other means as may be specified by the Board; and</p> <p>(b) such other information as may be specified by the Board to establish that the corporate debtor is eligible for fast track corporate insolvency resolution process.</p>	<p>Manner of initiating fast track corporate insolvency resolution process.</p>
	<p>58. The process for conducting a corporate insolvency resolution process under Chapter II and the provisions relating to offences and penalties under Chapter VII shall apply to this Chapter as the context may require.</p>	<p>Applicability of Chapter II to this Chapter.</p>
	<p>CHAPTER V</p> <p>VOLUNTARY LIQUIDATION OF CORPORATE PERSONS</p>	
	<p>59.(1) A corporate person who intends to liquidate itself voluntarily and has not committed any default may initiate voluntary liquidation proceedings under the provisions of this Chapter.</p> <p>(2) The *voluntary liquidation of a corporate person under sub-section (1) shall meet such conditions and procedural requirements as may be specified by the Board.</p> <p>(3)Without prejudice to sub-section (2), voluntary liquidation proceedings of a corporate person registered as a company shall meet the following conditions, namely:-</p> <p>(a) a declaration from majority of the directors of the company verified by an affidavit stating that –</p> <p>(i)they have made a full inquiry into the affairs of the company and they have formed an opinion that either the company has no debt or that it will be able to pay its debts</p>	<p>Voluntary liquidation of corporate persons.</p>

	<p>in full from the proceeds of assets to be sold in the voluntary liquidation; and</p> <p>(ii) the company is not being liquidated to defraud any person;</p> <p>(b) the declaration under sub-clause (a) shall be accompanied with the following documents, namely:-</p> <p>(i) audited financial statements and record of business operations of the company for the previous two years or for the period since its incorporation, whichever is later;</p> <p>(ii) a report of the valuation of the assets of the company, if any prepared by a registered valuer;</p> <p>(c) within four weeks of a declaration under sub-clause (a), there shall be -</p> <p>(i) a special resolution of the members of the company in a general meeting requiring the company to be liquidated voluntarily and appointing an insolvency professional to act as the liquidator; or</p> <p>(ii) a resolution of the members of the company in a general meeting requiring the company to be liquidated voluntarily as a result of expiry of the period of its duration, if any, fixed by its articles or on the occurrence of any event in respect of which the articles provide that the company shall be dissolved, as the case may be and appointing an insolvency professional to act as the liquidator:</p> <p>Provided that the company owes any debt to any person, creditors representing two-thirds in value of the debt of the company shall approve the resolution passed under sub-clause (c) within seven days of such resolution.</p> <p>(4) The company shall notify the Registrar of Companies and the Board about the resolution under sub-section (3) to liquidate the company within <u>*sevendays</u> of such resolution or the subsequent approval by the creditors, as the case may be.</p> <p>(5) Subject to approval of the creditors under sub-section (3), the voluntary liquidation proceedings in respect of a company shall be deemed to have commenced from the date of passing of the resolution under sub-clause (c) of sub-section (3).</p> <p>(6) The provisions of sections 35 to 53 of Chapter III and Chapter VII shall apply * to voluntary liquidation proceedings</p>	
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	<p>for corporate persons <u>*with such modifications as may be necessary.</u></p> <p>(7) Where the affairs of the corporate person have been completely wound up, and its assets completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate person.</p> <p>(8) The Adjudicating Authority shall on <u>an</u> application filed by the liquidator under sub-section (7), pass an *order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.</p> <p>(9) A copy of an order under sub-section (8) shall within fourteen days from the date of such order, be forwarded to the authority with which the corporate person is registered.</p>	
	<p>CHAPTER VI</p> <p>ADJUDICATING AUTHORITY FOR CORPORATE PERSONS</p>	
	<p>60.(1) The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of <u>the*corporate person</u> is located.</p> <p>(2) Without prejudice to sub-section (1) and notwithstanding anything to the contrary contained in this Code, where a corporate insolvency resolution process or liquidation proceeding of a corporate debtor is pending before a National Company Law Tribunal, an application relating to the insolvency resolution or bankruptcy of a personal guarantor of such corporate debtor shall be filed before <u>*such</u> National Company Law Tribunal.</p> <p>(3) An insolvency resolution process or bankruptcy proceeding of a personal guarantor of the corporate debtor pending in any court or tribunal shall stand transferred to the Adjudicating Authority dealing with insolvency resolution process or liquidation proceeding of such corporate debtor.</p> <p>(4) The National Company Law Tribunal shall be vested with all the powers of the Debt Recovery Tribunal as contemplated under Part III of this Code for the purpose of sub-section (2).</p>	<p>Adjudicating Authority for corporate persons.</p>
	<p>(5) Notwithstanding anything to the contrary contained in any other law for the time being in force, the National Company</p>	

	<p>Law Tribunal shall have jurisdiction to entertain or dispose of -</p> <p>(a) any application or proceeding by or against the corporate debtor or corporate person;</p> <p>(b) any claim made by or against the corporate debtor or corporate person, including claims by or against any of its subsidiaries situated in India; and</p> <p>(c) any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under this Code.</p>	
36 of 1963	<p>(6) Notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the time being in force, in computing the period of limitation specified for any suit or application ** <u>by or against</u> corporate debtor for which an order of moratorium has been made under this Part, the period during which such moratorium is in place shall be excluded.</p>	
18 of 2013	<p>61.(1) Notwithstanding anything to the contrary contained under the Companies Act 2013, any person aggrieved by the order of the Adjudicating Authority under this part may prefer an appeal to the National Company Law Appellate Tribunal.</p> <p>(2) Every appeal under sub-section (1) shall be filed within * <u>thirtydays</u> before the National Company Law Appellate Tribunal:</p> <p>Provided that <u>the National Company Law Appellate Tribunal</u> may allow an appeal to be filed after the expiry of the said period of * <u>thirtydays</u> if it is satisfied that there was sufficient cause for not filing the appeal but such period shall not exceed fifteen days.</p> <p>(3)An appeal against an order approving a resolution plan under section 31 may be filed onthe following grounds, namely:–</p> <p>(i) the approved resolution plan is in contravention of the provisions of any law for the time being in force;</p> <p>(ii) there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period;</p> <p>(iii) the debts owed to operational creditors of the corporate debtor have not been provided for in the resolution plan in the manner specified by the Board;</p> <p>(iv) the insolvency resolution process costs have not been</p>	<p>Appeals and Appellate Authority.</p>

	<p>provided for repayment in priority to all other debts; or</p> <p>(v) the resolution plan does not comply with any other criteria specified by the Board.</p> <p>(4) An appeal against a liquidation order passed under section 33 may be filed on grounds of material irregularity or fraud committed in relation to such a liquidation order.</p>	
	<p>62. (1) Any person aggrieved by an order of the National Company Law Appellate Tribunal may file an appeal to the Supreme Court on a question of law arising out of such order under this Code within <u>*forty-five</u> days from the date of receipt of such order.</p>	Appeal to Supreme Court.
	<p>(2) The Supreme Court may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within <u>*forty-five</u> days, allow the appeal to be filed within a further period not exceeding <u>fifteen</u> days.</p>	
	<p>63. No civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any matter on which National Company Law Tribunal or the National Company Law Appellate Tribunal has jurisdiction under this Code.</p>	Civil court not to have jurisdiction.
18 of 2013.	<p>64.(1) ***Where an application is not disposed of or an order is not passed within the period specified in this Code, the National Company Law Tribunal or the National Company Law Appellate Tribunal, as the case may be, shall record the reasons for not doing so within the period so specified; and the President of the National Company Law Tribunal or the Chairperson of the National Company Law Appellate Tribunal, as the case may be, may, after taking into account the reasons so recorded, extend the period specified in the Act but not exceeding ten days.</p> <p>(2) No injunction shall be granted by any court, tribunal or authority in respect of any action taken, or to be taken, in pursuance of any power conferred on the National Company Law Tribunal or the National Company Law Appellate Tribunal <u>*under this Code.</u></p>	Expeditious disposal of applications.
	<p>65. (1) If, any person initiates the insolvency resolution process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for the resolution of insolvency, <u>or liquidation, as the case may be, the adjudicating authority may impose upon such person</u>** a penalty <u>which shall not be less</u></p>	Fraudulent or malicious initiation of proceedings.

	<p><u>than one lakh rupees</u>, but may extend to one crore rupees.</p> <p>(2) If, any person initiates voluntary liquidation proceedings with the intent to defraud any person, <u>the adjudicating authority may impose upon such person</u> a penalty which shall not be less than one lakh rupees but may extend to one crore rupees.</p>	
	<p>66. (1) If during the corporate insolvency resolution process or a liquidation process, it is found that any business of the corporate debtor has been carried on with intent to defraud creditors of the corporate debtor **or for any fraudulent purpose, the Adjudicating Authority may on the application of the resolution professional pass *an order that any persons who were knowingly parties to the carrying on of the business in such manner shall be liable to make such contributions to the assets of the corporate debtor as it may deem fit.</p>	Fraudulent trading or wrongful trading.
	<p>(2) On an application made by a resolution professional during the ***corporate insolvency resolution process, the Adjudicating Authority may <u>by an order direct</u> that a director or partner of the corporate debtor, as the case may be, shall be liable to make such contribution to the assets of the corporate debtor as it may deem fit, if-</p> <p>(a) before the insolvency commencement date, such director or partner knew or ought to have known that there was no reasonable prospect of avoiding the commencement of a corporate insolvency resolution process in respect of such corporate debtor; and</p> <p>(b) such director or partner did not exercise due diligence in minimising the potential loss to the creditors of the corporate debtor.</p> <p><i>Explanation.</i> – For the purposes of this section a director or partner of the corporate debtor, as the case may be, shall be deemed to have exercised due diligence if such diligence was reasonably expected of a person carrying out the same functions as are carried out by such director or partner, as the case may be, in relation to the corporate debtor.</p>	
	<p>67. (1) Where the Adjudicating Authority <u>*has passed an order</u> under sub-section (1) or sub-section (2) of section 66, as the case may be, it may give such further directions as it may deem appropriate for giving effect to the order, and in particular, the Adjudicating Authority may—</p> <p>(a) provide for the liability of any person under the order to</p>	Proceedings under section 66.

	<p>be a charge on any debt or obligation due from the corporate debtor to him, or on any mortgage or charge or any interest in a mortgage or charge on assets of the corporate debtor held by or vested in him, or any person on his behalf, or any person claiming as assignee from or through the person liable or any person acting on his behalf; and</p> <p>(b) from time to time, make such further directions as may be necessary for enforcing any charge imposed under this section.</p> <p><i>Explanation.</i> – For the purposes of this section, “assignee” includes a person to whom or in whose favour, by the directions of the person <u>*held</u>liable under clause (a) <u>**the debt, obligation, mortgage or charge was created, issued or transferred or the interest created, but does not include an assignee for valuable consideration given in good faith and without notice of any of the grounds on which the</u> <u>**directionshave</u>been made.</p> <p>(2) Where the Adjudicating Authority <u>*has passed</u>an order under sub-section (1) or <u>sub-section</u>(2) of section 66, as the case may be, in relation to a person who is a creditor of the corporate debtor, it may, <u>by an order</u>,direct that the whole or any part of any debt owed by the corporate debtor to that person and any interest thereon shall rank in <u>the order of</u>priority of <u>payment under section 53</u>after all other debts owed by the corporate debtor<u>**</u>.</p>	
	<p>CHAPTER VII</p> <p>OFFENCES AND PENALTIES</p>	
	<p>68. Where any officer of the corporate debtor has,—</p> <p>(i) within the twelve months immediately preceding the insolvency commencement date,—</p> <p>(a) wilfully concealed any property or part of such property of the corporate debtor or concealed any debt due to, or from, the corporate debtor, of the value of ten thousand rupees or more; <u>or</u></p> <p>(b) fraudulently removed any part of the property of the corporate debtor of the value of ten thousand rupees or more; or</p> <p>(c) wilfully concealed, destroyed, mutilated or falsified any book or paper affecting or relating to the property of</p>	<p>Punishment for concealment of property.</p>

	<p>the corporate debtor or its affairs, or</p> <p>(d) wilfully made any false entry in any book or paper affecting or relating to the property of the corporate debtor or its affairs, or</p> <p>(e) fraudulently parted with, altered or made any omission in any document affecting or relating to the property of the corporate debtor or its affairs; or</p> <p>(f) wilfully created any security interest over, transferred or disposed of any property of the corporate debtor which has been obtained on credit and has not been paid for unless such creation , transfer or disposal was in the ordinary course of the business of the corporate debtor; or</p> <p>(g) wilfully concealed the knowledge of the doing by others of any of the acts mentioned in clauses (c), (d) or <u>clause (e)</u>; or</p> <p>(ii) at any time after the insolvency commencement date, committed any of the acts mentioned in sub-clause (a) to (f) of clause (i) or has the knowledge of the doing by others of any of the things mentioned in sub-clauses (c) to (e) of clause (i); or</p> <p>(iii)at any time after the insolvency commencement date, taken in pawn or pledge, or otherwise received the property knowing it to be so secured, transferred or disposed,</p> <p>such officer shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years, *<u>or</u>with fine, which shall not be less than one lakh rupees, but may extend to one crore rupees, <u>or with both</u>:</p> <p>Provided that nothing in this section shall render a person liable to any punishment under this section if he proves that he had no intent to defraud or to conceal the state of affairs of the corporate debtor.</p>	
	<p>69. On or after the insolvency commencement date, if an officer of the corporate debtor or the corporate debtor-</p> <p>(a) has made or caused to be made any gift or transfer of, or charge on, or has caused or connived in the execution of a decree or order against, the property of the corporate debtor;</p> <p>(b) has concealed or removed any part of the property of the corporate debtor * within two months before the date of any unsatisfied judgment, decree or order for payment of</p>	<p>Punishment for transactions defrauding creditors.</p>

	<p>money obtained against the corporate debtor,</p> <p>such officer of the corporate debtor or the corporate debtor, as the case may be, shall be punishable with imprisonment for a term which shall not be less than one year, but which may extend to five years,* <u>or</u> with fine, which shall not be less than one lakh rupees, but may extend to one crore rupees, <u>or with both</u>:</p> <p>Provided that a person shall not be punishable under this section if the acts mentioned in clause (a) were committed more than five years before the insolvency commencement date; or if he proves that, at the time of <u>commission of</u> those acts, he had no intent to defraud the creditors of the corporate debtor.</p>	
	<p>70.(1) On or after the insolvency commencement date, where an officer of the corporate debtor —</p> <p>(a) does not disclose to the resolution professional all the details of property of the corporate debtor, and details of transactions thereof, or any such other information as the resolution professional may require; or</p> <p>(b) does not deliver to the resolution professional ** all or part of the property of the corporate debtor in his control or custody and which he is required to deliver; or</p> <p>(c) does not deliver to the resolution professional * all books and papers in his control or custody belonging to the corporate debtor and which he is required to deliver; or</p> <p>(d) fails to inform the resolution professional <u>the information</u> in his knowledge that a debt has been falsely proved by any person during the corporate insolvency resolution process; or</p> <p>(e) prevents the production of any book or paper affecting or relating to the property or affairs of the corporate debtor; or</p> <p>(f) accounts for any part of the property of the corporate debtor by fictitious losses or expenses, or if he has so attempted at any meeting of the creditors of the corporate debtor within the twelve months immediately preceding the insolvency commencement date,</p> <p>he shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to five years,* <u>or</u> with fine, which shall not be less than one lakh</p>	<p>Punishment for misconduct in course of corporate insolvency resolution process.</p>

	<p>rupees, but may extend to one crore rupees, <u>or with both</u>:</p> <p>Provided that nothing in this section shall render a person liable to any punishment under this section if he proves that he had no intent to do so <u>in relation to</u>the state of affairs of the corporate debtor.</p> <p>(2) If an insolvency professional deliberately contravenes the provisions of <u>this Part</u>***he shall be punishable with imprisonment for a term which may extend to six months,* <u>or with fine which shall not be</u>less than one lakh rupees,* <u>but</u>may extend to five lakhs rupees, <u>or with both</u>.</p>	
	<p>71. On and after the insolvency commencement date, where any person destroys, mutilates, alters or falsifies any books, papers or securities, or makes or is in the knowledge of making of any false or fraudulent entry in any register, book of account or document belonging to the corporate debtor with intent to defraud or deceive any person, he shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to five years,* <u>or with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, <u>or with both</u></u>.</p>	<p>Punishment for falsification of books of corporate debtor.</p>
	<p>72. Where an officer of the corporate debtor makes any material and wilful omission in any statement relating to the affairs of the corporate debtor, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years,* <u>or with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, <u>or with both</u></u>.</p>	<p>Punishment for wilful and material omissions from statements relating to affairs of corporate debtor.</p>
	<p>73.* Where any officer of the corporate debtor —</p> <p>(a) on or after the insolvency commencement date, makes a false representation or commits any fraud for the purpose of obtaining the consent of the creditors of the corporate debtor or any of them to an agreement with reference to the affairs of the corporate debtor, during the corporate insolvency resolution process, or the liquidation process;</p> <p>(b) prior to the insolvency commencement date,has made any false representation, or committed any fraud, for that purpose,</p> <p>he shall be punishable with imprisonment for a term which shall not be less than three years, but may extend to five years *<u>or with fine which shall not be less than one lakh rupees, but may</u></p>	<p>Punishment for false representations to creditors.</p>

	extend to one crore rupees, <u>or with both.</u>	
	<p>74. (1) Where the corporate debtor or any of its officer violates the provisions of section 14, any such officer who knowingly or wilfully committed or authorised or permitted such contravention shall be punishable with imprisonment for a term which shall not be less than three years, but may extend to five years <u>*or</u> with fine which shall not be less than one lakh rupees, but may extend to three lakh rupees, <u>or with both.</u></p> <p>(2) Where any creditor violates the provisions of section 14, any person who knowingly and wilfully authorised or permitted such contravention by a creditor shall be punishable with imprisonment for a term which shall not be less than one year, but may extend to five years, <u>*or</u> with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, <u>or with both.</u></p> <p>(3) Where the corporate debtor, any of its officers or creditors or any person on whom the approved resolution plan <u>*is binding under section 31,</u> knowingly and wilfully <u>*contravenes any of the terms of such resolution plan or abetssuch contravention,</u> such corporate debtor, officer, creditor or person shall be punishable with imprisonment of not less than one year, but may extend to five years, <u>* or</u> with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, <u>or with both.</u></p>	Punishment for contravention of moratorium or the resolution plan.
	75. Where any person furnishes information in the application made under section 7, which is false in material particulars, knowing it to be false or omits any material fact, knowing it to be material, such person shall be punishable with fine <u>which shall not be</u> less than one lakh rupees, but may extend to one crore rupees.	Punishment for false information furnished in application.
	<p>76. Where-</p> <p>(a) an operational creditor has wilfully or knowingly concealed in an application under section 9 the fact that the corporate debtor had notified him of a dispute in respect of the unpaid operational debt or the full and final repayment of the unpaid operational debt; or</p> <p>(b) any person who knowingly and wilfully authorised or permitted such concealment under clause (a),</p> <p>such operational creditor or person, as the case may be, shall be punishable with imprisonment for a term which shall not be less</p>	Punishment for non-disclosure of dispute or repayment of debt by operational creditor.

	than one year but may extend to five years * <u>or</u> with fine which shall not be less than one lakh rupees but may extend to one crore rupees, <u>or with both</u> .	
	<p>77.Where—</p> <p>(a) a corporate debtor provides information in the application under section 10 which is false in material particulars, knowing it to be false and omits any material fact, knowing it to be material; or</p> <p>(b) any person who knowingly and wilfully authorised or permitted the furnishing of such information under sub-clause (a),</p> <p>such corporate debtor or person, as the case may be, shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to five years *<u>or</u>with fine which shall not be less than one lakh rupees, but which may extend to one crore rupees, <u>or with both</u>.</p> <p><i>Explanation.</i> – For the purposes of this section<u>and sections 75 and 76</u>, an application shall be deemed to be false in material particulars in case the facts mentioned or omitted in the application, if true, or not omitted from the application as the case may be, would have been sufficient to determine the existence of a default under this Code.</p>	Punishment for providing false information in application made by corporate debtor.
	<p>PART III</p> <p>INSOLVENCY RESOLUTION AND BANKRUPTCY FOR INDIVIDUALS AND PARTNERSHIP FIRMS</p>	
	<p>CHAPTER I</p> <p>PRELIMINARY</p>	

	<p>78. ***<u>This Part shall apply to matters relating to fresh start, insolvency and bankruptcy of individuals and partnership firms where the amount of the default is not less than one thousand rupees:</u></p> <p><u>Provided that Central Government may, by notification, specify the minimum amount of default of higher value which shall not be more than one lakh rupees.</u></p> <p>***</p>	Application.
	79. In this Part, unless the context otherwise requires, -	Definitions.

51 of 1993.	<p>(1) <u>“Adjudicating Authority” means the Debt Recovery Tribunal constituted under sub-section (1) of section 3 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993;</u></p> <p>(2) <u>“associate” of the debtor means –</u></p> <p>(a) a person who belongs to the immediate family of the debtor;</p> <p>(b) a person who is a relative of the debtor or a relative of the spouse of the debtor;</p> <p>(c) a person who is in partnership with the debtor;</p> <p>(d) a person who is a spouse or a relative of any person with whom the debtor is in partnership;</p> <p>(e) a person who is employer of the debtor or employee of the debtor;</p> <p>(f) a person who is a trustee of a trust in which the beneficiaries of the trust include a debtor, or the terms of the trust confer a power on the trustee which may be exercised for the benefit of the debtor; and</p> <p>(g) a company, where the debtor or the debtor along with his associates, own more than fifty per cent of the share capital of the company or control the appointment of the board of directors of the company.</p> <p><i>Explanation.-</i> For the purposes of this sub-section, “relative”, with reference to any person, means anyone who is related to another, if-</p> <p>(i) they are members of a Hindu Undivided Family;</p> <p>(ii) one person is related to the other in such manner as may be prescribed .</p>	
	<p>(3) <u>“bankrupt” means –</u></p> <p>(a) a debtor who has been adjudged as bankrupt by a bankruptcy order under section 126;</p> <p>(b) each of the partners of a firm, where a bankruptcy order under section 126 has been made against a firm; or</p> <p>(c) <u>any person adjudged as an undischarged insolvent;</u></p>	
	<p>(4) <u>“bankruptcy” means the state of being bankrupt;</u></p>	
	<p>(5) <u>“bankruptcy debt”, in relation to a bankrupt, means –</u></p> <p>(a) any debt owed by him as on the bankruptcy</p>	

	<p>commencement date;</p> <p>(b) any debt for which he may become liable after bankruptcy commencement date but before his discharge by reason of any transaction entered into before the bankruptcy commencement date; and</p> <p>(c) any interest which is a part of the debt under section 171;</p>	
	(6) “bankruptcy commencement date” means the date on which a bankruptcy order is passed by the Adjudicating Authority under section 126;	
	(7) “bankruptcy order” means an order passed by an Adjudicating Authority under section 126;	
	(8) “bankruptcy process” means a process against a debtor under Chapters IV and V of this part;	
	(9) “bankruptcy trustee” means the insolvency professional appointed as a trustee for the estate of the bankrupt under section 125;	
	(10) “Chapter” means a chapter under this Part;	
	(11) “committee of creditors” means a committee constituted under section 134;	
	(12) “debtor” includes a judgment-debtor;	
	(13) “discharge order” means an order passed by the Adjudicating Authority discharging the debtor under sections 92, 119 and section 138, as the case may be;	
	<p>(14) “excluded assets” for the purposes of this part includes –</p> <p>(a) unencumbered tools, books, vehicles and other equipment as are necessary to the debtor or bankrupt for his personal use or for the purpose of his employment, business or vocation,</p> <p>(b) unencumbered furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the bankrupt and his immediate family;</p> <p>(c) any unencumbered personal ornaments <u>of such value, as may be prescribed,</u> of the debtor or his immediate family which cannot be parted with, in accordance with religious usage;</p> <p>(d) any unencumbered life insurance policy or pension plan taken in the name of debtor or his immediate family; and</p> <p>(e) an unencumbered single dwelling unit owned by the debtor of such value as may be prescribed;</p>	

	<p>(15) “excluded debt” means –</p> <p>(a) liability to pay fine imposed by a court or tribunal;</p> <p>(b) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation;</p> <p>(c) liability to pay maintenance to any person under any law for the time being in force;</p> <p>(d) liability in relation to a student loan; <u>and</u></p> <p>***</p> <p>(e) any other debt as may be prescribed;</p>	
	<p>(16) “firm” means a body of individuals carrying on business in partnership *<u>whether or not</u> registered under section 59 of the <u>Indian Partnership Act, 1932</u>;</p>	9 of 1932.
	<p>(17) “immediate family” of the debtor means his spouse, dependent children and dependent parents;</p>	
	<p>(18) “partnership debt” means a debt for which all the partners in a firm are jointly liable;</p>	
	<p>(19) “qualifying debt” means amount due, which includes interest or any other sum due in respect of the amounts owed under any contract, by the debtor for a liquidated sum either immediately or at certain future time and does not include –</p> <p>(a) an excluded debt;</p> <p>(b) a debt to the extent it is secured; and</p> <p>(c) any debt which has been incurred three months prior to the date of the application for fresh start process;</p>	
	<p>(20) “repayment plan” means a plan prepared by the debtor in consultation with the resolution professional under section 105 containing a proposal to the committee of creditors for restructuring of his debts or affairs;</p>	
	<p>(21) “resolution professional” means an insolvency professional appointed under this part as a resolution professional for conducting the fresh start process or insolvency resolution process;</p>	
	<p>(22) “undischarged bankrupt” means a bankrupt who has not received a discharge order under section 138.</p>	
	<p>CHAPTER II</p> <p>FRESH START PROCESS</p>	

	80. (1) A debtor, who is unable to pay his debt and fulfils the conditions specified in sub-section (2), shall be entitled to make an application for a fresh start for discharge of his qualifying debt under this Chapter.	Eligibility for making an application.
	(2) A debtor may apply, either personally or through a resolution professional, for a fresh start under this Chapter in respect of his qualifying debts to the Adjudicating Authority if -	
	(a) the gross annual income of the debtor does not exceed sixty thousand rupees;	
	(b) the aggregate value of the assets of the debtor does not exceed twenty thousand rupees ;	
	(c) the aggregate value of the qualifying debts does not exceed thirty-five thousand rupees ;	
	(d) he is not an undischarged bankrupt;	
	(e) he does not own a dwelling unit, irrespective of whether it is encumbered or not;	
	(f) a fresh start process, insolvency resolution process or bankruptcy process is not subsisting against him; and	
	(g) no previous fresh start order under this Chapter has been made in relation to him in the preceding twelve months of the date of the application for fresh start.	
	81. (1) When an application is filed under section 80 by a debtor, <u>an interim-moratorium shall commence on the date of filing of said application in relation to all the debts and shall cease to have effect on the date of admission or rejection of such application, as the case may be.</u> *** *** (2) During the interim-moratorium period, - (i) any *legal action or legal proceeding <u>pending</u> in respect of any of his debts shall be deemed to have been stayed; and (ii) no creditor shall initiate any legal action or proceedings in respect of such debt.	Application for fresh start order.
	(3) The application under section 80 shall be in such form and manner and accompanied by such fee, as may be prescribed. (4) The application under sub-section * (3) shall contain the following information supported by an affidavit, namely:—	

	<p>(a) a list of all debts owed by the debtor as on the date of the said application along with details relating to the amount of each debt, interest payable thereon and the names of the creditors to whom each debt is owed;</p> <p>(b) the interest payable on the debts and the rate thereof stipulated in the contract;</p> <p>(c) a list of security held in respect of any of the debts,</p> <p>(d) the financial information of the debtor and his immediate family ***up to two years prior to the date of the application;</p> <p>(e) the particulars of the debtor's personal details, as may be prescribed;</p> <p>(f) the reasons for making the application;</p> <p>(g) the particulars of any legal *<u>proceedings</u> which, to the debtor's knowledge has been commenced against him;</p> <p>(h) the confirmation that no previous fresh start order under this Chapter has been made in respect of the qualifying debts of the debtor in the preceding twelve months of the date of the application.</p>	
	<p>82. (1) Where an application under section 80 is filed by the debtor through a resolution professional, the Adjudicating Authority shall direct the Board within *<u>seven</u> days of the date of <u>receipt</u> of the application and shall seek confirmation from the Board that <u>there are no disciplinary proceedings against the resolution professional who has submitted such application.</u></p> <p>***</p> <p>***</p>	<p>Appointment of Resolution Professional.</p>
	<p>(2) The Board shall communicate to the Adjudicating Authority in writing either –</p> <p>(a) confirmation of the appointment of the resolution professional who filed an application under sub-section (1); or</p> <p>(b) rejection of the appointment of the resolution professional who filed an application under sub-section (1) and nominate a resolution professional suitable for the fresh start process.</p>	
	<p>(3) Where an application under section 80 is filed by the debtor himself and not through the resolution professional, the Adjudicating Authority shall direct the Board within *</p>	

	<u>sevendays</u> of the date of the receipt of an application to nominate a resolution professional for the fresh start process.	
	(4) The Board shall nominate a resolution professional within ten days of receiving the direction issued by the Adjudicating Authority under sub-section (3).	
	(5) The Adjudicating Authority shall by order appoint the resolution professional recommended or nominated by the Board under sub-section (2) or sub-section (4), as the case may be.	
	(6) A resolution professional appointed by the Adjudicating Authority under sub-section (5) shall be provided a copy of the application for fresh start.	

	83. (1) The resolution professional shall examine the application made under section 80 within ten days of his appointment, and submit a report to the Adjudicating Authority, either recommending acceptance or rejection of the application.	Examination of application by resolution professional.
	(2) The report referred to in sub-section (1) shall contain the details of the amounts mentioned in the application which in the opinion of the resolution professional are— a) qualifying debts; and b) liabilities eligible for discharge under sub-section (3) of section 92.	
	(3) The resolution professional may call for such further information or explanation in connection with the application as may be required from the debtor or any other person who, in the opinion of the resolution professional, may provide such information.	
	(4) The debtor or any other person, as the case may be, shall furnish such information or explanation within <u>*sevendays</u> of receipt of the request under sub-section (3).	
	(5) The resolution professional shall presume that the debtor is unable to pay his debts at the date of the application if - (a) in his opinion the information supplied in the application indicates that the debtor is unable to pay his debts and he has no reason to believe that the information supplied is incorrect or incomplete; and (b) he has reason to believe that there is no change in the financial circumstances of the debtor since the date of the	

	application enabling the debtor to pay his debts.	
	<p>(6) The resolution professional shall reject the application, if in his opinion -</p> <p>(a) the debtor does not satisfy the conditions specified under section 80; or</p> <p>(b) the debts disclosed in the application by the debtor are not qualifying debts; or</p> <p>(c) the debtor has deliberately made a false representation or omission in the application or with respect to the documents or information submitted.</p>	
	(7) The resolution professional shall record the reasons for recommending the acceptance or rejection of the application in the report to the Adjudicating Authority under sub-section (1) and shall give a copy of the report to the debtor.	
	84. (1) The Adjudicating Authority may within fourteen days from the date of submission of the report by the resolution professional, pass an order either admitting or rejecting the application made under sub-section (1) of section 81.	Admission or rejection of application by Adjudicating Authority.
	(2) The order passed under sub-section (1) accepting the application shall state the amount which has been accepted as qualifying debts by the resolution professional and other amounts eligible for discharge under section 92 for the purposes of the fresh start order.	
	(3) A copy of the order passed by the Adjudicating Authority under sub-section (1) along with a copy of the application shall be provided to the creditors mentioned in the application within <u>*sevendays</u> of the passing of the order.	
	85. (1) On the date of admission of the application, the moratorium period shall commence in respect of all the debts.	Effect of admission of application.
	<p>(2) During the moratorium period -</p> <p>(a) any pending legal action or legal proceeding in respect of any debt shall be deemed to have been stayed; and</p> <p>(b) subject to the provisions of section 86, the creditors shall not initiate any legal action or proceedings in respect of any debt.</p>	
	<p>(3) During the moratorium period, the debtor shall –</p> <p>(a) not act as a director of any company, or directly or indirectly take part in or be concerned in the promotion, formation or management of a company;</p>	

	<p>(b) not dispose of or alienate any of his assets;</p> <p>(c) inform his business partners that he is undergoing a fresh start process;</p> <p>(d) be required to inform prior to entering into any financial or commercial transaction of such value as may be notified by the Central Government, either individually or jointly, that he is undergoing a fresh start process;</p> <p>(e) disclose the name under which he enters into business transactions, if it is different from the name in the application admitted under section 84;</p> <p>(f) <u>not</u> travel * <u>outside India except</u>*with the permission of the Adjudicating Authority.</p>	
	(4) The moratorium ceases to have effect at the end of the period of * <u>one hundred and eighty days</u> beginning with the date of admission unless the order admitting the application is revoked under sub-section (2) of section 91.	
	<p>86.(1) Any creditor mentioned in the order of the Adjudicating Authority under section 84 to whom a qualifying debt is owed may, within a period of ten days from the date of receipt of the order under section 84, object only on the following grounds, namely:-</p> <p>(a) inclusion of a debt as a qualifying debt; or</p> <p>(b) incorrectness of the details of the qualifying debt specified in the order under section 84.</p>	Objections by creditor and their examination by Resolution Professional.
	(2) A creditor may file an objection under sub-section (1) by way of an application to the resolution professional.	
	(3) The application under sub-section (2) shall be supported by such information and documents as may be prescribed.	
	(4) The resolution professional shall consider every objection made under this section.	
	(5) The resolution professional shall examine the objections under sub-section (2) and either accept or reject the objections, within ten days of the date of the application.	
	(6) The resolution professional may *examine *any matter that appears to him to be relevant to the making of a final list of qualifying debts for the purposes of section 92.	
	(7) On the basis of the * <u>examination</u> under sub-section (5) or sub-section (6), the resolution professional shall -	

	<p>(a) prepare an amended list of qualifying debts for the purpose of the discharge order;</p> <p>(b) make an application to the Adjudicating Authority for directions under section 90; or</p> <p>(c) take <u>*such other steps as he considers necessary</u> in relation to the debtor.</p>	
	<p>87.(1) The debtor or the creditor who is aggrieved by the action taken by the resolution professional under section 86 may, within ten days of such decision, make an application to the Adjudicating Authority challenging such action on any of the following grounds, namely :-</p> <p>(a) that the resolution professional has not given an opportunity to the debtor or the creditor to make a representation; or</p> <p>(b) that the resolution professional colluded with the other party in arriving at the decision; or</p> <p>(c) that the resolution professional has not complied with the requirements of section 86.</p>	Application against decision of resolution professional.
	<p>(2) The Adjudicating Authority shall decide the application referred to in sub-section (1) within fourteen days of such application, and make an order as it deems fit.</p>	
	<p>(3) Where the application under sub-section (1) has been allowed by the Adjudicating Authority, it shall forward its order to the Board and the Board may take <u>such action as may be required under Chapter VI of Part IV</u> against the resolution professional. **</p>	
	<p>88.(1) The debtor shall -</p>	General duties of debtor.
	<p>(a) make available to the resolution professional all information relating to his affairs, attend meetings and comply with the requests of the resolution professional in relation to the fresh start process.</p>	
	<p>(b) inform the resolution professional as soon as reasonably possible of -</p> <p>(i) any material error or omission in relation to the information or document supplied to the resolution professional; or</p> <p>(ii) any change in financial circumstances after the date of application, where such change has an impact on the fresh</p>	

	start process.	
	89. <u>*** (1) Where the debtor or the creditor is of the opinion that the resolution professional appointed under section 82 is required to be replaced, he may apply to the Adjudicating Authority for the replacement of such resolution professional.</u>	Replacement of resolution professional.
	<u>(2) The Adjudicating Authority shall *** within * sevendays of the receipt of the application under sub-section (1) make a reference to the Board for replacement of the resolution professional.</u>	
	*** <u>(3) The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (2), recommend the name of an insolvency professional to the Adjudicating Authority against whom no disciplinary proceedings are pending.</u>	
	(4) The Adjudicating Authority shall appoint another resolution professional for the purposes of the fresh start process on the basis of the recommendation by the Board.	
	(5) The Adjudicating Authority may give directions to the resolution professional replaced under sub-section (4) - (a) to share all information with the new resolution professional in respect of the fresh start process; and (b) to co-operate with the new resolution professional ***as may be required.	

	90. (1)The resolution professional may apply to the Adjudicating Authority for any of the following directions, namely:- (a) compliance of any restrictions referred to in sub-section (3) of section 85, in case of non-compliance by the debtor; or (b) compliance of the duties of the debtor referred to in section 88, in case * <u>of</u> non-compliance by the debtor.	Directions for compliances of restrictions etc.
	(2) The resolution professional may apply to the Adjudicating Authority for directions in relation to any other matter under this Chapter for which no specific provisions have been made.	
	91. (1)The resolution professional may submit an application to the Adjudicating Authority seeking revocation of its order made under section 84 on the following grounds, namely :-	Revocation of order admitting application.

	<p>(a) if due to any change in the financial circumstances of the debtor, the debtor is ineligible for a fresh start process; or</p> <p>(b) non-compliance by the debtor of the restrictions imposed under sub-section (3) of section 85; or</p> <p>(c) if the debtor has acted in a <i>mala fide</i> manner and has wilfully failed to comply with the provisions of this Chapter.</p>	
	(2) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (1), may by order admit or reject the application.	
	(3) On passing of the order admitting the application referred to in sub-section (1), the moratorium and the fresh start process shall cease to have effect.	
	<p>(4) A copy of the order passed by the Adjudicating Authority under this section shall be provided to <u>the Board for the purpose of recording an entry in the register referred to in section 196.</u></p> <p>***</p> <p>***</p>	
	92. (1) The resolution professional shall prepare a final list of qualifying debts and submit such list to the Adjudicating Authority at least <u>*seven</u> days before the moratorium period comes to an end.	Discharge order.
	(2) The Adjudicating Authority shall pass a discharge order at the end of the moratorium period for discharge of the debtor from the qualifying debts mentioned in the list under sub-section (1).	
	<p>(3) Without prejudice to the provisions of sub-section (2), the Adjudicating Authority shall discharge the debtor from the following liabilities, namely :-</p> <p>(a) penalties in respect of the qualifying debts from the date of application till the date of the discharge order;</p> <p>(b) interest including penal interest in respect of the qualifying debts from the date of application till the date of the discharge order; and</p> <p>(c) any other sums owed under any contract in respect of the qualifying debts from the date of application till the date of the discharge order.</p>	
	(4) The discharge order shall not discharge the debtor from any debt not included in sub-section (2) and from any liability not	

	included under sub-section (3).	
	(5) The discharge order shall be forwarded to <u>the Board for the purpose of recording an entry in the register referred to in section 196.</u> *** ***	
	(6) A discharge order under sub-section (2) shall not discharge any other person from any liability in respect of the qualifying debts.	
	93. The resolution professional shall perform his functions and duties in compliance with the code of conduct provided under section 208.	Standard of conduct.
	CHAPTER III INSOLVENCY RESOLUTION PROCESS	
	94. (1) A debtor who commits a default may apply, either personally or through a resolution professional, to the Adjudicating Authority for initiating the insolvency resolution process, by submitting an application.	Application by debtor to initiate insolvency resolution process.
	(2) Where the debtor is a partner of a firm, such debtor shall not apply under this Chapter to the Adjudicating Authority in respect of the firm unless all or a majority of the partners of the firm file the application jointly.	
	(3) An application under sub-section (1) shall be submitted only in respect of debts which are not excluded debts.	
	(4) A debtor shall not be entitled to make an application under sub-section (1) if he is - (a) an undischarged bankrupt; (b) undergoing a fresh start process; (c) undergoing an insolvency resolution process ; or (d) undergoing a bankruptcy process.	
	(5) A debtor shall not be eligible to apply under sub-section (1) if an application under this Chapter has been admitted in respect of the debtor during the period of twelve months preceding the date of submission of the application under this section.	
	(6) The application referred to in sub-section (1) shall be in such form and manner and accompanied with such fee as may	

	be prescribed.	
	95. (1) A creditor may apply either by himself, or jointly with other creditors, or through a resolution professional to the Adjudicating Authority for initiating an insolvency resolution process under this section by submitting an application.	Application by creditor to initiate insolvency resolution process.
	(2) A creditor may apply under sub-section (1) in relation to any partnership debt owed to him for initiating an insolvency resolution process against- (a) any one or more partners of the firm; or (b) the firm.	
	(3) Where an application has been made against one partner in a firm, any other application against another partner in the same firm shall be presented in or transferred to the Adjudicating Authority in which the first mentioned application is pending for adjudication and such Adjudicating Authority may give such directions for consolidating the proceedings under the applications as it thinks just.	
	(4) An application under sub-section (1) ***shall be accompanied with <u>details and documents</u> relating to- *** (a) the debts owed by the debtor to the creditor or creditors submitting the application for insolvency resolution process as on the date of application; (b) the failure by the debtor to pay the debt within a period of fourteen days of the service of the notice of demand; and (c) relevant evidence of such default or non-repayment of debt.	
	(5) The creditor shall also provide a copy of the application made under sub-section (1) to the debtor.	
	(6) The application referred to in sub-section (1) shall be in such form and manner and accompanied by such fee as may be prescribed.	
	(7) The details and documents required to be submitted under sub-section *(4) shall be such as may be specified.	
	96. (1) When an application is filed under section 94 or section 95 - (a) an interim-moratorium shall commence on the date of the application in relation to all the debts and shall cease to	Interim-moratorium.

	<p>have effect on the date of admission of such application; and</p> <p>(b) during the interim-moratorium period -</p> <p>(i) any *legal action or proceeding<u>pending</u> in respect of any debt shall be deemed to have been stayed; and</p> <p>(ii) the creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt.</p>	
	<p>(2) Where the application has been made in relation to a firm, the interim-moratorium under sub-section (1) shall operate against all the partners of the firm as on the date of the application.</p>	
	<p>(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.</p>	
	<p>97. (1) If the application under section 94 or 95 is filed through a resolution professional, the Adjudicating Authority shall direct the Board within *<u>seven</u> days of the date of the application to confirm that <u>there are no disciplinary proceedings pending against resolution professional.</u></p> <p>***</p> <p>***</p>	<p>Appointment of resolution professional.</p>
	<p>(2) The Board shall within *<u>seven</u> days of receipt of directions under sub-section (1) communicate to the Adjudicating Authority in writing either –</p> <p>(a) confirming the appointment of the resolution professional; or</p> <p>(b) rejecting the appointment of the resolution professional and nominating another resolution professional for the insolvency resolution process.</p>	
	<p>(3) Where an application under section 94 or 95 is filed by the debtor or the creditor himself, as the case may be, and not through the resolution professional, the Adjudicating Authority shall direct the Board, within *<u>seven</u> days of the filing of such application, to nominate a resolution professional for the insolvency resolution process.</p>	
	<p>(4) The Board shall nominate a resolution professional within ten days of receiving the direction issued by the Adjudicating Authority under sub-section (3).</p>	
	<p>(5) The Adjudicating Authority shall by order appoint the</p>	

	resolution professional recommended under sub-section (2) or as nominated by the Board under sub-section (4).	
	(6) A resolution professional appointed by the Adjudicating Authority under sub-section (5) shall be provided a copy of the application for insolvency resolution process.	

	98. <u>***(1) Where the debtor or the creditor is of the opinion that the resolution professional appointed under section 97 is required to be replaced, he may apply to the Adjudicating Authority for the replacement of the such resolution professional.</u>	Replacement of resolution professional.
	*** (2) <u>The Adjudicating Authority shall within <u>*seven</u> days of the receipt of the application under sub-section (1) <u>** make a reference to the Board for replacement of the resolution professional.</u></u>	
	*** (3) <u>The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (2), recommend the name of the resolution professional to the Adjudicating Authority against whom no disciplinary proceedings are pending.</u>	
	(4) Without prejudice to the provisions contained in sub-section (1), the creditors may apply to the Adjudicating Authority for replacement of the resolution professional where it has been decided in the meeting of the creditors, *** to replace the resolution professional with a new resolution professional for implementation of the repayment plan.	
	(5) Where the Adjudicating Authority admits an application made under sub-section (1) or sub-section (4), it shall direct the Board to confirm that <u>there are no disciplinary proceedings pending against the proposed resolution professional.</u> *** ***	
	(6) The Board shall send a communication within ten days of receipt of the direction under sub-section (5) either- (a) confirming appointment of the nominated resolution professional; or	

	(b) rejecting appointment of the nominated resolution professional and recommend a new resolution professional.	
	(7) On the basis of the communication of the Board under sub-section (3) or sub-section (6), the Adjudicating Authority shall pass an order appointing a new resolution professional.	
	(8) The Adjudicating Authority may give directions to the resolution professional replaced under sub-section (7) - (a) to share all information with the new resolution professional in respect of the insolvency resolution process; and (b) to co-operate with the new resolution professional in such matters as may be required.	

	99. (1) The resolution professional shall examine the application referred to in section 94 or section 95, as the case may be, within ten days of his appointment, and submit a report to the Adjudicating Authority recommending for approval or rejection of the application.	Submission of report by resolution professional.
	(2) Where the application has been filed under section 95, the resolution professional may require the debtor to prove repayment of the debt claimed as unpaid by the creditor by furnishing - (a) evidence of electronic transfer of the unpaid amount from the bank account of the debtor; (b) evidence of encashment of a cheque issued by the debtor; or (c) a signed acknowledgment by the creditor accepting receipt of dues.	
	(3) Where the debt **for which an application has been filed by a creditor is registered with the information utility, the debtor shall not be entitled to * <u>dispute</u> the validity of <u>such</u> debt.	
	(4) For the purposes of examining an application, the resolution professional may * <u>seek</u> such further information or explanation in connection with the application as may be required from the debtor or the creditor or any other person who, in the opinion of the resolution professional, may provide such information.	
	(5) The person from whom information or explanation is sought under sub-section (4) shall furnish such information or	

	explanation within <u>*sevendays</u> of receipt of the request.	
	(6) The resolution professional shall examine the application and ascertain that - (a) the application satisfies the requirements set out in section 94 or 95; (b) the applicant has provided information and given explanation sought by the resolution professional under sub-section (4).	
	(7) After examination of the application under sub-section (6), he may recommend acceptance or rejection of the application in his report.	
	(8) Where the resolution professional finds that the debtor is eligible for a fresh start under Chapter II, the resolution professional shall <u>*submit</u> a report recommending that the application by the debtor under section 94 be treated as an application under section 81 by the Adjudicating Authority.	
	(9) The resolution professional shall record the reasons for recommending the acceptance or rejection of the application in the report under sub-section (7).	
	(10) The resolution professional shall give a copy of the report under sub-section (7) to the debtor or the creditor, as the case may be.	
	100. (1) The Adjudicating Authority shall, within fourteen days from the date of submission of the report under section 99 pass an order either admitting or rejecting the application referred to in section 94 or 95, as the case may be.	Admission or rejection of application.
	(2) Where the Adjudicating Authority admits an application under sub-section (1), it may, on the request of the resolution professional, issue instructions for the purpose of conducting negotiations between the debtor and creditors and for arriving at a repayment plan.	
	(3) The Adjudicating Authority shall provide a copy of the order passed under sub-section (1) along with the report of the resolution professional and the application referred to in section 94 or 95, as the case may be, to the creditors within <u>*sevendays</u> from the date of the said order.	
	(4) If the application referred to in section 94 or 95, as the case may be, is rejected by the Adjudicating Authority on the basis of report submitted by the resolution professional <u>*that</u> the	

	application was made with the intention to defraud his creditors or the resolution professional, the order under sub-section (1) shall record that the creditor is entitled to file for a bankruptcy order under Chapter IV.	
	101. (1) When the application is admitted under section 100, a moratorium shall commence in relation to all the debts and shall cease to have effect at the end of the period of one hundred and eighty days beginning with the date of admission of the application or on the date the Adjudicating Authority passes an order on the repayment plan under section 114, whichever is earlier.	Moratorium.
	(2) During the moratorium period- <p>(a) any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed; ***</p> <p>(b) the creditors shall not initiate any legal action or legal proceedings in respect of any debt;<u>and</u></p> <p><u>(c)the debtor shall not transfer, alienate, encumber or dispose of any of his assets or his legal rights or beneficial interest therein;</u></p>	
	(3) Where an order admitting the application under section 96 has been made in relation to a firm, the moratorium under sub-section (1) shall operate against all the partners of the firm.	
	(4) The provisions of this section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.	
	102. (1) The Adjudicating Authority shall issue a public notice <u>within seven days of passing the order under section 100</u> inviting claims from all creditors within <u>*twenty-one days*</u> of such issue.	Public notice and claims from creditors.
	(2) The notice under sub-section (1) shall include- <p>(a) details of the order admitting the application;</p> <p>(b) particulars of the resolution professional with whom the claims are to be registered; and</p> <p>(c) the last date for * <u>submission</u> of claims.</p>	
	(3) The notice shall be - <p>(a) published in at least one English and one vernacular newspaper which is in circulation in the state where the debtor resides;</p> <p>(b) affixed in the premises of the Adjudicating Authority;</p>	

	and (c) placed on the website of the Adjudicating Authority.	
	103. (1) The creditors shall register claims with the resolution professional by sending details of the claims by way of electronic communications or through courier, speed post or registered letter.	Registering of claims by creditors.
	(2) In addition to the claims referred to in sub-section (1), the creditor shall provide to the resolution professional, personal information and such particulars as may be prescribed.	
	104. (1) The resolution professional shall prepare a list of creditors on the basis of - (a) the information disclosed in the application filed by the debtor under section 94 or 95, as the case may be; (b) claims received by the resolution professional under section 102.	Preparation of list of creditors.
	(2) The resolution professional shall prepare the list mentioned in sub-section (1) within thirty days from the date of the notice.	
	105. (1) The debtor shall prepare, in consultation with the resolution professional, a repayment plan containing a proposal to the creditors for restructuring of his debts or affairs.	Repayment plan.

	(2) The repayment plan may authorise or require the resolution professional to - (a) carry on the debtor's business or trade on his behalf or in his name; or (b) realise the assets of the debtor; or (c) administer or dispose of any funds of the debtor.	
	(3) The repayment plan shall include the following, namely:- (a) justification for preparation of such repayment plan and reasons on the basis of which the creditors may agree upon the plan; (b) provision for payment of fee to the resolution professional; (c) such other matters as may be specified.	
	106. *** <u>(1) The resolution professional shall submit the repayment plan under section 105 along with his report on such plan to the Adjudicating Authority within a period of twenty-</u>	Report of resolution professional on

	<u>one days from the last date of submission of claims under section 102.</u>	repayment plan.
	<p>(2) The report referred in sub-section (1) shall include that-</p> <p>(a) the repayment plan is in compliance with the provisions of any law for the time being in force;</p> <p>(b) the repayment plan has a reasonable prospect of being approved and implemented; and</p> <p>(c) there is a necessity of summoning a meeting of the creditors, if required, to consider the repayment plan:</p> <p>Provided that where the resolution professional recommends that a meeting of the creditors is not required to be summoned, reasons for the same shall be provided.</p>	
	(3) The report referred to in sub-section (2) shall also specify the date on which, and the time and place at which, the meeting should be held if he is of the opinion that a meeting of the creditors should be summoned.	
	<p>(4) For the purposes of sub-section (3) -</p> <p>(a) the date on which the meeting is to be held shall be not less than fourteen days and not more than twenty eight days from the date of submission of report under sub-section(1);</p> <p>(b) The resolution professional shall consider the convenience of creditors in fixing the date and venue of the meeting of the creditors.</p>	
	107. (1) The resolution professional shall issue a notice calling the meeting of the creditors at least fourteen days before the date fixed for such meeting.	Summoning of meeting of creditors.
	(2) The resolution professional shall send the notice of the meeting to the list of creditors prepared under section 104.	
	<p>(3) The notice sent under sub-section (1) shall state the address of the Adjudicating Authority to which the repayment plan and report of the resolution professional on the repayment plan has been submitted and shall be accompanied by -</p> <p>(a) a copy of the repayment plan;</p> <p>(b) a copy of the statement of affairs of the debtor;</p> <p>(c) a copy of the said report of the resolution professional;</p> <p>and</p>	

	(d) forms for proxy voting	
	(4) The proxy voting, including electronic proxy voting shall take place in such manner and form as may be specified.	
	108. (1) The meeting of the creditors shall be conducted in accordance with the provisions of this section and sections 109,110 and 111.	Conduct of meeting of creditors.

	(2) In the meeting of the creditors, the creditors may decide to approve, modify or reject the repayment plan.	
	(3)The resolution professional shall ensure that if modifications are suggested by the creditors, consent of the debtor shall be obtained for each modification.	
	(6) ***	
	(4)The resolution professional may for a sufficient cause adjourn the meeting of the creditors for a period of not more than <u>*sevendays</u> at a time.	
	109. (1) * <u>A creditor shall be entitled to vote at every meeting of the creditors in respect of the repayment plan in accordance with the voting share assigned to him.</u>	Voting rights in meeting of creditors.

	<u>(2) The resolution professional shall determine the voting share to be assigned to each creditor in the manner specified by the Board.</u>	
	(3) A creditor shall not be entitled to vote in respect of a debt for an unliquidated amount. ***	
	(4) A creditor shall not be entitled to vote in a meeting of the creditors if he — (a) is not a creditor mentioned in the list of creditors under section 104; or (b) is an associate of the debtor.	
	110. (1) Secured creditors shall be entitled to participate and vote in the meetings of the creditors. (2) A secured creditor participating in the meetings of the creditors and voting in relation to the repayment plan shall forfeit his right to enforce the security during the period of the repayment plan in accordance with the terms of the repayment	Rights of secured creditors in relation to repayment plan.

	<p>plan.</p> <p>(3) Where a secured creditor does not forfeit his right to enforce security, he shall submit an affidavit to the resolution professional at the meeting of the creditors stating -</p> <p style="padding-left: 40px;">(a) that the right to vote exercised by the secured creditor is only in respect of the unsecured part of the debt; and</p> <p style="padding-left: 40px;">(b) the estimated value of the unsecured part of the debt.</p> <p>(4) In case a secured creditor participates in the voting on the repayment plan by submitting an affidavit under sub-section (3), the secured and unsecured parts of the debt shall be treated as separate debts.</p> <p>(5) The concurrence of the secured creditor shall be obtained if he does not participate in the voting on repayment plan but provision of the repayment plan affects his right to enforce security.</p> <p><i>Explanation.</i> – For the purposes of this section, "period of the repayment plan" means the period from the date of the order passed under section 114 till the date on which the notice is given by the resolution professional under section 117 or report submitted by the resolution professional under section 118, as the case may be.</p>	
	<p>111. The repayment plan or any modification to the repayment plan shall be approved by a majority of more than three-fourth in value of the creditors present in person or by proxy and voting on the resolution in a meeting of the creditors.</p>	<p>Approval of repayment plan by creditors.</p>
	<p>112. (1) The resolution professional shall prepare a report of the meeting of the creditorson repayment plan.</p>	<p>Report of meeting of creditorson <u>repayment plan</u>.</p>
	<p>(2) The report under sub-section (1) shall contain -</p> <p style="padding-left: 40px;">(a) whether the repayment plan was approved or rejected and if approved, the list the modifications, if any;</p> <p style="padding-left: 40px;">(b) the resolutions which were proposed at the meeting and the decision on such resolutions;</p> <p style="padding-left: 40px;">(c) list of the creditors who were present or represented at the meeting, and the voting records of each creditor for all meetings of the creditors; and</p> <p style="padding-left: 40px;">(d) such other information as the resolution professional thinks appropriate to make known to the Adjudicating Authority.</p>	

	<p>113. The resolution professional shall provide a copy of the report of the meeting of creditors prepared under section 99 to -</p> <p>(a) the debtor;</p> <p>(b) the creditors, including those who were not present at the meeting; and</p> <p>(c) the Adjudicating Authority.</p>	<p>Notice of decisions taken at meeting of creditors.</p>
	<p>114.(1) The Adjudicating Authority shall <u>*by an order approve or reject the repayment plan</u> on the basis of the report of the meeting of the creditors submitted by the resolution professional under section 112:</p> <p>Provided that where a meeting of creditors is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under section 106.</p> <p>(2) The order of the Adjudicating Authority approving the repayment plan may also provide for directions for implementing the repayment plan.</p> <p>***</p> <p>(3)**Where the Adjudicating Authority is of the opinion that the repayment plan requires modification, it may direct the resolution professional to re-convene a meeting of the creditors for reconsidering the repayment plan.</p>	<p>Order of Adjudicating Authority on repayment plan.</p>
	<p>115.(1) Where the Adjudicating Authority has <u>*approved the repayment plan</u> under section 114, <u>such</u> repayment plan shall —</p> <p>(a) take effect as if proposed by the debtor in the meeting; and</p> <p>(b) be binding on creditors mentioned in the repayment plan and the debtor.</p>	<p>Effect of order of Adjudicating Authority on repayment plan.</p>
	<p>(2) Where **the Adjudicating Authority <u>*rejects</u> the repayment plan <u>*under section 114</u>, the debtor and the creditors shall be entitled to file an application for bankruptcy under Chapter IV.</p>	
	<p>(3) A copy of the order passed by the Adjudicating Authority under sub-section (2) shall be provided to <u>the Board, for the purpose of recording an entry in the register referred to in section 196.</u></p> <p>***</p> <p>***</p>	

	116. (1) The resolution professional appointed under section 97 or under section 98 shall supervise the implementation of the repayment plan.	Implementation and supervision of repayment plan.
	(2) The resolution professional may apply to the Adjudicating Authority for directions, if necessary, in relation to any particular matter arising under the repayment plan.	
	(3) The Adjudicating Authority may issue directions to the resolution professional on the basis of an application under sub-section (2).	

	117. (1) The resolution professional shall within fourteen days of the completion of the repayment plan, forward to the persons who are bound by the repayment plan under section 115 and the Adjudicating Authority, the following documents, namely - <p style="margin-left: 40px;">(a) a notice that the repayment plan has been fully implemented; and</p> <p style="margin-left: 40px;">(b) a copy of a report by the resolution professional summarising all receipts and payments made in pursuance of the repayment plan and extent of the implementation of such plan as compared with the repayment plan approved by the meeting of the creditors.</p>	Completion of repayment plan.
	(2) The resolution professional may apply to the Adjudicating Authority to extend the time mentioned in sub-section (1) for such further period not exceeding seven days.	
	118. (1) A repayment plan shall be deemed to have come to an end prematurely if it has not been fully implemented in respect of all persons bound by it within the period as mentioned in the repayment plan.	Repayment plan coming to end prematurely.
	(2) Where a repayment plan comes to an end prematurely under this section, the resolution professional shall submit a report to the Adjudicating Authority which shall state -	
	<p style="margin-left: 40px;">(a) the receipts and payments made in pursuance of the repayment plan;</p> <p style="margin-left: 40px;">(b) the reasons for premature end of the repayment plan; and</p> <p style="margin-left: 40px;">(c) the details of the creditors whose claims have not been</p>	

	fully satisfied.	
	<p>(3) The Adjudicating Authority shall pass an order on the basis of the report submitted <u>*under sub-section (2) by the resolution professional that the repayment plan has not been completely implemented.</u></p> <p>***</p> <p>* (4) The debtor or the creditor, whose claims <u>under repayment plan</u> have not been fully satisfied, shall be entitled to apply for a bankruptcy order under Chapter IV.</p>	
	<p>(5) The Adjudicating Authority shall forward to the persons bound by the repayment plan under section 115, a copy of the -</p> <p>(a) report submitted by the resolution professional to the Adjudicating Authority under sub-section (2); and</p> <p>(b) order passed by the Adjudicating Authority under sub-section (3).</p>	
	<p>(6) The Adjudicating Authority shall forward a copy of the order passed under sub-section (4) to the Board, <u>for the purpose of recording entries in the register referred to in section 196.</u></p> <p>***</p> <p>***</p>	
	<p>119. (1) On the basis of the repayment plan, the resolution professional shall apply to the Adjudicating Authority for a discharge order in relation to the debts mentioned in the repayment plan and the Adjudicating Authority may pass such discharge order.</p>	Discharge order.
	<p>(2) The repayment plan may provide for -</p> <p>(a)early discharge; or</p> <p>(b)discharge on complete implementation of the repayment plan.</p>	
	<p>(3)The discharge order shall be forwarded to <u>the Board, for the purpose of recording entries in the register referred to in section 196.</u></p> <p>***</p> <p>***</p>	
	<p>(4) The discharge order under sub-section (3) shall not discharge any other person from any liability in respect of * <u>his</u></p>	

	<u>debt.</u>	
	120. The resolution professional shall perform his functions and duties in compliance with the code of conduct provided under section 208.	Standard of conduct.
	CHAPTER IV BANKRUPTCY ORDER FOR INDIVIDUALS AND PARTNERSHIP FIRMS	
	121. (1) An application for bankruptcy of a debtor may be made, by a creditor individually or jointly with other creditors or by a debtor, to the Adjudicating Authority in the following circumstances, namely;– (a) where an order has been passed by an Adjudicating Authority under sub-section 4 of section 100; or (b) where an order has been passed by an Adjudicating Authority under sub-section 2 of section 115; or (c) where an order has been passed by an Adjudicating Authority under sub-section 3 of section 118.	Application for bankruptcy.
	(2) An application for bankruptcy shall be filed within a period of * <u>threemonths</u> of the date of the order passed by the Adjudicating Authority under the sections referred to in sub-section (1).	
	(3) Where the debtor is a firm, the application under sub-section (1) may be filed by any of its partners.	
	122. (1) The application for bankruptcy by the debtor shall be accompanied by - (a) the records of insolvency resolution process undertaken under Chapter III of Part III; (b) the statement of affairs of the debtor in such form and manner as may be prescribed, on the date of the application for bankruptcy; and (c) a copy of the order passed by the Adjudicating Authority under Chapter III of Part III permitting the debtor to apply for bankruptcy.	Application by debtor.
	(2) The debtor may propose an insolvency professional as the bankruptcy trustee in the application for bankruptcy.	
	(3) The application referred to in sub-section (1) shall be in such form and manner and accompanied by such fee as may be prescribed.	

	(4) An application for bankruptcy by the debtor shall not be withdrawn without the leave of the Adjudicating Authority.	
	<p>123.(1) The application for bankruptcy by the creditor shall be accompanied by-</p> <p>(a) the records of insolvency resolution process undertaken under Chapter III;</p> <p>(b) a copy of the order passed by the Adjudicating Authority under Chapter III permitting the creditor to apply for bankruptcy;</p> <p>(c) details of the debts owed by the debtor to the creditor as on the date of the application for bankruptcy; and</p> <p>(d) such other information as may be prescribed.</p>	Application by creditor.
	<p>(2)An application under sub-section (1) made in respect of a debt which is secured, shall be accompanied with -</p> <p>(a) a statement by the creditor having the right to enforce the security that he shall, in the event of a bankruptcy order being made, give up his security for the benefit of all the creditors of the bankrupt; or</p> <p>(b) a statement by the creditor stating–</p> <p>(i) that the application for bankruptcy is only in respect of the unsecured part of the debt; and</p> <p>(ii) an estimated value of the unsecured part of the debt.</p>	
	(3) If a secured creditor makes an application for bankruptcy and submits a statement under clause (b) of sub-section (2), the secured and unsecured parts of the debt shall be treated as separate debts.	
	(4) The creditor may propose an insolvency professional as the bankruptcy trustee in the application for bankruptcy.	
	(5) An application for bankruptcy under sub-section (1), in case of a deceased debtor, may be filed against his legal representatives.	
	(6) The application for bankruptcy shall be in such form and manner and accompanied by such fee as may be prescribed.	
	(7) An application for bankruptcy by the creditor shall not be withdrawn without the permission of the Adjudicating Authority.	
	124. (1) When an application is filed under sections 122 or 123,–	Effect of application.

	<p>(a) an interim-moratorium shall commence on the date of the making of the application on all actions against the properties of the debtor in respect of his debts and such moratorium shall cease to have effect on the bankruptcy commencement date; and</p> <p>(b) during the interim-moratorium period -</p> <p>(i) any pending legal action or legal proceeding against any property of the debtor in respect of any of his debts shall be deemed to have been stayed;</p> <p>(ii) the creditors of the debtor shall not be entitled to initiate any legal action or legal proceedings against any property of the debtor in respect of any of his debts.</p>	
	<p>(2) Where the application has been made in relation to a firm, the interim-moratorium under sub-section (1) shall operate against all the partners of the firm as on the date of the making of the application.</p>	
	<p>(3) The provisions of this section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.</p>	
	<p>125.(1) If an insolvency professional is * proposed as the bankruptcy trustee in the application for bankruptcy under section 122 or section 123, the Adjudicating Authority shall direct the Board within *<u>seven</u> days of receiving the application for bankruptcy * to confirm that <u>there are no disciplinary proceedings pending against such professional.</u></p> <p>***</p> <p>***</p>	<p>Appointment of insolvency Professional as bankruptcy trustee.</p>
	<p>(2) The Board shall within ten days of the receipt of the direction under sub-section (1) * in writing either –</p> <p>(b) confirm the appointment of the proposed insolvency professional as the bankruptcy trustee for the bankruptcy process; or</p> <p>(c) reject the appointment of the proposed insolvency professional as the bankruptcy trustee and nominate another bankruptcy trustee **for the bankruptcy process.</p>	
	<p>(3) *<u>Where</u> a bankruptcy trustee is not proposed by the debtor or creditor under section 122 or 123, the Adjudicating Authority shall direct the Board within *<u>seven</u> days of receiving the application to nominate a bankruptcy trustee for the bankruptcy</p>	

	process.	
	(4) The Board shall nominate a bankruptcy trustee within ten days of receiving the direction of the Adjudicating Authority under sub-section (3).	
	(5) The bankruptcy trustee <u>confirmed</u> or nominated under ** this section shall be appointed as the bankruptcy trustee by the Adjudicating Authority in the bankruptcy order under section 126.	

	126. (1) The Adjudicating Authority shall pass a bankruptcy order within fourteen days of receiving the <u>confirmation</u> or nomination of the bankruptcy trustee under section 125.	Bankruptcy order.
	(2) The Adjudicating Authority shall provide the following documents to bankrupt, creditors and the bankruptcy trustee within * <u>seven</u> days of the passing of the bankruptcy order, namely :- (a) a copy of the application for bankruptcy; and (b) a copy of the bankruptcy order.	
	127. The bankruptcy order passed by the Adjudicating Authority under section 126 shall continue to have effect till the debtor is discharged under section 138.	Validity of bankruptcy order.
	128. (1) On the passing of the bankruptcy order under section 126, – (a) the estate of the bankrupt shall vest in the bankruptcy trustee as provided in section 154; (b) the estate of the bankrupt shall be divided among his creditors; (c) subject to provisions of sub-section (2), a creditor of the bankrupt indebted in respect of any debt claimed as a bankruptcy debt shall not– (i) * <u>initiate</u> any action against the property of the bankrupt in respect of such debt; or (ii) commence any suit or other legal proceedings except with the leave of the Adjudicating Authority and on such terms as the Adjudicating Authority may impose.	Effect of bankruptcy order.
	(2) Subject to the provisions of section 123, the bankruptcy order shall not affect the right of any secured creditor to realize or otherwise deal with his security interest in the same manner	

	<p>as he would have been entitled if the bankruptcy order had not been passed:</p> <p>Provided that no secured creditor shall be entitled to any interest in respect of his debt after the bankruptcy commencement date if he does not take <u>*any action</u> to realise his security within <u>* thirty days</u> from the said date.</p>	
	<p>(3) Where a bankruptcy order under section 126 has been passed against a firm, the order shall operate as if it were a bankruptcy order made against each of the individuals who, on the date of the order, is a partner in the firm.</p> <p>(4) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.</p>	
	<p>129. (1) Where a bankruptcy order is passed on the application for bankruptcy by a creditor under section 123, the bankrupt shall submit his statement of financial position to the bankruptcy trustee within <u>*sevendays</u> from the bankruptcy commencement date.</p>	Statement of financial position.
	<p>(2) The statement of financial position shall be submitted in the such form and manner as may be prescribed.</p>	
	<p>(3) Where the bankrupt is a firm, its partners on the date of the order shall submit a joint statement of financial position of the firm, and each partner of the firm shall submit a statement of his financial position.</p>	
	<p>(4) The bankruptcy trustee may require the bankrupt or any other person to submit in writing further information explaining or modifying any matter contained in the statement of financial position.</p>	
	<p>130.(1) The Adjudicating Authority shall–</p> <p>(a) send notices within ten days of the bankruptcy commencement date, to the creditors mentioned in -</p> <p>(i) the statement of affairs submitted by the bankrupt under section 129; or</p> <p>(ii) the application for bankruptcy submitted by the bankrupt under section 122.</p> <p>(b) issue a public notice inviting claims from creditors.</p>	Public notice inviting claims from creditors.
	<p>(2) The public notice under clause (b) of sub-section (1) shall include the <u>* last date up to which</u> the claims shall be <u>*submitted</u> and such <u>other</u> matters and details as may be</p>	

	<p>prescribed and shall be -</p> <p>(b) published in ***leading newspapers, one in English and * another in vernacular * having sufficient circulation*** where the bankrupt resides;</p> <p>(c) affixed on the premises of the Adjudicating Authority; and</p> <p>(d) placed on the website of the Adjudicating Authority.</p>	
	<p>(3)The notice to the creditors referred to under clause (a) of sub-section (1) shall include such matters and details as may be prescribed.</p>	
	<p>131. (1) The creditors shall register claims with the bankruptcy trustee within seven days of the publication of the public notice, by sending details of the claims to the bankruptcy trustee in such manner as may be prescribed.</p> <p>(2) The creditor, in addition to the details of his claims, shall provide such other information and in such manner as may be prescribed.</p>	Registration of claims.
	<p>132. The bankruptcy trustee shall, within fourteen days from the bankruptcy commencement date, prepare a list of creditors of the bankrupt on the basis of -</p> <p>(a) the information disclosed by the bankrupt in the application for bankruptcy filed by the bankrupt under section 118 and the statement of affairs filed under section 125; and</p> <p>(b) claims received by the bankruptcy trustee under sub-section (2) of section 130.</p>	Preparation of list of creditors.
	<p>133. (1) The bankruptcy trustee shall, within * <u>twenty-one</u>days from the bankruptcy commencement date, issue a notice for calling a meeting of the creditors, to every creditor of the bankrupt as mentioned in the list prepared under section 132.</p>	Summoning of meeting of creditors.
	<p>(2) The notices issued under sub-section (1) shall -</p> <p>(a) state the date of the meeting of the creditors, which shall not be later than twenty-one days from the bankruptcy commencement date;</p> <p>(b) be accompanied with forms of proxy voting ;</p> <p>(c) specify the form and manner in which the proxy voting may take place.</p>	
	<p>(3) The proxy voting, including electronic proxy voting shall</p>	

	take place in such manner and form as may be specified.	
	134. (1) The bankruptcy trustee shall be the convener of the meeting of the creditors summoned under section 133.	Conduct of meeting of creditors.
	(2) The bankruptcy trustee shall decide the quorum for the meeting of the creditors, and conduct the meeting only if the quorum is present.	
	(3) The following business shall be conducted in the meeting of the creditors in which regard a resolution may be passed, namely : – (a) the establishment of a committee of creditors; (b) any other business that the bankruptcy trustee thinks fit to be transacted.	

	(4) The bankruptcy trustee shall cause the minutes of the meeting of the creditors to be recorded, signed and retained as a part of the records of the bankruptcy process.	
	(5) The bankruptcy trustee shall not adjourn the meeting of the creditors for any purpose for more than <u>*sevendays</u> at a time.	
	135. (1) Every creditor mentioned in the list under section 132 or his proxy shall be entitled to vote in respect of the resolutions in the meeting of the creditors <u>in accordance with the voting share assigned to him.</u> *** (2) <u>The resolution professional shall determine the voting share to be assigned to each creditor in the manner specified by the Board.</u> (3) A creditor shall not be entitled to vote in respect of a debt for an unliquidated amount.*** (4) The following creditors shall not be entitled to vote under this section, namely :– (a) creditors who are not mentioned in the list of creditors under section 132 and those who have not been given a notice by the bankruptcy trustee; (b) creditors who are associates of the bankrupt.	Voting rights of creditors.
	136. The bankruptcy trustee shall conduct the administration and distribution of the estate of the bankrupt in accordance with the provisions of Chapter V.	Administration and distribution of estate of bankrupt.

	<p>137. (1) The bankruptcy trustee shall convene a meeting of the committee of creditors on completion of the administration and distribution of the estate of the bankrupt in accordance with the provisions of Chapter V.</p> <p>(2) The bankruptcy trustee shall provide the committee of creditors with a report of the administration of the estate of the bankrupt in the meeting of the said committee.</p> <p>(3) The committee of creditors shall approve the report submitted by the bankruptcy trustee under sub-section (2) within seven days of the receipt of the report and determine whether the bankruptcy trustee should be released under section 148.</p> <p>(4)The bankruptcy trustee shall retain sufficient sums from the estate of the bankrupt to meet the expenses of convening and conducting the meeting required under this section during the administration of the estate.</p>	Completion of administration.
	<p>138.(1) The bankruptcy trustee shall apply to the Adjudicating Authority for a discharge order –</p> <p>(a) On the expiry of one year from the bankruptcy commencement date; or</p> <p>(b) within <u>*sevendays</u> of the approval of the committee of creditors of the completion of administration<u>of the estates of the bankrupt</u>under section 137, where <u>*such</u> approval is <u>obtained</u>prior to the period mentioned in clause (a) .</p> <p>(2) The Adjudicating Authority shall pass a discharge order on an application by the bankruptcy trustee under sub-section (1).</p> <p>(3) A copy of the discharge order shall be provided to <u>the Board for the purpose of recording an entry in the registerreferred to in section 196.</u></p> <p>***</p> <p>***</p>	Discharge order.
	<p>139. * <u>The discharge order under sub-section (2) of section 138shall release the bankrupt from all the bankruptcy debt:</u></p> <p>***</p> <p>***</p> <p>Provided that discharge shall not –</p> <p>(a) <u>affect the functions of the bankruptcy trustee; or</u></p>	Effect of discharge.

	<p><u>(b) affect the operation of the provisions of Chapters IV and V of Part III; or</u></p> <p><u>(c) release the bankrupt from any debt incurred by means of fraud or breach of trust to which he was a party; or</u></p> <p><u>(d) discharge the bankrupt from any excluded debt.</u></p>	

	140. (1) The bankrupt shall, from the bankruptcy commencement date, be subject to the disqualifications mentioned in this section.***	Disqualification of bankrupt.
	<p>(2) In addition to any disqualification under any other law for the time being in force, a bankrupt shall be disqualified from—</p> <p>(a) being appointed or acting as a trustee or representative in respect of any trust, estate or settlement;</p> <p>(b) being appointed or acting as a public servant;</p> <p>(c) being elected to any public office where the appointment to such office is by election; and</p> <p><u>(d) being elected or sitting or voting as a member of any local authority.</u></p>	
	<p>(3) Any disqualification to which a bankrupt may be subject under this section shall cease to have effect, if –</p> <p>(a) the bankruptcy order against him is * <u>modified or recalled</u> under section 142; or</p> <p>(b) he is discharged under section 138.</p>	
	<i>Explanation.</i> – For the purposes of this section, the term “public servant” shall have the same meaning as assigned to it in section 21 of the Indian Penal Code, 1860.	
	<p>141. (1) A bankrupt, from the bankruptcy commencement date, shall –</p> <p>(a) not act as a director of any company, or directly or indirectly take part in or be concerned in the promotion, formation or management of a company;</p> <p>(b) without the previous sanction of the bankruptcy trustee, be prohibited from creating any charge on his estate or taking any further debt;</p> <p>(c) be required to inform his business partners that he is undergoing a bankruptcy process;</p>	Restrictions on bankrupt.

	<p>(d) prior to entering into any financial or commercial transaction of such value as may be prescribed, either individually or jointly, inform all the parties involved in such transaction that he is undergoing a bankruptcy process;</p> <p>(e) without the previous sanction of the Adjudicating Authority, be incompetent to maintain any legal action or proceedings in relation to the bankruptcy debts; and</p> <p>(f) not be permitted to travel overseas without the permission of the Adjudicating Authority.</p> <p>(2) Any restriction to which a bankrupt may be subject under this section shall cease to have effect, if -</p> <p>(a) the bankruptcy order against him is * <u>modified or recalled</u> under section 142; or</p> <p>(b) he is discharged under section 138.</p>	
	<p>142. (1) The Adjudicating Authority may, *<u>on an application or suo motu, modify or recall</u> a bankruptcy order, whether or not the bankrupt is discharged, if it appears to the Adjudicating Authority that —</p> <p>***</p> <p>(a) <u>there exists an error apparent on the face of such order; or</u></p> <p>(b) both the bankruptcy debts and the expenses of the bankruptcy have, after the making of the bankruptcy order, either been paid for or secured to the satisfaction of the Adjudicating Authority.</p> <p>(2) Where the Adjudicating Authority * <u>modifies or recalls</u> the bankruptcy order under this section, any sale or other disposition of property, payment made or other things duly done by the bankruptcy trustee shall be valid except that the property of the bankrupt shall vest in such person as the Adjudicating Authority may appoint or, in default of any such appointment, revert to the bankrupt on such terms as the Adjudicating Authority may direct.</p> <p>(3) A copy of the order passed by the Adjudicating Authority under sub-section (1) shall be provided to <u>the Board, for the purpose of recording an entry in the register referred to in section 191.</u></p> <p>***</p> <p>***</p>	<p><u>Modification or recall</u> of bankruptcy order.</p>

	(4) ** <u>The modification or recall of the order by the Adjudicating Authority under sub-section (1) shall be binding on all creditors so far as it relates to any debts due to them which form a part of the bankruptcy.</u>	
	143. The bankruptcy trustee shall perform his functions and duties in compliance with the code of conduct provided under section 208.	Standard of conduct.
	144. (1) A bankruptcy trustee appointed for conducting the bankruptcy process shall charge such fees as may be specified in proportion to the value of the estate of the bankrupt. (2) The fees for the conduct of the bankruptcy process shall be paid to the bankruptcy trustee from the distribution of the estate of the bankrupt in the manner provided in section 178.	Fees of bankruptcy trustee.
	145. *** <u>(1) Where Committee of creditors is of the opinion that at any time during the bankruptcy process, a bankruptcy trustee appointed under section 125 is required to be replaced, it may replace him with another bankruptcy trustee in the manner provided under this section.</u>	Replacement of bankruptcy trustee.
	*** <u>(2) The Committee of creditors may, at a meeting, by a vote of seventy five per cent of voting share, propose to replace the bankruptcy trustee appointed under section 125 with another bankruptcy trustee.</u>	
	*** <u>(3) The Committee of creditors may apply to the Adjudicating Authority for the replacement of the bankruptcy trustee.</u>	
	* * * <u>(4) The Adjudicating Authority shall within * sevendays of the receipt of the application undersub-section (3)direct the Board to recommend for replacement of bankruptcy trustee.</u>	
	<u>(5) The Board shall, within ten days of the direction of the Adjudicating Authority under sub-section (4), recommend a bankruptcy trustee ** for replacement against whom no disciplinary proceedings are pending.</u>	
	<u>(6) The Adjudicating Authority shall, by an order, appoint the bankruptcy trustee as recommended by the Board under sub-section (5) within fourteen days of receiving such recommendation.</u>	

	(7) The earlierbankruptcy trustee shall deliver possession of the estate of the bankrupt to the bankruptcy trustee appointed under sub-section (6), on the date of his appointment.	
	(8) The Adjudicating Authority may give directions to the earlierbankruptcy trustee-	
	(a) to share all information with the new bankruptcy trustee in respect of the bankruptcy process; and	
	(b) to co-operate with the new bankruptcy trustee in such matters as may be required.	

	(9) The earlierbankruptcy trustee replaced under this section shall be released in accordance with the provisions of section 148.	
	(10)The bankruptcy trustee appointed under this section shall give a notice of his appointment to the bankrupt within * <u>sevendays</u> of his appointment.	
	146. (1)A bankruptcy trustee may resign if -	Resignation by bankruptcy trustee.
	(a)he intends to cease practising as an insolvency professional; or	
	(b) there is conflict of interest or change of personal circumstances which preclude the further discharge of his duties as a bankruptcy trustee.	
	(2) The Adjudicating Authority shall, within * <u>sevendays</u> of the acceptance of the resignation of the bankruptcy trustee, direct the Board for his replacement.	
	(3) The Board shall, within ten days of the direction of the Adjudicating Authority under sub-section (2) recommend another bankruptcy trustee as a replacement.	
	(4) The Adjudicating Authority shall appoint the bankruptcy trustee recommended by the Board under sub-section (3) within fourteen days of receiving the recommendation.	
	(5) The replaced bankruptcy trustee shall deliver possession of the estate of the bankrupt to the bankruptcy trustee appointed under sub-section (4), on the date of his appointment.	
	(6) The Adjudicating Authority may give directions to the bankruptcy trustee who has resigned -	

	(a) to share all information with the new bankruptcy trustee in respect of the bankruptcy process; and	
	(b) to co-operate with the new bankruptcy trustee in such matters as may be required.	
	(7) The bankruptcy trustee appointed under this section shall give a notice of his appointment to the committee of creditors and the bankrupt within * <u>seven</u> days of his appointment.	
	(8) The bankruptcy trustee replaced under this section shall be released in accordance with the provisions of section 148.	
	147. (1) If a vacancy occurs in the office of the bankruptcy trustee for any reason other than his replacement or resignation, the vacancy shall be filled in accordance with the provisions of this section.	Vacancy in office of bankruptcy trustee.
	(2) In the event of the occurrence of vacancy referred to in sub-section (1), the Adjudicating Authority shall direct the Board for replacement of a bankruptcy trustee.	
	(3) The Board shall, within ten days of the direction of the Adjudicating Authority under sub-section (2), recommend a bankruptcy trustee as a replacement.	
	(4) The Adjudicating Authority shall appoint the bankruptcy trustee recommended by the Board under sub-section (3) within fourteen days of receiving the recommendation.	
	(5) The earlier bankruptcy trustee shall deliver possession of the estate of the bankrupt to the bankruptcy trustee appointed under sub-section (4), on the date of his appointment.	
	(6) The Adjudicating Authority may give directions to the bankruptcy trustee who has vacated the office -	
	(a) to share all information with the new bankruptcy trustee in respect of the bankruptcy;	
	(b) to co-operate with the new bankruptcy trustee in such matters as may be required.	
	(7) The bankruptcy trustee appointed under sub-section (4) shall give a notice of his appointment to the committee of creditors and the bankrupt within * <u>seven</u> days of his appointment.	
	(8) The earlier bankruptcy trustee replaced under this section shall be released in accordance with the provisions of section 148:	
	Provided that this section shall not apply if the vacancy has	

	occurred due to temporary illness or temporary leave of the bankruptcy trustee.	
	148. (1) A bankruptcy trustee shall be released from his office with effect from the date on which the Adjudicating Authority passes an order appointing a new bankruptcy trustee in the event of replacement, resignation or occurrence of vacancy under sections 145, 146 or <u>section</u> 147, as the case may be.	Release of bankruptcy trustee.
	(2) Notwithstanding the release under sub-section (1), the bankruptcy trustee who has been so released, shall share all information with the new bankruptcy trustee in respect of the bankruptcy process and co-operate with the new bankruptcy trustee in such matters as may be required.	
	(3) A bankruptcy trustee who has completed the administration of the bankruptcy process shall be released of his duties with effect from the date on which the committee of creditors approves the report of the bankruptcy trustee under section 137.	
	CHAPTER V ADMINISTRATION AND DISTRIBUTION OF THE ESTATE OF THE BANKRUPT	
	149. (1) The bankruptcy trustee shall perform the following functions in accordance with the provisions of this Chapter – (a) investigate the affairs of the bankrupt; (b) realise the estate of the bankrupt; and (c) distribute the estate of the bankrupt.	Functions of bankruptcy trustee.
	150. (1) The bankrupt shall assist the bankruptcy trustee in carrying out his functions under this Chapter by -	Duties of bankrupt towards bankruptcy trustee.
	(a) giving to the bankruptcy trustee the information of his affairs;	
	(b) attending on the bankruptcy trustee at such times as may be required;	
	(c) giving notice to the bankruptcy trustee of any of the following events which have occurred after the bankruptcy commencement date, -	
	(i) acquisition of any property by the bankrupt; (ii) devolution of any property upon the bankrupt; (iii) increase in the income of the bankrupt;	

	(d) doing all other things as may be prescribed.	
	(2) The bankrupt shall give notice of the increase in income or acquisition or devolution of property under clause (c) of sub-section (1) within <u>*seven</u> days of such increase, acquisition or devolution.	
	(3) The bankrupt shall continue to discharge the duties under sub-section (1) other than the duties under clause (c) even after the discharge under section 138.	
	<p>151. For the purpose of performing his functions under this Chapter, the bankruptcy trustee may, by his official name -</p> <p>(a) hold property of every description;</p> <p>(b) make contracts;</p> <p>(c) sue and be sued;</p> <p>(d) enter into engagements in respect of the estate of the bankrupt;</p> <p>(e) employ persons to ** assist him;</p> <p>(f) execute any power of attorney, deed or other instrument; and</p> <p>(g) do any other act which is necessary or expedient for the purposes of or in connection with the exercise of his rights.</p>	Rights of bankruptcy trustee.
	<p>152. The bankruptcy trustee may while discharging his functions under this Chapter, -</p> <p>(a) sell any part of the estate of the bankrupt;</p> <p>(b) give receipts for any money received by him;</p> <p>(c) prove, rank, claim and draw a dividend in respect of such debts due to the bankrupt as are comprised in his estate;</p>	General powers of bankruptcy trustee.
	(d) where any property comprised in the estate of the bankrupt is held by any person by way of pledge or hypothecation, exercise the right of redemption in respect of any such property subject to the relevant contract by giving notice to the said person;	
	(e) where any part of the estate of the bankrupt consists of securities in a company or any other property which is transferable in the books of a person, exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt; and	

	(f) deal with any property comprised in the estate of the bankrupt to which the bankrupt is beneficially entitled in the same manner as he might have dealt with it.	
	153. *The bankruptcy trustee for the purposes of this Chapter may after procuring the approval of the committee of creditors, -	Approval of creditors for certain acts.
	(a) carry on any business of the bankrupt as far as may be necessary for winding it up beneficially;	
	(b) bring, institute or defend any legal action or proceedings relating to the property comprised in the estate of the bankrupt;	
	(c) accept as consideration for the sale of any property a sum of money due at a future time subject to certain stipulations such as security;	
	(d) mortgage or pledge any property for the purpose of raising money for the payment of the debts of the bankrupt;	
	(e) where any right, option or other power forms part of the estate of the bankrupt, make payments or incur liabilities with a view to obtaining, for the benefit of the creditors, any property which is the subject of such right, option or power;	
	(f) refer to arbitration or compromise on such terms as may be agreed, any debts subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt;	
	(g) make compromise or other arrangement as may be considered expedient, with the creditors;	
	(h) make compromise or other arrangement as he may deem expedient with respect to any claim arising out of or incidental to the bankrupt's estate;	
	(i) appoint the bankrupt to -	
	<u>(A)</u> supervise the management of the estate of the bankrupt or any part of it;	
	<u>(B)</u> carry on his business for the benefit of his creditors;	
	<u>(C)</u> assist the bankruptcy trustee in administering the estate of the bankrupt.	

	154. (1) The estate of the bankrupt shall vest in the bankruptcy	Vesting of estate of bankrupt in

	trustee immediately from the date of his appointment. (2) The vesting under sub-section (1) shall take effect without any conveyance, assignment or transfer.	bankruptcy trustee.
	155. (1) The estate of the bankrupt shall include, – (a) all property belonging to or vested in the bankrupt at the bankruptcy commencement date; (b) the capacity to exercise and to initiate proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the bankruptcy commencement date or before the date of the discharge order passed under section 138; and (c) all property which by virtue of any of the provisions of this Chapter is comprised in the estate. (2) The estate of the bankrupt shall not include – (a) excluded assets; (b) property held by the bankrupt on trust for any other person; * <u>(c) all sums due to any workman or employee from the provident fund, the pension fund and the gratuity fund; and</u> <u>(d) such assets as may be notified by the Central Government in consultation with any financial sector regulator.</u>	Estate of bankrupt.
	156. The bankrupt, his banker or agent or any other person having possession of any property, books, papers or other records which bankruptcy trustee is required to take possession for the purposes of the bankruptcy process shall deliver the said property and documents to the bankruptcy trustee.	Delivery of property and documents to bankruptcy trustee.
	157. (1) The bankruptcy trustee shall take possession and control of all property, books, papers and other records relating to the estate of the bankrupt or affairs of the bankrupt which belong to him or are in his possession or under his control.	Acquisition of control by bankruptcy trustee.
	(2) Where any part of the estate of the bankrupt consists of things in actionable claims, they shall be deemed to have been assigned to the bankruptcy trustee without any notice of the assignment.	
	158. (1) Any disposition of property made by the debtor, during the period between the date of filing of the application for	Restrictions on disposition of

	<p>bankruptcy and the bankruptcy commencement date shall be void.</p> <p>(2) Any disposition of property made under sub-section (1) shall not give rise to any right against any person, in respect of such property, even if he has received such property before the bankruptcy commencement date in –</p> <p>(a) good faith;</p> <p>(b) for value; and</p> <p>(c) without notice of the filing of the application for bankruptcy.</p> <p>(3) For the purposes of this section, the term “property” means all the property of the debtor, whether or not it is comprised in the estate of the bankrupt, but shall not include property held by the debtor in trust for any other person.</p>	property.
	159. (1) The bankruptcy trustee shall be entitled to claim for the estate of the bankrupt, any after-acquired property by giving a notice to the bankrupt.	After-acquired property of bankrupt.
	(2) A notice under sub-section (1) shall not be served in respect of -	
	(a) excluded assets; or	
	(b) any property which is acquired by or devolves upon the bankrupt after a discharge order is passed under section 138.	
	(3)The notice under sub-section (2) shall be given within fifteen days from the day on which the acquisition or devolution of the after-acquired property comes to the knowledge of the bankruptcy trustee.	
	(4) For the purposes of sub-section (3)-	
	(a) anything which comes to the knowledge of the bankruptcy trustee shall be deemed to have come to the knowledge of the successor of the bankruptcy trustee at the same time; and	
	(b) anything which comes to the knowledge of a person before he is appointed as a bankruptcy trustee shall be deemed to have come to his knowledge on the date of his appointment as bankruptcy trustee.	
	(5) The bankruptcy trustee shall not be entitled, by virtue of this section, to claim from any person who has acquired any right over after-acquired property, in good faith, for value and without notice of the bankruptcy.	

	(6) A notice may be served after the expiry of the period under sub-section (3) only with the approval of the Adjudicating Authority.	
	<i>Explanation.</i> – For the purposes of this section, the term "after-acquired property" means any property which has been acquired by or has devolved upon the bankrupt after the bankruptcy commencement date.	
	160. (1) The bankruptcy trustee may, by giving notice to the bankrupt or any person interested in the onerous property, disclaim any onerous property which forms a part of the estate of the bankrupt.	Onerous property of Bankrupt.
	(2) The bankruptcy trustee may give the notice under sub-section (1) notwithstanding that he has taken possession of the onerous property, endeavoured to sell it or has exercised rights of ownership in relation to it.	
	(3) A notice of disclaimer <u>under sub-section (1)</u> shall -	
	(a) determine, as from the date of * such notice, the rights, interests and liabilities of the bankrupt in respect of the onerous property disclaimed;	
	(b) discharge the bankruptcy trustee from all personal liability in respect of the onerous property as from the date of appointment of the bankruptcy trustee.	
	(4) A notice of disclaimer under sub-section (1) shall not be given in respect of the property which has been claimed for the estate of the bankrupt under section 155 without the permission of the committee of creditors.	
	(5) A notice of disclaimer under sub-section (1) shall not affect the rights or liabilities of any other person, and any person who sustains a loss or damage in consequence of the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the loss or damage.	
	<i>Explanation.</i> – For the purposes of this section, the term “onerous property” means -	
	(i) any unprofitable contract; and	
	(ii) any other property comprised in the estate of the bankrupt which is unsaleable or not readily saleable, or is such that it may give rise to a claim.	
	161. (1) No notice of disclaimer under section 160 shall be	Notice to disclaim onerous property.

	necessary if -	
	(a) a person interested in the onerous property has applied in writing to the bankruptcy trustee or his predecessor requiring him to decide whether the onerous property should be disclaimed or not; and	
	(b) a decision under clause (a) has not been taken by the bankruptcy trustee within seven days of receipt of the notice.	
	(2) Any onerous property which cannot be disclaimed under sub-section (1) shall be deemed to be part of the estate of the bankrupt	
	<i>Explanation.</i> – For the purposes of this section, an onerous property is said to be disclaimed where notice in relation to that property has been given by the bankruptcy trustee under section 160.	
	<p>162. (1) The bankruptcy trustee shall not be entitled to disclaim any leasehold interest, unless a notice of disclaimer has been served on every interested person and –</p> <p>(a) no application objecting to the disclaimer by the interested person, has been filed with respect to the leasehold interest, within fourteen days of the date on which notice was served; and</p> <p>(b) where the application objecting to the disclaimer has been filed by the interested person, the Adjudicating Authority has directed under section 163 that the disclaimer shall take effect.</p> <p>(2) Where the Adjudicating Authority gives a direction under clause (b) of sub-section (1), it may also make order with respect to fixtures, improvements by tenant and other matters arising out of the lease as it may think fit.</p>	Disclaimer of leaseholds.
	163. (1)An application challenging the disclaimer may be made by the following persons under this section to the Adjudicating Authority-	Challenge against disclaimed property.
	(a) any person who claims an interest in the disclaimed property; or	
	(b) any person who is under any liability in respect of the disclaimed property; or	
	(c) where the disclaimed property is a dwelling house, any person who on the date of application for bankruptcy was in occupation of or entitled to occupy that dwelling house.	

	(2) The Adjudicating Authority may on an application under sub-section (1) make an order for the vesting of the disclaimed property in, or for its delivery to any of the persons mentioned in sub-section (1).	
	(3) The Adjudicating Authority shall not make an order in favour of a person who has made an application under clause (b) of sub-section (1) except where it appears to the Adjudicating Authority that it would be just to do so for the purpose of compensating the person.	
	(4) The effect of an order under this section shall be taken into account while assessing loss or damage sustained by any person in consequence of the disclaimer under sub-section (5) of section 160.	
	(5) An order under sub-section (2) vesting property in any person need not be completed by any consequence, assignment or transfer.	
	164. (1) The bankruptcy trustee may apply to the Adjudicating Authority for an order under this section in respect of an undervalued transaction between a bankrupt and any person.	Undervalued transactions.
	(2) The undervalued transaction referred to in sub-section (1) should have – (a) been entered into during the period of two years ending on the filing of the application for bankruptcy; and (b) caused bankruptcy process to be triggered.	
	(3) A transaction between a bankrupt and his associate entered into during the period of two years preceding the date of making of the application for bankruptcy shall be deemed to be an undervalued transaction under this section.	
	(4) On the application of the bankruptcy trustee under sub-section (1), the Adjudicating Authority may -	
	(a) pass an order declaring an undervalued transaction void;	
	(b) pass an order requiring any property transferred as a part of an undervalued transaction to be vested with the bankruptcy trustee as a part of the estate of the bankrupt; and	
	(c) pass any other order it thinks fit for restoring the position to what it would have been if the bankrupt had not entered into the undervalued transaction.	
	(5) The order under clause (a) of sub-section (4) shall not be passed if it is proved by the bankrupt that the transaction was	

	<p>undertaken in the ordinary course of business of the bankrupt:</p> <p>Provided that the provisions of this sub-section shall not be applicable to undervalued transaction entered into between a bankrupt and his associate under sub-section (3) of this section.</p>	
	(6) For the purposes of this section, a bankrupt enters into an undervalued transaction with any person if -	
	(a) he makes a gift to that person;	
	(b) no consideration has been received by that person from the bankrupt;	
	(c) it is in consideration of marriage; or	
	(d) it is for a consideration, the value of which in money or money's worth is significantly less than the value in money or money's worth of the consideration provided by the bankrupt.	
	<p>165.(1) The bankruptcy trustee may apply to the Adjudicating Authority for an order under this section if a bankrupt has given a preference to any person.</p> <p>(2) The transaction giving preference to an associate of the bankrupt under sub-section (1) should have been entered into by the bankrupt with the associate during the period of two years ending on the date of the application for bankruptcy.</p> <p>(3) Any transaction giving preference not covered under sub-section (2) should have been entered into by the bankrupt during the period of six months ending on the date of the application for bankruptcy.</p> <p>(4) The transaction giving preference under sub-section (2) or under sub-section (3) should have caused the bankruptcy process to be triggered.</p> <p>(5) On the application of the bankruptcy trustee under sub-section (1), the Adjudicating Authority may –</p> <p>(a) pass an order declaring a transaction giving preference void;</p> <p>(b) pass an order requiring any property transferred in respect of a transaction giving preference to be vested with the bankruptcy trustee as a part of the estate of the bankrupt; and</p> <p>(c) pass any other order it thinks fit for restoring the position to what it would have been if the bankrupt had not entered into the transaction giving preference.</p>	Preference transactions.

	<p>(6) The Adjudicating Authority shall not pass an order under sub-section (5) unless the bankrupt was influenced in his decision of giving preference to a person by a desire to produce in relation to that person an effect under clause (b) of sub-section (8).</p> <p>(7) For the purpose of sub-section (6), if the person is an associate of the bankrupt, (otherwise than by reason only of being his employee), at the time when the preference was given, it shall be presumed that the bankrupt was influenced in his decision under that sub-section.</p> <p>(8) For the purposes of this section, a bankrupt shall be deemed to have entered into a transaction giving preference to any person if –</p> <p>(a) the person is the creditor or surety or guarantor for any debt of the bankrupt; and</p> <p>(b) the bankrupt does anything or suffers anything to be done which has the effect of putting that person into a position which, in the event of the debtor becoming a bankrupt, will be better than the position he would have been in, if that thing had not been done.</p>	
	<p>166. (1) Subject to the provision of sub-section (2) , an order passed by the Adjudicating Authority under section 164 or section 165 shall not, -</p>	Effect of Order.
	<p>(a) give rise to a right against a person interested in the property which was acquired in an undervalued transaction or a transaction giving preference, whether or not he is the person with whom the bankrupt entered into such transaction.</p>	
	<p>(b) require any person to pay a sum to the bankruptcy trustee in respect of the benefit received from the undervalued transaction or a transaction giving preference, whether or not he is the person with whom the bankrupt entered into such transaction.</p>	
	<p>(2) The provision of sub-section (1) shall apply only if the interest was acquired or the benefit was received -</p>	
	<p>(a) in good faith;</p>	
	<p>(b) for value;</p>	
	<p>(c) without notice that the bankrupt entered into the transaction at an undervalue or for giving preference;</p>	
	<p>(d) without notice that the bankrupt has filed an application</p>	

	for bankruptcy or a bankruptcy order has been passed; and	
	(e) by any person who at the time of acquiring the interest or receiving the benefit was not an associate of the bankrupt.	
	(3) Any sum required to be paid to the bankruptcy trustee under sub-section (1) shall be included in the estate of the bankrupt.	
	167. (1) Subject to sub-section (6), on an application by the bankruptcy trustee, the Adjudicating Authority may make an order under this section in respect of extortionate credit transactions to which the bankrupt is or has been a party.	Extortionate credit transactions.
	(2) The transactions under sub-section (1) should have been entered into by the bankrupt during the period of two years ending on the bankruptcy commencement date.	
	(3) An order of the Adjudicating Authority may -	
	(a) set aside the whole or part of any debt created by the transaction;	
	(b) vary the terms of the transaction or vary the terms on which any security for the purposes of the transaction is held;	
	(c) require any person who has been paid by the bankrupt under any transaction, to pay a sum to the bankruptcy trustee;	
	(d) require any person to surrender to the bankruptcy trustee any property of the bankrupt held as security for the purposes of the transaction.	
	(4) Any sum paid or any property surrendered to the bankruptcy trustee shall be included in the estate of the bankrupt.	
	(5) For the purposes of this section, an extortionate credit transaction is a transaction for or involving the provision of credit to the bankrupt by any person-	
	(a) on terms requiring the bankrupt to make exorbitant payments in respect of the credit provided; or	
	(b) <u>which</u> is unconscionable under the principles of law relating to contracts.	
	(6) Any debt extended by a person regulated for the provision of financial services in compliance with the law in force in relation to such debt, shall not be considered as an extortionate credit transaction under this section.	
	168. (1) This section shall apply where a contract has been	Obligations under

	<p>entered into by the bankrupt with a person before the bankruptcy commencement date.</p> <p>(2) Any party to a contract, other than the bankrupt under sub-section (1), may apply to the Adjudicating Authority for –</p> <p>(a) an order discharging the obligations of the applicant or the bankrupt under the contract; and</p> <p>(b) payment of damages by the party or the bankrupt, for non-performance of the contract or otherwise.</p> <p>(3) Any damages payable by the bankrupt by virtue of an order under clause (b) of sub-section (2) shall be provable as bankruptcy debt.</p> <p>(4) When a bankrupt is a party to the contract under this section jointly with another person, that person may sue or be sued in respect of the contract without joinder of the bankrupt.</p>	contracts.
	<p>169. If a bankrupt dies, the bankruptcy proceedings shall, ***<u>continue</u>as if he were alive.</p>	Continuance of proceedings on death of bankrupt.
	<p>170. (1) All the provisions of Chapter V relating to the administration and distribution of the estate of the bankrupt shall, so far as the same are applicable, apply to the administration of the estate of a deceased bankrupt.</p> <p>(2) While administering the estate of a deceased bankrupt, the bankruptcy trustee shall have regard to the claims by the legal representatives of the deceased bankrupt to payment of the proper funeral and testamentary expenses incurred by <u>them</u>.</p> <p>(3) The claims under sub-section (2) shall rank equally to the secured creditors in the priority provided under section 178.</p> <p>(4) If, on the administration of the estate of a deceased bankrupt, any surplus remains in the hands of the bankruptcy trustee after payment in full of all the debts due from the deceased bankrupt, together with the costs of the administration and interest as provided under section 178, such surplus shall be paid to the legal representatives of the estate of the deceased bankrupt or dealt with in such manner as may be prescribed.</p>	Administration of estate of deceased bankrupt.
	<p>171. (1) The bankruptcy trustee shall give notice to each of the creditors to submit proof of debt within fourteen days of preparing the list of creditors under section 132.</p> <p>(2) The proof of debt shall –</p> <p>(a) require the creditor to give full particulars of debt, including the date on which the debt was contracted and the</p>	Proof of debt.

	<p>value at which that person assesses it;</p> <p>(b) require the creditor to give full particulars of the security, including the date on which the security was given and the value at which that person assesses it;</p> <p>(c) be in such form and manner as may be prescribed.</p> <p>(3) In case the creditor is a decree holder against the bankrupt, a copy of the decree shall be a valid proof of debt.</p> <p>(4) Where a debt bears interest, that interest shall be provable as part of the debt except in so far as it is owed in respect of any period after the bankruptcy commencement date.</p> <p>(5) The bankruptcy trustee shall estimate the value of any bankruptcy debt which does not have a specific value.</p> <p>(6) The value assigned by the bankruptcy trustee under subsection (5) shall be the amount provable by the concerned creditor.</p> <p>(7) A creditor may prove for a debt where payment would have become due at a date later than the bankruptcy commencement date as if it were owed presently and may receive dividends in a manner as may be prescribed.</p> <p>(8) Where the bankruptcy trustee serves a notice under subsection (1) and the person on whom the notice is served does not file a proof of security within thirty days after the date of service of the notice, the bankruptcy trustee may, with leave of the Adjudicating Authority, sell or dispose of any property that was subject to the security, free of that security.</p>	
	<p>172. (1) Where a secured creditor realises his security, he may produce proof of the balance due to him.</p> <p>(2) Where a secured creditor surrenders his security to the bankruptcy trustee for the general benefit of the creditors, he may produce proof of his whole claim.</p>	<p>Proof of debt by secured creditors.</p>
	<p>173.(1) Where before the bankruptcy commencement date, there have been mutual dealings between the bankrupt and any creditor, the bankruptcy trustee shall -</p> <p>(a) take an account of what is due from each party to the other in respect of the mutual dealings and the sums due from one party shall be set off against the sums due from the other; and</p> <p>(b) only the balance shall be provable as a bankruptcy debt or as the amount payable to the bankruptcy trustee as part of</p>	<p>Mutual credit and set-off.</p>

	<p>the estate of the bankrupt.</p> <p>(2) Sums due from the bankrupt to another party shall not be included in the account taken by the bankruptcy trustee under sub-section (1), if that other party had notice at the time they became due that an application for bankruptcy relating to the bankrupt was pending.</p>	
	<p>174. (1) Whenever the bankruptcy trustee has sufficient funds in his hand, he may declare and distribute interim dividend among the creditors in respect of the bankruptcy debts which they have respectively proved.</p> <p>(2) Where the bankruptcy trustee has declared any interim dividend, he shall give notice of such dividend and the * <u>manner</u> in which it is proposed to be distributed.</p> <p>(3) In the calculation and distribution of the interim dividend, the bankruptcy trustee shall make provision for -</p> <ul style="list-style-type: none"> (a) any bankruptcy debts which appear to him to be due to persons who, by reason of the distance of their place of residence, may not have had sufficient time to tender and establish their debts; and (b) any bankruptcy debts which are subject of claims which have not yet been determined; (c) disputed proofs and claims; and (d) expenses necessary for the administration of the estate of the bankrupt. 	<p>Distribution of interim dividend.</p>
	<p>175. (1) The bankruptcy trustee may, with the approval of the committee of creditors, divide in its existing form amongst the creditors, according to its estimated value, any property in its existing form which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.</p> <p>(2) An approval under sub-section (1) shall be sought by the bankruptcy trustee for each transaction, and a person dealing with the bankruptcy trustee in good faith and for value shall not be required to enquire whether any approval required under sub-section (1) has been given.</p> <p>(3) Where the bankruptcy trustee has done anything without the approval of the committee of creditors, the committee may, for the purpose of enabling him to meet his expenses out of the estate of the bankrupt, ratify the act of the bankruptcy trustee.</p> <p>(4) The committee of the creditors shall not ratify the act of the</p>	<p>Distribution of property.</p>

	bankruptcy trustee under sub-section (3) unless it is satisfied that the bankruptcy trustee acted in a case of urgency and has sought its ratification without undue delay.	
	<p>176. (1) Where the bankruptcy trustee has realised the entire estate of the bankrupt or so much of it as could be realised in the opinion of the bankruptcy trustee, he shall give notice -</p> <p>(a) of his intention to declare a final dividend; or</p> <p>(b) that no dividend or further dividend shall be declared.</p>	Final dividend.
	(2)The notice under sub-section (1) shall contain such particulars as may be prescribed and shall require all claims against the estate of the bankrupt to be established by a final date specified in the notice.	
	(3) The Adjudicating Authority may, on the application of any person interested in the administration of the estate of the bankrupt, postpone the final date referred to in sub-section (2).	
	<p>(4) After the final date referred to in sub-section (2), the bankruptcy trustee shall -</p> <p>(a) defray any outstanding expenses of the bankruptcy out of the estate of the bankrupt; and</p> <p>(b) if he intends to declare a final dividend, declare and distribute that dividend among the creditors who have proved their debts, without regard to the claims of any other persons.</p> <p>(5) If a surplus remains after payment in full with interest to all the creditors of the bankrupt and the payment of the expenses of the bankruptcy, the bankrupt shall be entitled to the surplus.</p> <p>(6) Where a bankruptcy order has been passed in respect of one partner in a firm, a creditor to whom the bankrupt is indebted jointly with the other partners in the firm or any of them shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.</p>	
	<p>177.(1)A creditor who has not proved his debt before the declaration of any dividend is not entitled to disturb, by reason that he has not participated in it, the distribution of that dividend or any other dividend declared before his debt was proved, but –</p> <p>(a)when he has proved the debt, he shall be entitled to be paid any dividend or dividends which he has failed to</p>	Claims of creditors.

	<p>receive, out of any money for the time being available for the payment of any further dividend; and</p> <p>(b) any dividend or dividends payable to him shall be paid before that money is applied to the payment of any such further dividend.</p> <p>(2) No action shall lie against the bankruptcy trustee for a dividend, but if the bankruptcy trustee refuses to pay a dividend payable under sub-section (1), the Adjudicating Authority may order him to –</p> <p>(a) pay the dividend; and</p> <p>(b) pay, out of his own money -</p> <p>(i) interest on the dividend; and</p> <p>(ii) the costs of the proceedings in which the order to pay has been made.</p>	
	<p>178.(1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or the State Legislature for the time being in force, in the distribution of the final dividend, the following debts shall be paid in priority to all other debts —</p> <p>(a) firstly, the costs and expenses incurred by the bankruptcy trustee for the bankruptcy process in full;</p> <p>(b) secondly, -</p> <p>(i)** the workmen’s dues for the ** period of * <u>twenty-four</u> months preceding the bankruptcy commencement date; and</p> <p>(ii) <u>debts</u> owed to secured creditors;</p> <p>(c) thirdly, wages and any unpaid dues owed to employees, other than workmen, of the bankrupt for ** the period of twelve months preceding the bankruptcy commencement date;</p> <p>(d) fourthly, any amount due to the Central Government and the State Government including the amount to be received on account of Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the bankruptcy commencement date;</p> <p>(e) lastly, all other debts and dues owed by the bankrupt including unsecured debts.</p>	<p>Priority of payment of debts</p>
	<p>(2) The debts in each class specified in sub-section (1) shall rank in the order mentioned in that sub-section but debts of the</p>	

	same class shall rank equally amongst themselves, and shall be paid in full, unless the estate of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves.	
	(3) Where any creditor has given any indemnity or has made any payment of moneys by virtue of which any asset of the bankrupt has been recovered, protected or preserved, the Adjudicating Authority may make such order as it thinks just with respect to the distribution of such asset with a view to giving that creditor an advantage over other creditors in consideration of the risks taken by him in so doing.	
	(4) Unsecured creditors shall rank equally amongst themselves unless contractually agreed to the contrary by such creditors.	
	(5) Any surplus remaining after the payment of the debts under sub-section (1) shall be applied in paying interest on those debts in respect of the periods during which they have been outstanding since the bankruptcy commencement date.	
	(6) Interest payments under sub-section (5) shall rank equally irrespective of the nature of the debt.	
	(7) In the case of partners, the partnership property shall be applicable in the first instance in payment of the partnership debts and the separate property of each partner shall be applicable in the first instance in payment of his separate debts.	
	(8) Where there is a surplus of the separate property of the partners, it shall be dealt with as part of the partnership property; and where there is a surplus of the partnership property, it shall be dealt with as part of the respective separate property in proportion to the rights and interests of each partner in the partnership property.	
	CHAPTER VI ADJUDICATING AUTHORITY FOR INDIVIDUALS AND PARTNERSHIP FIRMS	
	179. (1) Subject to the provisions of section 60, the Adjudicating Authority, in relation to insolvency matters of individuals and firms shall be the Debt Recovery Tribunal having territorial jurisdiction over the place where the individual debtor actually and voluntarily resides or carries on business or personally works for gain and can entertain an application under this Code regarding such person.	Adjudicating Authority for individuals and partnership firms.

	<p>(2) The Debt Recovery Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain or dispose of -</p> <p>(a) any suit or proceeding by or against the individual debtor;</p> <p>(b) any claim made by or against the individual debtor;</p> <p>(c) any question of priorities or any other question whether of law or facts, arising out of or in relation to insolvency and bankruptcy of the individual debtor or firm under this Code.</p>	
14 of 1963.	<p>(3) Notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the time being in force, in computing the period of limitation specified for any suit or application in the name and on behalf of a debtor for which an order of moratorium has been made under this Part, the period during which such moratorium is in place shall be excluded.</p>	
	<p>180. (1) No civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any matter on which the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal has jurisdiction under this Code.</p> <p>(2) No injunction shall be granted by any court, tribunal or authority in respect of any action taken, or to be taken, in pursuance of any power conferred on the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal by or under this Code.</p>	Civil court not to have jurisdiction.
	<p>181. (1) An appeal from an order of the Debt Recovery Tribunal under this Code shall be filed within * <u>thirty</u> days before the Debt Recovery Appellate Tribunal.</p>	Appeal to Debt Recovery Appellate Tribunal.
	<p>(2) The Debt Recovery Appellate Tribunal may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within * <u>thirty</u> days, allow the appeal to be filed within a further period not exceeding * <u>fifteen</u> days.</p>	
	<p>182. (1) An appeal from an order of the Debt Recovery Appellate Tribunal on a question of law under this Code shall be filed within * <u>forty-five</u> days before the Supreme Court.</p>	Appeal to Supreme Court.
	<p>(2) The Supreme Court may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within * <u>forty-five</u> days, allow the appeal to be filed within a further period not exceeding * <u>fifteen</u> days.</p>	

	<p>183. Where an application is not disposed of or order is not passed within the period specified in this Code, the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal, as the case may be, shall record the reasons for not doing so within the period so specified; and the Chairperson of the Debt Recovery Appellate Tribunal, after taking into account the reasons so recorded, extend the period specified in this Code, <u>but not exceeding ten days.</u></p>	Expedition of disposal of applications.
	<p>CHAPTER VII</p> <p>OFFENCES AND PENALTIES</p>	
	<p>184.(1) If a debtor or creditor provides information which is false in any material particulars to the resolution professional, he shall be punishable with imprisonment for a term which may extend to one year, *<u>or</u> with fine which may extend to five lakh rupees, <u>or with both.</u></p> <p>(2) If a creditor promises to vote in favour of the repayment plan dishonestly by accepting any money, property or security from the debtor, he shall be punishable with imprisonment for a term which may extend to two years, * <u>or</u>with fine which may extend to * <u>three times</u> the amount or its equivalent <u>of such money, property or security</u>accepted by such creditor, <u>as the case may be, or with both:</u></p> <p>Provided that where such amount is not quantifiable, the total amount of fine shall not exceed five lakh rupees.</p>	Punishment for false information etc. by creditor in insolvency resolution process.
	<p>185. If an insolvency professional deliberately contravenes the provisions of **this Part, he shall be punishable with imprisonment for a term which may extend to six months, **or <u>with fine, which shall not be less than one lakh rupees, but may extend to five lakhs rupees, or with both.</u></p>	**Punishment for contravention of provisions.
	<p>186.If the bankrupt -</p> <p>(a) knowingly makes a false representation or wilfully omits or conceals any material information while making an application for bankruptcy under section 122 or while providing any information during the bankruptcy process, he shall be punishable with imprisonment which may extend to six months, * <u>or with</u>fine which may extend to five lakh rupees, <u>or with both.</u></p> <p><i>Explanation.</i>—For the purposes of clause (a), a false representation or omission includes non-disclosure of the</p>	Punishment for false information, concealment, etc. by bankrupt.

details of disposal of any property, which but for the disposal, would be comprised in the estate of the bankrupt, other than dispositions made in the ordinary course of business carried on by the bankrupt;

(b) fraudulently has failed to provide or deliberately withheld the production of, destroyed, falsified or altered, his books of accounts, financial information and other records under his custody or control, he shall be punishable with imprisonment which may extend to one year, * or with fine, which may extend to five lakh rupees, or with both;

(c) has contravened the restrictions under section 140 or the provisions of section 141, he shall be punishable with imprisonment for a term which may extend to six months, or* with fine, which may extend to five lakh rupees, or with both;

(d) has failed to deliver the possession of any property comprised in the estate of the bankrupt under his possession or control, which he is required to deliver under section 156, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to five lakh rupees, or with both;

(e) has failed to account, without any reasonable cause or satisfactory explanation, for any loss incurred of any substantial part of his property comprised in the estate of the bankrupt from the date which is twelve months before the filing of the bankruptcy application, he shall be punishable with imprisonment for a term which may extend to two years, *or with fine, which may extend to three times of the value of the loss, or with both:

Provided that that where such loss is not quantifiable, the total amount of fine imposed shall not exceed five lakh rupees;

(f) has absconded or attempts to absconds after the bankruptcy commencement date, he shall be punishable with imprisonment for a term which may extend to one year,* or with fine, which may extend to five lakh rupees, or with both.

Explanation. – For the purposes of this clause, a bankrupt shall be deemed to have absconded if he leaves, or attempts to leave the country without delivering the possession of any property which he is required to deliver to the bankruptcy trustee under section 156.

	<p>187. (1) If a bankruptcy trustee, –</p> <p>(a) has fraudulently misapplied, retained or accounted for any money or property comprised in the estate of the bankrupt; or</p> <p>(b) has wilfully acted in a manner that the estate of the bankrupt has suffered any loss in consequence of breach of any duty of the bankruptcy trustee in carrying out his functions under section 149,</p> <p>he shall be punishable with imprisonment for a term which may extend to three years,* <u>or</u> with fine, which shall not be less than three times the amount of the loss caused, or likely to have been caused, to persons concerned on account of such contravention, <u>or with both:</u></p> <p>Provided that where such loss or unlawful gain is not quantifiable, the total amount of fine imposed shall not exceed five lakh rupees:</p> <p>Provided further that the bankruptcy trustee shall not be liable under this section if he seizes or disposes of any property which is not comprised in the estate of the bankrupt and at that time had reasonable grounds to believe that he is entitled to seize or dispose that property.</p>	<p>** <u>Punishment for certain actions.</u></p>
	<p>PART IV</p> <p>REGULATION OF INSOLVENCY PROFESSIONALS, AGENCIES AND INFORMATION UTILITIES</p>	
	<p>CHAPTER I</p> <p>THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA</p>	
	<p>188.(1)With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Code, a Board by the name of the Insolvency and Bankruptcy Board of India.</p>	<p>Establishment and incorporation of Board.</p>
	<p>(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Code, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.</p>	
	<p>(3) The head office of the Board shall be at * <u>such place in the National Capital Region, as the Central Government may, by notification, specify.</u></p>	

2 of 1985.	<u>Explanation.</u> – For the purposes of this section, the expression “National Capital Region” shall have the same meaning as assigned to it in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985.	
	(4) The Board may establish offices at other places in India.	
	<p>189.(1)The Board shall consist of the following members who shall be appointed by the Central Government, namely:-</p> <p>(a) a Chairperson;</p> <p>(b) three members from amongst the officers of the Central Government not below the rank of Joint Secretary or equivalent, one each to represent the Ministry of Finance, the Ministry of Corporate Affairs and Ministry of Law, <i>ex-officio</i>;</p> <p>(c) one member to be nominated by the Reserve Bank of India, <i>ex-officio</i> ;</p> <p>(d) five other members to be nominated by the Central Government, of whom at least three shall be the whole-time members.</p>	Constitution of Board.
	(2) The Chairperson and the other members shall be persons of ability, integrity and standing, who have shown capacity in dealing with problems relating to insolvency or bankruptcy and have special knowledge and experience in the field of law, finance, economics, accountancy or administration.	
	<p>***</p> <p><u>(3)* The appointment of the Chairperson and the members of the Board other than the appointment of an ex-officio member under this section shall be made after obtaining the recommendation of a selection committee consisting of ***</u></p> <p><u>(a) Cabinet Secretary – Chairperson;</u></p> <p><u>(b) Secretary to the Government of India to be nominated by the Central Government – Member;</u></p> <p><u>(c) Chairperson of the Insolvency and Bankruptcy Board of India (in case of selection of members of the Board) – Member;</u></p> <p><u>(d) three experts of repute from the field of finance, law, management, insolvency and related subjects, to be nominated by the Central Government – Members.</u></p>	
	(4) The term of office of the Chairperson and members (other	

	than <i>ex-officio</i> members) shall be five years or till they attain the age of sixty five years, whichever is earlier, and they shall be eligible for re-appointment.	
	(5) The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and members (other than the <i>ex-officio</i> members) shall be such as may be prescribed.	
	<p>190. The Central Government may remove a member from office if he—</p> <p>(a) is an undischarged bankrupt as defined under Part III;</p> <p>(b) has become physically or mentally incapable of acting as a member;</p> <p>(c) has been convicted of an offence, which in the opinion of Central Government involves moral turpitude;</p> <p>(d) has, so abused his position as to render his continuation in office detrimental to the public interest:</p>	Removal of member from office.
	Provided that no member shall be removed under clause (d) unless he has been given a reasonable opportunity of being heard in the matter.	
	191. Save as otherwise determined by regulations, the Chairperson shall have powers of general superintendence and direction of the affairs of the Board and may also exercise such other powers as may be delegated to him by the Board.	Powers of Chairperson.
	192. (1)The Board shall meet at such times and places, and observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be determined by regulations.	Meetings of Board.
	(2) The Chairperson, or if, for any reason, the Chairperson is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.	
	(3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have a second or casting vote.	
	193. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the	Member not to participate in meetings in certain cases.

	Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.	
	<p>194. (1) No act or proceeding of the Board shall be invalid merely by reason of –</p> <p>(a) any vacancy in, or any defect in the constitution of, the Board; or</p> <p>(b) any defect in the appointment of a person acting as a member of the Board; or</p> <p>(c) any irregularity in the procedure of the Board not affecting the merits of the case.</p>	Vacancies etc., not to invalidate proceedings of Board, and Officers and employees of Board.
	(2)The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions ** <u>in such manner as may be specified.</u>	
	(3)The salaries and allowances payable to, and other terms and conditions of service of, officers and employees of the Board appointed under sub-section * <u>(2)</u> shall be such as may be specified by regulations.	
	195. Until the Board is established, the Central Government may by notification, designate any financial sector regulator to exercise the powers and functions of the Board under this Code.	Power to designate financial sector regulator
	<p>CHAPTER II</p> <p>POWERS AND FUNCTIONS OF THE BOARD</p>	
	196. (1)The Board shall, subject to the general direction of the Central Government, perform all or any of the following functions namely :-	Powers and functions of Board.
	(a) register insolvency professional agencies, insolvency professionals and information utilities and renew, withdraw, suspend or cancel such registrations;	
	(b) specify the minimum eligibility requirements for registration of insolvency professional agencies, insolvency professionals and information utilities;	
	(c) levy fee or other charges for the registration of insolvency professional agencies, insolvency professionals and information utilities;	

	(d) specify by regulations standards for the functioning of insolvency professional agencies, insolvency professionals and information utilities;	
	(e) lay down by regulations the minimum curriculum for the examination of the insolvency professionals for their enrolment as members of the insolvency professional agencies;	
	(f) carry out inspections and investigations on insolvency professional agencies, insolvency professionals and information utilities and pass such orders as may be required for compliance of the provisions of this Code and the regulations issued hereunder;	
	(g) monitor the performance of insolvency professional agencies, insolvency professionals and information utilities and pass any directions as may be required for compliance of the provisions of this Code and the regulations issued hereunder;	
	(h) call for any information and records from the insolvency professional agencies, insolvency professionals and information utilities;	
	(i) publish such information, data, research studies and other information as may be specified by regulations;	
	(j) specify by regulations the manner of collecting and storing data by the information utilities and for providing access to such data;	
	(k) collect and maintain records relating to insolvency and bankruptcy cases and disseminate information relating * <u>to</u> such cases;	
	(l) constitute such committees as may be required including in particular the committees laid down in section 197;	
	(m) promote transparency and best practices in its governance;	
	(n) maintain websites and such other universally accessible repositories of electronic information as may be necessary;	
	(o) enter into memorandum of understanding with any other statutory authorities;	
	(p) issue necessary guidelines to the insolvency professional agencies, insolvency professionals and information utilities;	
	(q) specify mechanism for redressal of grievances against insolvency professionals, insolvency professional agencies and information utilities and pass orders relating to complaints filed	

	against the aforesaid for compliance of the provisions of this Code and the regulations issued hereunder;	
	(r) conduct periodic study, research and audit the functioning and performance of to the insolvency professional agencies, insolvency professionals and information utilities at such intervals as may be specified by the Board;	
	(s) specify mechanisms for issuing regulations, including the conduct of public consultation processes before notification of any regulations;	
	(t) make regulations and guidelines on matters relating to insolvency and bankruptcy as may be required under this Code, <u>including mechanism for time bound disposal of the assets of the corporate debtor or debtor</u> ; and	
	(u) perform such other functions as may be prescribed.	
	<p><u>(2) The Board may make model bye-laws to be to adopted by insolvency professional agencies which may provide for –</u></p> <p><u>(a) the minimum standards of professional competence of the members of insolvency professional agencies;</u></p> <p><u>(b) the standards for professional and ethical conduct of the members of insolvency professional agencies ;</u></p> <p><u>(c) requirements for enrolment of persons as members of insolvency professional agencies which shall be non-discriminatory.</u></p> <p><u>Explanation.– For the purposes of this clause, the term "non-discriminatory" means lack of discrimination on the grounds of religion, caste, gender or place of birth and such other grounds as may be specified;</u></p> <p><u>(d) the manner of granting membership;</u></p> <p><u>(e) setting up of a governing board for internal governance and management of insolvency professional agency in accordance with the regulations specified by the Board;</u></p> <p><u>(f) the information required to be submitted by members including the form and the time for submitting such information;</u></p> <p><u>(g) the specific classes of persons to whom services shall be provided at concessional rates or for no remuneration by members;</u></p> <p><u>(h)the grounds on which penalties may be levied upon the</u></p>	

	<p><u>members of insolvency professional agencies and the manner thereof;</u></p> <p><u>(i) a fair and transparent mechanism for redressal of grievances against the members of insolvency professional agencies;</u></p> <p><u>(j) the grounds under which the insolvency professionals may be expelled from the membership of insolvency professional agencies;</u></p> <p><u>(k) the quantum of fee and the manner of collecting fee for inducting persons as its members;</u></p> <p><u>(l) the * procedure for enrolment of persons as members of insolvency professional agency;</u></p> <p><u>(m) the manner of conducting examination *** for enrolment of insolvency professionals;</u></p> <p><u>(n) the manner of monitoring and reviewing the working of insolvency professional who are members;</u></p> <p><u>(o) the duties and other activities to be performed by members;</u></p> <p><u>(p) the manner of conducting disciplinary proceedings against its members and imposing penalties;</u></p> <p><u>(q) the manner of utilising the amount received as penalty imposed against any insolvency professional.</u></p>	
	<p>(3) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under this Code, the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:–</p> <p>(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;</p> <p>(ii) summoning and enforcing the attendance of persons and examining them on oath;</p> <p>(iii) inspection of any books, registers and other documents of any person at any place;</p> <p>(iv) issuing of commissions for the examination of witnesses or documents.</p>	5 of 1908
	<p>197. The Board may, for the efficient discharge of its functions, may constitute advisory and executive committees or</p>	Constitution of advisory committee,

	such other committees, as it may deem fit, consisting of a Chairperson and such other members as may be specified by regulations.	executive committee or other committee.
	198. Notwithstanding anything contained in this Code, where the Board does not perform any act within the period specified under this Code, the relevant Adjudicating Authority may, for reasons to be recorded in writing, condone the delay.	Condonation of delay.
	CHAPTER III INSOLVENCY PROFESSIONAL AGENCIES	
	199. Save as otherwise provided in this Code, no person shall carry on its business as insolvency professional agencies under this Code and enrol insolvency professionals as its members except under and in accordance with a certificate of registration issued in this behalf by the Board.	No person to function as insolvency professional agency without valid certificate of registration.
	200. The Board shall have regard to the following principles while registering the insolvency professional agencies under this Code, namely:– (a) to promote the professional development of and regulation of insolvency professionals; (b) to promote the services of competent insolvency professionals to cater to the needs of debtors, creditors and such other persons as may be specified; (c) to promote good professional and ethical conduct amongst insolvency professionals; (d) to protect the interests of debtors, creditors and such other persons as may be specified; (e) to promote the growth of insolvency professional agencies for the effective resolution of insolvency and bankruptcy processes under this Code.	Principles governing registration of insolvency professional agency.
	201. (1) Every application for registration shall be made to the Board in such form and manner, containing such particulars, and accompanied by such fee, as may be specified by regulations: Provided that every application received by the Board shall be acknowledged within seven days of its receipt.	Registration of insolvency professional agency.
	(2) On receipt of the application under sub-section (1), the Board may, on being satisfied that the application conforms with all requirements specified under sub-section (1), grant a	

	<p>certificate of registration to the applicant or else, reject, by order, such application:</p> <p>Provided that no order rejecting the application shall be made without giving an opportunity of being heard to the applicant:</p> <p>Provided further that every order so made shall be communicated to the applicant within a period of fifteen days.</p>	
	(3) The Board may issue a certificate of registration to the applicant in such form and manner and subject to such terms and conditions as may be specified.	
	(4) The Board may renew the certificate of registration from time to time in such manner and on payment of such fee as may be specified.	
	<p>(5) The Board may, by order, suspend or cancel the certificate of registration granted to an insolvency professional agency on any of the following grounds, namely:–</p> <p>(a) that it has obtained registration by making a false statement or misrepresentation or by any other unlawful means;</p> <p>(b) that it has failed to comply with the requirements of the regulations made by the Board or bye-laws made by the insolvency professional agency;</p> <p>(c) that it has contravened any of the provisions of the Act or the rules or the regulations made thereunder;</p> <p>(d) on any other ground as may be specified by regulations:</p> <p>Provided that no order shall be made under this sub-section unless the insolvency professional agency concerned has been given a reasonable opportunity of being heard:</p> <p>Provided further that no such order shall be passed by any member except whole-time members of the Board.</p>	
	202. Any insolvency professional agency which is aggrieved by the order of the Board made under section 201 may prefer an appeal to the National Company Law Appellate Tribunal in such form, within such period, and in such manner, as may be specified by regulations.	Appeal to National Company Law Appellate Tribunal.
	203.* The Board may, for the purposes of ensuring that every insolvency professional agency takes into account the objectives sought to be achieved under this Code, make regulations to specify–	Governing Board of insolvency professional agency.

	<p>(a) the setting up of a governing board of an insolvency professional agency;</p> <p>(b) the minimum number of independent members to be on the governing board of the insolvency professional agency; and</p> <p>(c) the number of the insolvency professionals being its members who shall be on the governing board of the insolvency professional agency.</p>	
	<p>204.An insolvency professional agency shall perform the following functions, namely:–</p> <p>(a) grant membership to persons who fulfil all requirements set out in its bye-laws on payment of membership fee;</p> <p>(b) lay down standards of professional conduct for its members;</p> <p>(c) monitor the performance of its members;</p> <p>(d) safeguard the rights, privileges and interests of insolvency professionals who are its members;</p> <p>(e) suspend or cancel the membership of insolvency professionals who are its members on the grounds set out in its bye-laws;</p> <p>(f) redress the grievances of consumers against insolvency professionals who are its members; and</p> <p>(g) publish information about its functions, list of its members, performance of its members and such other information as may be specified by regulations.</p>	Functions of insolvency professional agencies.
	<p>205.Subject to the provisions of this Code and any rules or regulations made thereunder and after obtaining the approval of the Board, every insolvency professional agency shall make bye-laws *** <u>consistent with the model bye-laws specified by the Board under sub-section (2) of section 196.</u></p> <p style="text-align: center;">* * * * *</p>	Insolvency Professional Agencies to make bye-laws.
	*** * * * *	
	CHAPTER IV INSOLVENCY PROFESSIONALS	
	<p>206.No person shall render his services as insolvency professional under this Code without being enrolled as a member of an insolvency professional agency <u>and registered with the Board.</u></p>	** <u>Enrolled and registered persons to act as insolvency professionals.</u>

	<p>207.***<u>(1)</u>Every insolvency professional shall, after obtaining the membership of any insolvency professional agency, register *himself with the Board within such time, in such manner and on payment of such fee, as may be specified by regulations.</p> <p><u>(2) The Board may specify the categories of professionals or persons possessing such qualifications and experience in the field of finance, law, management, insolvency or such other field,as it deems fit.</u></p>	<p><u>Registration of insolvency professionals.</u></p>
	<p>208.(1)Where any insolvency resolution , fresh start, liquidation or bankruptcy process has been initiated, it shall be the function of an insolvency professional to take such actions as may be necessary, in the following matters, namely: –</p> <p>(a) a fresh start order process under Chapter II of Part III;</p> <p>(b) individual insolvency resolution process under Chapter III of Part III</p> <p>(c)corporate insolvency resolution process under Chapter II of Part II.</p> <p>(d) individual bankruptcy process under Chapter IV of Part III; and</p> <p>(e) liquidation of a corporate debtor firm under Chapter III of Part II.</p>	<p>Functions and obligations of insolvency professionals.</p>
	<p>(2) Every insolvency professional shall abide by the following code of conduct:–</p> <p>(a) to take reasonable care and diligence while performing his duties;</p> <p>(b)to comply with all requirements and terms and conditions specified in the bye-laws of the insolvency professional agency of which he is a member;</p> <p>(c) to allow the insolvency professional agency to inspect his records;</p> <p>***</p> <p><u>(d)</u>to submit a copy of the records of every proceeding before the Adjudicating Authority to the Board as well as to the insolvency professional agency of which he is a member; and</p> <p><u>(e)</u> to perform his functions in such manner and subject to such conditions as may be specified.</p>	

CHAPTER V INFORMATION UTILITIES		
	<p>209. Save as otherwise provided in this Code, no *<u>person</u> shall carry on its business <u>as information utility</u> under this Code * <u>without</u> a certificate of registration issued in that behalf by the Board.</p>	No person to function as information utility without certificate of registration.
	<p>210.(1) Every application for registration shall be made to the Board in such form and manner, containing such particulars, and accompanied by such fee, as may be specified by regulations:</p> <p>Provided that every application received by the Board shall be acknowledged within seven days of its receipt.</p>	Registration of information utility.
	<p>(2) On receipt of the application under sub-section (1), the Board may, on being satisfied that the application conforms * <u>to</u> all requirements specified under sub-section (1), grant a certificate of registration to the applicant or else, reject, by order, such application.</p> <p>***</p>	
	<p>(3) The Board may issue a certificate of registration to the applicant in such form and manner and subject to such terms and conditions as may be specified.</p>	
	<p>(4) The Board may renew the certificate of registration from time to time in such manner and on payment of such fee as may be specified by regulations.</p>	
	<p>(5) The Board may, by order, suspend or cancel the certificate of registration granted to an information utility on any of the following grounds, namely:–</p> <ul style="list-style-type: none"> (a) that it has obtained registration by making a false statement or misrepresentation or any other unlawful means; (b) that it has failed to comply with the requirements of the regulations made by the Board; (c) that it has contravened any of the provisions of the Act or the rules or the regulations made thereunder; (d) on any other ground as may be specified by regulations: <p>Provided that no order shall be made under this sub-section unless the information utility concerned has been given a reasonable opportunity of being heard:</p> <p>Provided further that no such order shall be passed by any</p>	

	member except whole-time members of the Board.	
	211. Any information utility which is aggrieved by the order of the Board made under section 209 may prefer an appeal to the National Company Law Appellate Tribunal in such form, within such period, and in such manner, as may be specified by regulations.	Appeal to National Company Law Appellate Tribunal.
	212. The Board may, for ensuring that an information utility takes into account the objectives sought to be achieved under this Code, require every information utility to set up a governing board, with such number of independent members, as may be specified by regulations.	Governing Board of information utility.
	213. An information utility shall provide such services as may be specified including core services to any person if such person complies with the terms and conditions as may be specified by regulations.	Core services, etc. of information utilities.
	214.* <u>For the purposes of providing core services to any person, every information utility shall—</u> <p>(a) create and store financial information in a universally accessible format;</p> <p>(b) accept electronic submissions of financial information from persons who are under obligations to submit financial information under sub-section * (1) of section 215, in such form and manner as may be specified by regulations;</p> <p>(c) accept, in specified form and manner, electronic submissions of financial information from persons who intend to submit such information;</p> <p>(d) meet such minimum service quality standards as may be specified by regulations;</p> <p>(e) get the information received from various persons authenticated by all concerned parties before storing such information;</p> <p>(f) provide access to the financial information stored by it to any person who intends to access such information in such manner as may be specified by regulations;</p> <p>(g) publish such statistical information as may be specified by regulations;</p> <p><u>(h) have inter-operability with other information utilities.</u></p>	Obligations of information utility.
	215. (1)Any person who intends to submit financial information	Procedure for submission, etc.

	to the information utility or access the information from the information utility shall pay such fee and submit information in such form and manner as may be specified by regulations.	of financial information.
	(2) A financial creditor ***shall submit financial information and information relating to assets in relation to which any security interest has been created, in such form and manner as may be specified by regulations.	
	<u>(3)An operational creditor may submit financial information to the information utility in such form and manner as may be specified.</u>	
	216. (1) A person who * <u>intends to update or modify or rectify errors in the financial information submitted under section 215, he may make an application to the information utility for such purpose stating reasons therefor, in such manner and within such time, as may be specified.</u> ***	Rights and obligations of persons submitting financial information.
	(2) A person who submits financial information to an information utility shall not provide such information to any other person, except to such extent, under such circumstances, and in such manner, as may be specified.	
	CHAPTER VI INSPECTION AND INVESTIGATION	
	217. Any person aggrieved by the functioning of an insolvency professional agency or insolvency professional or an information utility may file a complaint to the Board in such form, <u>within such time</u> and in such manner as may be specified**.	Complaints against insolvency professional agency or its member or information utility.
	218. (1) Where the Board, on receipt of a complaint under section 217 *** <u>or</u> has reasonable grounds to believe that any insolvency professional agency or insolvency professional or an information utility has contravened any of the provisions of the Code or the rules or regulations made or directions issued by the Board thereunder, it may, at any time by an order in writing, direct any person or persons ** <u>to act asan investigating authority</u> *** to conduct an inspection or investigation of the insolvency professional agency or insolvency professional or an information utility. (2) The inspection or investigation carried out under sub-section	Investigation of insolvency professional agency or its member or information utility.

	<p>(1) of this section shall be conducted within such time and in such manner as may be specified by regulations.</p> <p>(3) The Investigating Authority may, in the course of such inspection or investigation, require any other person who is likely to have any relevant document, record or information to furnish the same, and such person shall be bound to furnish such document, record or information:</p> <p>Provided that the Investigating Authority shall provide detailed reasons to such person before requiring him to furnish such document, record or information.</p> <p>(4) The Investigating Authority may, in the course of its inspection or investigation, enter any building or place where they may have reasons to believe that any such document, record or information relating to the subject-matter of the inquiry may be found and may seize any such document, record or information or take extracts or copies therefrom, subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, insofar as they may be applicable.</p> <p>(5) The Investigating Authority shall keep in its custody the books, registers, other documents and records seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the concerned person from whose custody or power they were seized:</p> <p>Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.</p> <p>(6) A detailed report of inspection or investigation shall be submitted to the Board by the Investigating Authority.</p>	
	<p>219.The Board may, upon completion of an inspection or investigation under section 218, issue a show cause notice to such insolvency professional agency or insolvency professional or information utility, and carry out inspection of such insolvency professional agency or insolvency professional or information utility in such manner, giving such time for giving reply, as may be specified by regulations.</p>	<p>Show cause notice to insolvency professional agency or its member or information utility.</p>
	<p>220.(1)The Board shall constitute a disciplinary committee to consider the reports of the investigating Authority submitted under sub-section (6) of section 218:</p> <p>Provided that the members of the disciplinary committee shall</p>	<p>Appointment of disciplinary committee.</p>

	consist of whole-time members of the Board only.	
	(2) On the examination of the report of the Investigating Authority, if the disciplinary committees satisfied that sufficient cause exists, it may impose * penalty as specified in sub-section (3) or suspend or cancel the registration of the insolvency professional or, suspend or cancel the registration of insolvency professional agency or information utility as the case may be.	
	<p>(3)***Where any insolvency professional agency or insolvency professional or an information utility has contravened any provision of this Code or rules or regulations made thereunder,*** <u>the disciplinary committee may impose*** penalty which shall be ***-</u></p> <p>(i) three times the amount of the loss caused, or likely to have been caused, to persons concerned on account of such contravention; or</p> <p>(ii) three times the amount of the unlawful gain made on account of such contravention,</p> <p><u>whichever is higher:</u></p> <p>Provided that where such loss or unlawful gain is not quantifiable, the total amount of the * penalty imposed shall not exceed more than one crore rupees.</p>	
	(4) Notwithstanding anything contained in sub-section (3), the Board may direct any person who has made unlawful gain or averted loss by indulging in any activity in contravention of this Code, or the rules or regulations made thereunder, to disgorge an amount equivalent to such unlawful gain or aversion of loss.	
	(5)The Board may take such action as may be required to provide restitution to the person who suffered loss on account of any contravention from the amount so disgorged, if the person who suffered such loss is identifiable and the loss so suffered is directly attributable to such person.	
	<p>(6) The Board may make regulations to specify-</p> <p>(a) the procedure for claiming restitution under sub-section (5);</p> <p>(b) the period within which such restitution may be claimed; and</p> <p>(c) the manner in which restitution of amount may be</p>	

	made.	
	CHAPTER VII FINANCE, ACCOUNTS AND AUDIT	
	221. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilised for the purposes of this Code.	Grants by Central Government.
	222. (1)There shall be constituted a Fund to be called the Fund of the Insolvency and Bankruptcy Board and there shall be credited thereto – (a) all grants, fees and charges received by the Board under this Code; (b) all sums received by the Board from such other sources as may be decided upon by the Central Government; (c) such other funds as may be specified by the Board or prescribed by the Central Government.	Board's Fund.
	(2) The Fund shall be applied for meeting – (a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board; (b) the expenses of the Board in the discharge of its functions under section 196; (c) the expenses on objects and for purposes authorised by this Code. (d) such other purposes as may be prescribed.	
	223. (1)The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.	Accounts and audit.
	(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.	
	(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection	

	with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.	
	(4) The accounts of the Board as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.	
	PART V MISCELLANEOUS	
	<p>224. (1) There shall be formed a Fund to be called the Insolvency and Bankruptcy Fund (hereafter in this section referred to as the “Fund”) for the purposes of insolvency resolution, liquidation and bankruptcy of persons under the Code.</p> <p>(2) There shall be credited to the Fund the following amounts, namely —</p> <ul style="list-style-type: none"> (a) the grants made by the Central Government for the purposes of the Fund; (b) the amount deposited by persons as contribution to the Fund; (c) the amount received in the Fund from any other source; and (d) the interest or other income received out of the investment made from the Fund. <p>(3) A person who has contributed any amount to the Fund may, in the event of proceedings initiated in respect of such person under this Code before an Adjudicating Authority, make an application to such Adjudicating Authority for withdrawal of funds not exceeding the amount contributed by it, <u>for making payments to workmen, protecting the assets of such persons, meeting the incidental costs during the proceedings or such other purposes as may be prescribed.</u></p> <p>(4) The Central Government shall, by notification, appoint an administrator to administer the fund in such ** manner as may be prescribed.</p>	Insolvency and Bankruptcy Fund
	225. (1) Without prejudice to the foregoing provisions of this	Power of Central Government to

	Code, the Board shall, in exercise of its powers or the performance of its functions under this Code, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:	issue directions.
	Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.	
	(2) The decision of the Central Government as to whether a question is one of policy or not shall be final.	
	<p>226.(1)If at any time the Central Government is of opinion –</p> <p>(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Code; or</p> <p>(b) that the Board has persistently not complied with any direction issued by the Central Government under this Code or in the discharge of the functions and duties imposed on it by or under the provisions of this Code and as a result of such non-compliance the financial position of the Board or the administration of the Board has deteriorated; or</p> <p>(c) that circumstances exist which render it necessary in the public interest so to do,</p> <p>the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.</p>	Power of Central Government to supersede Board.
	(2) Upon the publication of a notification under sub-section (1) superseding the Board, - (a) all the members shall, as from the date of supersession, vacate their offices as such; (b) all the powers, functions and duties which may, by or under the provisions of this Code, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and (c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.	
	(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed	

	disqualified for appointment: Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.	
	(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.	
	227. Notwithstanding anything to the contrary examined in this Code or any other law for the time being in force, the Central Government may, if it considers necessary, in consultation with the appropriate financial sector regulators, notify financial service providers or categories of financial service providers for the purpose of their insolvency and liquidation proceedings, which may be conducted under this Code, in such manner as may be prescribed.	Power of Central Government to notify financial * <u>service</u> providers, etc.
	228. (1) The Board shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the Central Government.	Budget.
	229. (1) The Board shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.	Annual Report.
	(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.	
	230. The Board may, by general or special order in writing delegate to any member <u>or</u> officer of the Board ** subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Code (except the powers under section * <u>236</u>) as it may deem necessary.	Delegation.
	231. No civil court shall have jurisdiction in respect of any matter <u>in</u> which the * <u>Adjudicating Authority</u> is empowered by, or under, this Code to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by * such * <u>Adjudicating Authority</u> under this Code.	Bar of jurisdiction.

21 of 1860.	232. The Chairperson, Members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Code, to be public servants within the meaning of section 21 of the Indian Penal Code.	Members, officers and employees of the Board to be public servants.
	233. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government, or the Chairperson, Member, officer or other employee of the Board or an insolvency professional or liquidator for anything which is in done or intended to be done in good faith under this Code or the rules or regulations made thereunder.	Protection of action taken in good faith.
	234. (1) <u>The Central Government may enter into an agreement with the Government of any country outside India for enforcing the provisions of this Code.</u> (2) <u>The Central Government may, by notification in the Official Gazette, direct that the application of provisions of this Code in relation to assets or property of corporate debtor or debtor, including a personal guarantor of a corporate debtor, as the case may be, situated at any place in a country outside India with which reciprocal arrangements have been made, shall be subject to such conditions as may be specified.</u>	<u>Agreements with foreign countries.</u>
	235. (1) <u>Notwithstanding anything contained in this Code or any law for the time being in force if, in the course of insolvency resolution process, or liquidation or bankruptcy proceedings, as the case may be, under this Code, the resolution professional, liquidator or bankruptcy trustee, as the case may be, is of the opinion that assets of the corporate debtor or debtor, including a personal guarantor of a corporate debtor, are situated in a country outside India with which reciprocal arrangements have been made under section 232, he may make an application to the Adjudicating Authority that evidence or action relating to such assets is required in connection with such process or proceeding.</u> (2) <u>The Adjudicating Authority on receipt of an application under sub-section (1) and, on being satisfied that evidence or action relating to assets under sub-section (1) is required in connection with insolvency resolution process or liquidation or bankruptcy proceeding, may issue a letter of request to a court or an authority of such country competent to deal with such request.</u>	<u>Letter of request to a country outside India in certain cases.</u>
	236. (1) <u>Notwithstanding anything in the Code of Criminal</u>	<u>Trial of offences</u>

<p><u>2 of 1974</u></p> <p><u>18 of 2013</u></p>	<p><u>Procedure, 1973, offences under of this Code shall be tried by the Special Court established under Chapter XXVIII of the Companies Act, 2013.</u></p> <p><u>(2) No Court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Board or the Central Government or any person authorised by the Central Government in this behalf.</u></p> <p><u>(3) The provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.</u></p> <p><u>(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in case of a complaint under sub-section (2), the presence of the person authorised by the Central Government or the Board before the Court trying the offences shall not be necessary unless the Court requires his personal attendance at the trial.</u></p>	<p><u>by Special Court.</u></p>
<p>2 of 1974</p>	<p>237. <u>The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.</u></p>	<p><u>Appeal and revision.</u></p>
	<p>238. The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.</p>	<p>Provisions of this Code to override other laws.</p>
	<p>239. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Code.</p>	<p>Power to make rules.</p>
	<p>(2) Without prejudice to the generality of the provisions of sub-section (1), the Central Government may make rules for any of the following matters, namely:-</p> <p>(a) any other instrument which shall be a financial product under clause (15) of section 3;</p> <p>(b) other accounting standards which shall be a financial debt under clause (d) of sub-section (8) of section 5;</p> <p>(c) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate</p>	

insolvency resolution process by financial creditor under sub-section (2) of section 7;

(d) the form and manner in which demand notice may be made** and the manner of delivery thereof to the corporate debtor under sub-section (1) of section 8;

(e) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate insolvency resolution process by operational creditor under sub-section (2) of section 9;

(f) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate insolvency resolution process by corporate applicant under sub-section (2) of section 10;

(g) the persons who shall be relative under clause (ii) of the *Explanation* to sub-section (1) of section 79;

(h) the value of unencumbered single dwelling unit owned by the debtor under clause (e) of sub-section (13) of section 79;

(i) the value under clause (c), and any other debt under clause (f), of sub-section (14) of section 79;

(j) the form, the manner and the fee for making application for fresh start order under sub-section *(3) of section 81;

(k) the particulars of the debtor's personal details under clause (e) of sub-section (3) of section 81;

(l) the information and documents to support application under sub-section (3) of section 86;

(m) the form, the manner and the fee for making application for initiating the insolvency resolution process by the debtor under sub-section (6) of section 94;

(n) the form, the manner and the fee for making application for initiating the insolvency resolution process by the creditor under sub-section (6) of section 95;

(o) the particulars to be provided by the creditor to the resolution professional under sub-section (2) of section 103;

(p) the form and the manner for making application for bankruptcy by the debtor under clause (b) of sub-section (1) of section 122;

(q) the form and the manner of the statement of affairs of the

debtor under sub-section (3) of section 122;

(r) the other information under clause (d) of sub-section (1) of section 123;

(s) the form, the manner and the fee for making application for bankruptcy under sub-section (6) of section 123;

(t) the form and the manner in which statement of financial position shall be submitted under sub-section (2) of section 129;

(u) the matters and the details which shall be included in the public notice under sub-section (2) of section 130;

(v) the matters and the details which shall be included in the notice to the creditors under sub-section (3) of section 130;

(w) the manner of sending details of the claims to the bankruptcy trustee and other information under sub-sections (1) and (2) of section 131;

(x) the value of financial or commercial transaction under clause (d) of sub-section (1) of section 141;

(y) the other things to be done by a bankrupt to assist bankruptcy trustee in carrying out his functions under clause (d) of sub-section (1) of section 150;

(z) the manner of dealing with the surplus under sub-section (4) of section 170;

(za) the form and the manner of proof of debt under clause (c) of sub-section (2) of section 171;

(zb) the manner of receiving dividends under sub-section (7) of section 171;

(zc) the particulars which the notice shall contain under sub-section (2) of section 176;

(zd) the salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and members of the Board under sub-section (5) of section 189;

(ze) the other functions of the Board under clause (u) of sub-section (1) of section 196;

(zf) the other funds under clause (c) of sub-section (1) of section 222;

(zg) the other purposes for which the fund shall be applied

	<p>under clause (d) of sub-section (2) of section 222;</p> <p>(zh) the form in which annual statement of accounts shall be prepared under sub-section (1) of section 223;</p> <p>(zi) the purpose for which application for withdrawal of funds may be made under sub-section (3) of section 224;</p> <p>(zj) the manner of administering the fund under sub-section (4) of section 224;</p> <p>(zk) the manner of conducting insolvency and liquidation proceedings under section 227;</p> <p>(zl) the form and the time for preparing budget by the Board under section 228;</p> <p>(zm) the form and the time for preparing annual report under sub-section (1) of section 229;</p> <p>(zn) the time up to which a person appointed to any office shall continue to hold such office under clause (vi) of sub-section (2) of section 239.</p>	
	<p>240.(1) The Board may, by notification, make regulations consistent with this Code and the rules made thereunder, to carry out the provisions of this Code.</p>	<p>Power to make regulations.</p>
	<p>(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—</p>	
	<p>(a) the form and the manner of accepting electronic submission of financial information under sub-clause (a) of clause (9) of section 3;</p> <p>(b) the persons to whom access to information stored with the information utility may be provided under sub-clause (d) of clause (9) of section 3;</p> <p>(c) the other information under sub-clause (f) of clause (13) of section 3;</p> <p>(d) the other costs under clause (e) of sub-section (13) of section 5;</p> <p>(e) the cost incurred by the liquidator during the period of liquidation which shall be liquidation cost under sub-section (16) of section 5;</p> <p>(f) the other record or evidence of default under clause (a), and any other information under clause (c), of sub-section</p>	

(3) of section 7;

(g) the other information under clause (d) of sub-section (3) of section 9;

(h) the period under clause (a) of sub-section (3) of section 10;

(i) the supply of essential goods or services to the corporate debtor under sub-section (2) of section 14;

(j) the manner of making public announcement under sub-section (2) of section 15;

(k) the manner of taking action and the restrictions thereof under clause (b) of sub-section (2) of section 17;

(l) the other persons under clause (d) of sub-section (2) of section 17;

(m) the other matters under clause (d) of sub-section (2) of section 17;

(n) the other matters under sub-clause (iv) of clause (a), and the other duties to be performed by the interim resolution professional under clause (g), of section 18;

(o) the persons who shall comprise the committee of creditors, the functions to be exercised such committee and the manner in which functions shall be exercised under the proviso to sub-section (8) of section 21;

(p) the other electronic means by which the members of the committee of creditors may meet under sub-section (1) of section 24;

(q) the manner of assigning voting share to each creditor under sub-section (7) of section 24;

(r) the manner of conducting the meetings of the committee of creditors under sub-section (8) of section 24;

(s) the manner of appointing accountants, lawyers and other advisors under clause (d) of sub-section (2) of section 25;

(t) the other actions under clause (k) of sub-section (2) of section 25;

(u) the form and the manner in which an information memorandum shall be prepared by the resolution professional sub-section (1) of section 29;

(v) the other matter pertaining to the corporate debtor under the *Explanation* to sub-section (2) of section 29;

(w) the manner of making payment of insolvency resolution process costs under clause (a), the manner of repayment of debts of operational creditors under clause (b), and the other requirements to which a resolution plan shall conform to under clause (d), of sub-section (2) of section 30;

(x) the fee for the conduct of the liquidation proceedings and proportion to the value of the liquidation estate assets under sub-section (8) of section 34;

(y) the manner of evaluating the assets and property of the corporate debtor under clause (c), the manner of selling property in parcels under clause (f), the manner of reporting progress of the liquidation process under clause (n), and the other functions to be performed under clause (o), of sub-section (1) of section 35;

(z) the manner of making the records available to other stakeholders under sub-section (2) of section 35;

(za) the other means under clause (a) of sub-section (3) of section 36;

(zb) the other assets under clause (e) of sub-section (4) of section 36;

(zc) the other source under clause (g) of sub-section (1) of section 37;

(zd) the manner of providing financial information relating to the corporate debtor under sub-section (2) of section 37;

(ze) the form, the manner and the supporting documents to be submitted by operational creditor to prove the claim under sub-section (3) of section 38;

(zf) the time within which the liquidator shall verify the claims under sub-section (1) of section 39;

(zg) the manner of determining the value of claims under section 41;

(zh) the manner of relinquishing security interest to the liquidation estate and receiving proceeds from the sale of assets by the liquidator under clause (a), and the manner of realising security interest under clause (b) of sub-section (1) of section 52;

(zi) the other means under clause (b) of sub-section (3) of section 52;

(zj) the manner in which secured creditor shall be paid by the liquidator under sub-section (9) of section 52;

(zk) the period and the manner of distribution of proceeds of sale under sub-section (1) of section 53;

(zl) the other means under clause (a) and the other information under clause (b) of section 57;

(zm) the conditions and procedural requirements under sub-section (2) of section 59;

(zn) the details and the documents required to be submitted under sub-section (7) of section 95;

(zo) the other matters under clause (c) of sub-section * (3) of section 105;

(zp) the manner and form of proxy voting under sub-section (4) of section 107;

*(zq) the manner of assigning voting share to creditor under sub-section (2) of section 109;

(zr) the manner and form of proxy voting under sub-section (3) of section 133;

(zs) the fee to be charged under sub-section (1) of section 144;

(zt) the appointment of other officers and employees under sub-section (2), and the salaries and allowances payable to, and other terms and conditions of service of, such officers and employees of the Board under sub-section (3), of section 194;

(zu) the other information under clause (i) of sub-section (1) of section 196;

(zv) the intervals in which the periodic study, research and audit of the functioning and performance of the insolvency professional agencies, insolvency professionals and information utilities under clause (r), and mechanism for disposal of assets under clause (t), of sub-section (1) of section 196;

(zw) the place and the time for discovery and production of books of account and other documents under clause (i) of sub-section (3) of section 196;

	<p>(zx)the other committees to be constituted by the Board and the other members of such committees under section 197;</p> <p>(zy)the other persons under clause (b) and clause (d) of section 200;</p> <p>(zz) the form and the manner of application for registration, the particulars to be contained therein and the fee it shall accompany under sub-section (1) of section 201;</p> <p>(zza)the form and manner of issuing a certificate of registration and the terms and conditions thereof, under sub-section (3) of section 201;</p> <p>(zzb)the manner of renewal of the certificate of registration and the fee therefor, under sub-section (4) of section 201;</p> <p>(zzc)the other ground under clause (d) of sub-section (5) of section 201;</p> <p>(zzd)the form of appeal to the National Company Law Appellate Tribunal, the period within which it shall be filed under section 202;</p> <p>(zze)the other information under clause (g) of section 204;</p> <p>(zzf)the other grounds under <i>Explanation</i> to section 205;</p> <p>(zzg)the setting up of a governing board for its internal governance and management under clause (e), the curriculum under clause (l), the manner of conducting examination under clause (m), of section 205;</p> <p>***</p> <p>***</p> <p>(zzh) the time within which, the manner in which, and the fee for registration of insolvency professional under sub-section (1)of section 207;</p> <p><u>(zzi) the categories of professionals or persons, the qualifications and experience and the fields under sub-section (2) of section 207;</u></p> <p>(zzj) the manner and the conditions subject to which the insolvency professional shall perform his function under clause (f) of sub-section (2) of section 208;</p> <p>(zzk) the form and manner in which, and the fee for registration of information utility under sub-section (1) of section 210;</p>	
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	<p>(zzl) the form and manner for issuing certificate of registration and the terms and conditions thereof, under sub-section (3) of section 210;</p> <p>(zzm) the manner of renewal of the certificate of registration and the fee therefor, under sub-section (4) of section 210;</p> <p>(zzn) the other ground under clause (d) of sub-section (5) of section 210;</p> <p>(zzo) the form, the period and the manner of filling appeal to the National Company Law Appellate Tribunal under section 211;</p> <p>(zzp) the number of independent members under section 212;</p> <p>(zzq) the services to be provided by information utility and the terms and conditions under section 213;</p> <p>(zzr) the form and manner of accepting electronic submissions of financial information under clause (b) and clause (c) of section 214;</p> <p>(zzs) the minimum service quality standards under clause (d) of section 214;</p> <p>(zzt) the information to be accessed and the manner of accessing such information under clause (f) of section 214;</p> <p>(zzu) the statistical information to be published under clause (g) of section 214;</p> <p>(zzv) the form, the fee and the manner for submitting or accessing information under sub-section (1) of section 215;</p> <p>(zzw) the form and manner for submitting financial information and information relating to assets under sub-section (2) of section 215;</p> <p>(zzx) the manner and the time within which * <u>financial information</u> may be * updated or modified or rectified under ** section 216;</p> <p>***</p> <p>(zzy) the form, *manner <u>and time</u> of filing complaint under section 217;</p> <p>(zzz) the time and manner of carrying out inspection or investigation under sub-section (2) of section 218;</p>	
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	<p>(zzza) the manner of carrying out inspection of insolvency professional agency or insolvency professional or information utility and the time for giving reply under section 219;</p> <p><u>(zzzb) the procedure for claiming restitution under sub-section (6), the period within which such restitution may be claimed and the manner in which restitution of amount may be made under sub-section (7) of section 220;</u></p> <p>(zzzc) the other funds of clause (c) of sub-section (1) of section 222.</p>	
	<p>241. Every rule<u>and</u> every regulation ** made under this Code shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule<u>or</u> regulation ** or both Houses agree that the rule<u>or</u> regulation ** should not be made, the rule<u>or</u> regulation ** shall thereafter have effect only in such modified form or be of no effect, as the case may be; however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule<u>or</u> regulation**.</p>	<p>Rules <u>and</u> regulations ** to be laid before Parliament.</p>
	<p>242.(1) If any difficulty arises in giving effect to the provisions of this Code, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Code as may appear to be necessary for removing the difficulty:</p> <p><i>Provided</i> that no order shall be made under this section after the expiry of five years from the commencement of this Code.</p> <p>(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.</p>	<p>Power to remove difficulties.</p>
<p>3 of 1909 5 of 1920</p>	<p>243.(1) The Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920 are hereby repealed.</p> <p>(2) Notwithstanding the repeal under sub-sections (1), -</p> <p>(i) all proceedings pending under and relating to the Presidency Towns Insolvency Act 1909, and the Provincial Insolvency Act 1920 immediately before the commencement</p>	<p>Repeal of certain enactments and savings.</p>

of this Code shall continue to be governed under the aforementioned Acts and be heard and disposed of by the concerned courts or tribunals, as if the aforementioned Acts have not been repealed;

(ii) any order, rule, notification, regulation, appointment, conveyance, mortgage, deed, document or agreement made, fee directed, resolution passed, direction given, proceeding taken, instrument executed or issued, or thing done under or in pursuance of any repealed enactment shall, if in force at the commencement of this Code, continue to be in force, and shall have effect as if the aforementioned Acts have not been repealed;

(iii) anything done or any action taken or purported to have been done or taken, including any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the repealed enactments shall be deemed valid;

(iv) any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed enactments;

(v) any prosecution instituted under the repealed enactments and pending immediately before the commencement of this Code before any court or tribunal shall, subject to the provisions of this Code, continue to be heard and disposed of by the concerned court or tribunal;

(vi) any person appointed to any office under or by virtue of any repealed enactment shall continue to hold such office until such time as may be prescribed; and

(vii) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not in existence or in force shall not be revised or restored.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal of the repealed enactments or provisions of the enactments mentioned in the Schedule.

10 of 1897.		
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	<p>244.(1) Until the Board is constituted or a financial sector regulator is designated under section 195, as the case may be, the powers and functions of the Board or such designated financial sector regulator, including its power to make regulations, shall be exercised by the Central Government.</p> <p>(2) Without prejudice to the generality of the power under sub-section (1), the Central Government may by regulations provide for the following matters:-</p> <p>(a) recognition of persons, categories of professionals and persons having such qualifications and experience in the field of finance, law, management or insolvency as it deems necessary, as insolvency professionals and insolvency professional agencies under this Code;</p> <p>(b) recognition of persons with technological, statistical, and data protection capability as it deems necessary, as information utilities under this Code; and</p> <p>(c) conduct of the corporate insolvency resolution process, insolvency resolution process, liquidation process, fresh start process and bankruptcy process under this Code.</p>	Transitional provisions.
	245. The Indian Partnership Act, 1932 shall be amended in the manner specified in the First Schedule.	Amendments of Act * 9of 1932.
	246. The Central Excise Act, 1944 shall be amended in the manner specified in the Second Schedule.	Amendments of Act 1 of 1994.
	247. The Income- tax Act, 1961 shall be amended in the manner specified in the Third Schedule.	Amendments of Act 43 of 1961.
	248. The Customs Act, 1962 shall be amended in the manner specified in the Fourth Schedule.	Amendments of Act 52 of 1962.
	249. The Recovery of Debts due to Banks and Financial Institutions Act, 1993 shall be amended in the manner specified in the Fifth Schedule.	Amendments of Act 51 of 1993.
	250. The Finance Act, 1994 shall be amended in the manner specified in the Sixth Schedule.	Amendments of Act 32 of 1994.
	251. The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 shall be	Amendments of Act 54 of 2002.

	amended in the manner specified in the Seventh Schedule.	
	252. The Sick Industrial Companies (Special Provisions) Repeal Act, 2003 shall be amended in the manner specified in the Eighth Schedule.	Amendments of Act 1 of 2004.
	253. The Payment and Settlement Systems Act, 2007 shall be amended in the manner specified in the Ninth Schedule.	Amendments of Act 51 of 2007.
	254. The Limited Liability Partnership Act, 2008 shall be amended in the manner specified in the Tenth Schedule.	Amendments of Act 6 of 2009.
	255. The Companies Act, 2013 shall be amended in the manner specified in the Eleventh Schedule.	Amendments of Act 18 of 2013.
	<p style="text-align: center;">THE FIRST SCHEDULE (See section 245)</p> <p style="text-align: center;">AMENDMENT TO THE INDIAN PARTNERSHIP ACT, 1932 (* 9 of 1932)</p> <p>1. In section 41, clause (a) shall be omitted.</p>	
	<p style="text-align: center;">THE SECOND SCHEDULE (See section 246)</p> <p style="text-align: center;">AMENDMENT TO THE CENTRAL EXCISE ACT, 1944 (1 of 1944)</p> <p>1. In section 11E, for the words, figures and brackets “and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 (54 of 2002)”, the words, figures and brackets “the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 (54 of 2002) and the Insolvency and Bankruptcy Code, <u>2016</u>” shall be substituted.</p>	
	<p style="text-align: center;">THE THIRD SCHEDULE (See section 247)</p> <p style="text-align: center;">AMENDMENT TO THE INCOME-TAX ACT, 1961 (43 of 1961)</p>	

	In sub-section (6) of section 178, after the words “for the time being in force”, the words and figures “except the provisions of the Insolvency and Bankruptcy Code, <u>2016</u> ” shall be inserted.	
	<p style="text-align: center;">THE FOURTH SCHEDULE</p> <p style="text-align: center;">(See section 248)</p> <p style="text-align: center;">AMENDMENT TO THE CUSTOMS ACT, 1962</p> <p style="text-align: center;">(52 of 1962)</p> <p>In section 142A, for the words and figures “and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002”, the words and figures “ the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 and the Insolvency and Bankruptcy Code, <u>2016</u>” shall be substituted.</p>	
	<p style="text-align: center;">THE FIFTH SCHEDULE</p> <p style="text-align: center;">(See section 249)</p> <p style="text-align: center;">AMENDMENT TO RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993</p> <p style="text-align: center;">(51 of 1993)</p>	
	1. In the long title, after the words “financial institutions”, the words “, insolvency resolution and bankruptcy of individuals and partnership firms” shall be inserted, namely:-.	
	<p>2. In section 1,—</p> <p>(a) in sub-section (1), for the words “Due to Banks and Financial Institutions” the words “and Bankruptcy” shall be substituted;</p> <p>(b) in sub-section (4), for the words “ The provision of this Code”, the words “Save as otherwise provided, the provisions of this Code”, shall be substituted.</p>	
	<p>3. In section 3, after sub-section (1), the following sub-section shall be inserted, namely :-</p> <p>“(1A) The Central Government shall by notification establish such number of Debts Recovery Tribunals and its benches as it may consider necessary, to exercise the jurisdiction, powers and authority of the Adjudicating Authority conferred on such Tribunal by or under the Insolvency and Bankruptcy Code,<u>2016</u>”.</p>	

	<p>4. In section 8, after sub-section (1), the following section shall be inserted, namely :-</p> <p>“(1A) The Central Government shall, by notification, establish such number of Debt Recovery Appellate Tribunals to exercise jurisdiction, powers and authority to entertain appeal against the order made by the Adjudicating Authority under Part III of the Insolvency and Bankruptcy Code, <u>2016</u>”.</p>	
	<p>5. In section 17, -</p> <p>(i) after sub-section (1), the following sub-section shall be inserted, namely :-</p> <p>“(1A) Without prejudice to sub-section (1),-</p> <p>(a) the Tribunal shall exercise, on and from the date to be appointed by the Central Government, the jurisdiction, powers and authority to entertain and decide applications under Part III of Insolvency and Bankruptcy Code,<u>2016</u>.</p> <p>(b) the Tribunal shall have circuit sittings in all district headquarters.”</p> <p>(ii) after sub-section (2), the following sub-section shall be inserted, namely :-</p> <p>“(2A) Without prejudice to sub-section (2), the Appellate Tribunal shall exercise, on and from the date to be appointed by the Central Government, the jurisdiction, powers and authority to entertain appeals against the order made by the Adjudicating Authority under Part III of the Insolvency and Bankruptcy Code,<u>2016</u>.”</p>	
	<p>6. After section 19, the following section shall be inserted, namely:-</p> <p>“19A. The application made to Tribunal for exercising the powers of the Adjudicating Authority under the Insolvency and Bankruptcy Code,<u>2016</u>shall be dealt with in the manner as provided under that Code”.</p>	
	<p>7. In section 20, in sub-section (4), after the word, brackets and figure “sub-section (1)”, the words, brackets and figures “or under sub-section (1) of section 181 of the Insolvency and Bankruptcy Code,<u>2016</u>” shall be inserted.</p>	
	<p>THE SIXTH SCHEDULE</p> <p>(See section 250)</p> <p>AMENDMENT TO THE FINANCE ACT, 1994</p>	

	(32 OF 1994)	
	In section 88, for the words and figures “and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002”, the words and figures “ the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 and the Insolvency and Bankruptcy Code, <u>2016</u> ” shall be substituted.	
	<p>THE SEVENTH SCHEDULE</p> <p>(See section 251)</p> <p>AMENDMENT TO THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002</p> <p>(54 OF 2002)</p>	
	In section 13, in sub-section (9), for the words “In the case of”, the words and figures “Subject to the provisions of the Insolvency and Bankruptcy Code, <u>2016</u> , in the case of” shall be substituted.	
	<p>THE EIGHTH SCHEDULE</p> <p>(See section 252)</p> <p>AMENDMENT TO SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS) REPEAL ACT, 2003</p> <p>(1 OF 2004)</p>	
	<p>In section 4, for sub-clause (b), the following sub-clause shall be substituted, namely -</p> <p>“(b) On such date as may be notified by the Central Government in this behalf, any appeal preferred to the Appellate Authority or any reference made or inquiry pending to or before the Board or any proceeding of whatever nature pending before the Appellate Authority or the Board under the Sick Industrial Companies (Special Provisions) Act,1985 shall stand abated:</p> <p style="padding-left: 40px;"><i>Provided that</i> a company in respect of which such appeal or reference or inquiry stands abated under this clause may make reference to the National Company Law Tribunal under the Insolvency and Bankruptcy Code, <u>2016</u> within one hundred and eighty days from the commencement of the Insolvency and Bankruptcy Code,<u>2016</u>in accordance with the provisions of the Insolvency and Bankruptcy Code,<u>2016</u>:</p>	

	<i>Provided further</i> that no fees shall be payable for making such reference under Insolvency and Bankruptcy Code, <u>2016</u> by a company whose appeal or reference or inquiry stands abated under this clause.”	
	<p style="text-align: center;">THE NINTH SCHEDULE</p> <p style="text-align: center;">(See section 253)</p> <p style="text-align: center;">AMENDMENT TO PAYMENT AND SETTLEMENT SYSTEMS ACT, 2007</p> <p style="text-align: center;">(51 OF 2007)</p>	
	<p>1. In section 23,in sub-sections (4), (5) and (6),after the words and figures <u>“the Banking Regulation Act, 1949”</u> <u>“the Companies Act, 2013”</u>,the words and figures <u>“or the Insolvency and Bankruptcy Code,2016”</u> shall be inserted.</p> <p>2. In section 23A, in sub-section (3), after the words and figures <u>“the Companies Act, 2013”</u>, the words and figures <u>“or the Insolvency and Bankruptcy Code,2016”</u> shall be inserted.</p>	
	<p style="text-align: center;">THE TENTH SCHEDULE</p> <p style="text-align: center;">(See section 254)</p> <p style="text-align: center;">AMENDMENT TO THE LIMITED LIABILITY PARTNERSHIP ACT, 2008</p> <p style="text-align: center;">(6 OF 2009)</p>	
	In section 64, Clause (c) shall be omitted.	
	<p style="text-align: center;">THE ELEVENTH SCHEDULE</p> <p style="text-align: center;">(See section 255)</p> <p style="text-align: center;">AMENDMENTS TO THE COMPANIES ACT, 2013</p> <p style="text-align: center;">(18 OF 2013)</p>	
	<p>1. In section 2,-</p> <p>(a) for clause (23), the following clause shall be substituted, namely: -</p> <p>“(23) “Company Liquidator” means a person appointed by the Tribunal as the Company Liquidator in accordance with the provisions of section 275 ** for the winding up of a company under this Act”;</p>	
	(b) after clause (94), the following clause shall be inserted,	

	<p>namely:-</p> <p>“(94A) “winding up” means winding up under this Act or liquidation under the Insolvency and Bankruptcy Code,<u>2016</u>, as applicable.”</p>	
	<p>2. In ** section 8, <u>in sub-section (9)</u>, for the words “the Rehabilitation and Insolvency Fund formed under section 269”, the words “Insolvency and <u>Bankruptcy</u> Fund * formed under section 224 of the Insolvency and <u>Bankruptcy</u> Code,<u>2016</u>” shall be substituted.</p>	
	<p>3. In ** section 66, <u>in sub-section (8)</u>, for the words, brackets and figures “** is unable, within the meaning of sub-section (2) of section 271, to pay the amount of his debt or claim,” the words and figures “<u>commits a default</u>, within the meaning of section 6 of the Insolvency and Bankruptcy Code, <u>2016</u>, ** <u>in respect of the amount of</u> his debt or claim,” shall be substituted.</p>	
	<p>4. In sections 77 **,<u>in sub-section (3)</u>, after the words “the liquidator”, ** the words and figures “<u>appointed</u> under this Act or the Insolvency and Bankruptcy Code, <u>2016</u>, as the case may be,” shall be inserted.</p>	
	<p>5. In ** section 117, <u>in sub-section (3)</u>, <u>in clause (f)</u>, for the word and figures “section 304”, the words and figures “section * <u>59</u> of the Insolvency and Bankruptcy Code,<u>2016</u>” shall be substituted.</p>	
	<p>6. In ** section 224, <u>in sub-section (2)</u>, after the words “wound up under this Act”, the words and figures “or <u>under</u> the Insolvency and Bankruptcy Code,<u>2016</u>” shall be inserted.</p>	
	<p><u>6A. In section 230, —</u></p> <p><u>(a) in sub-section (1), after the word “liquidator”, the words “appointed under this Act or under the Insolvency and Bankruptcy Code, 2016, as the case may be,” shall be inserted;</u></p> <p><u>(b) in sub-section (6), after the word “on the liquidator”, the words“appointed under this Act or under the Insolvency and Bankruptcy Code, 2016, as the case may be,” shall be inserted;</u></p>	
	<p>7.** <u>In section 249, in sub-section (1), for clause (e), the following clause shall be substituted, namely:-</u></p> <p>“(e) is being wound up under Chapter XX of this Act or <u>under</u> the Insolvency and Bankruptcy Code, <u>2016</u>.”</p>	
	<p>8. Sections 253 to * <u>269</u> shall be omitted.</p>	

	9. ***	
<u>Winding up by Tribunal.</u>	10. For section 270, the following section shall be substituted, namely: - “270. The provisions of ** <u>Part I shall apply to</u> ** the winding up of a company by the Tribunal under this Act.”	
Circumstances in which company may be wound up by Tribunal.	11. for section 271, the following section shall be substituted, namely: - “271. A company may, on a petition under section 272, be wound up by the Tribunal,— (a) if the company has, by special resolution, resolved that the company be wound up by the Tribunal; (b) if the company has acted against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality; (c) if on an application made by the Registrar or any other person authorised by the Central Government by notification under this Act, the Tribunal is of the opinion that the affairs of the company have been conducted in a fraudulent manner or the company was formed for fraudulent and unlawful purpose or the persons concerned in the formation or management of its affairs have been guilty of fraud, misfeasance or misconduct in connection therewith and that it is proper that the company be wound up; (d) if the company has made a default in filing with the Registrar its financial statements or annual returns for immediately preceding five consecutive financial years; or (e) if the Tribunal is of the opinion that it is just and equitable that the company should be wound up.”	
Petition for winding up.	12. For section 272, the following section shall be substituted, namely:- “272. (1) Subject to the provisions of this section, a petition to the Tribunal for the winding up of a company shall be presented by— (a) the company; (b) any contributory or contributories; (c) all or any of the persons specified in clauses (a) and (b) *;	

	<p>(d) the Registrar;</p> <p>(e) any person authorised by the Central Government in that behalf; or</p> <p>(f) in a case falling under clause (b) of section 271, by the Central Government or a State Government.</p> <p>(2) A contributory shall be entitled to present a petition for the winding up of a company, notwithstanding that he may be the holder of fully paid-up shares, or that the company may have no assets at all or may have no surplus assets left for distribution among the shareholders after the satisfaction of its liabilities, and shares in respect of which he is a contributory or some of them were either originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months immediately before the commencement of the winding up or have devolved on him through the death of a former holder.</p> <p>(3)The Registrar shall be entitled to present a petition for winding up under section 271, except on * the grounds specified in ** clause (a) or clause (e) of that sub- section:</p> <p>Provided that the Registrar shall obtain the previous sanction of the Central Government to the presentation of a petition:</p> <p>Provided *further that the Central Government shall not accord its sanction unless the company has been given a reasonable opportunity of making representations.</p> <p>(4)A petition presented by the company for winding up before the Tribunal shall be admitted only if accompanied by a statement of affairs in such form and in such manner as may be prescribed.</p> <p>(5)A copy of the petition made under this section shall also be filed with the Registrar and the Registrar shall, without prejudice to any other provisions, submit his views to the Tribunal within sixty days of receipt of such petition.”</p>	
	<p>13. In section 275, –</p> <p>(a) for sub-section (2), the following sub-section shall be substituted, namely:-</p> <p>“(2) The provisional liquidator or the Company Liquidator, as the case may, shall be appointed by the Tribunal from amongst the insolvency professionals registered under the Insolvency and Bankruptcy Code, <u>2016</u>.”;</p>	

	(b) sub-section (4) shall be omitted.	
Jurisdiction of Tribunal.	<p>14. For section 280, the following section shall be substituted, namely:-</p> <p>“280. The Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain, or dispose of,—</p> <p>(a) any suit or proceeding by or against the company;</p> <p>(b) any claim made by or against the company, including claims by or against any of its branches in India;</p> <p>(c) any application made under section 233;</p> <p>(d) any question of priorities or any other question whatsoever, whether of law or facts, including those relating to assets, business, actions, rights, entitlements, privileges, benefits, duties, responsibilities, obligations or in any matter arising out of, or in relation to winding up of the company, whether such suit or proceeding has been instituted, or is instituted, or such claim or question has arisen or arises or such application has been made or is made or such scheme has been submitted, or is submitted, before or after the order for the winding up of the company is made.”</p>	
	15. Section 289 shall be omitted.	
	<u>15A. The heading “Part II.—Voluntary winding up” shall be omitted.</u>	
	16. Sections 304 to 323 shall be omitted.	
	17. Section 325 shall be omitted.	
Overriding preferential payments	<p>18. For section 326, the following section shall be substituted, namely:-</p> <p>“326. (1) In the winding up of a company under this Act, the following debts shall be paid in priority to all other debts:</p> <p>(a) workmen’s dues; and;</p> <p>(b) where a secured creditor has realised a secured asset, so much of the debts due to such secured creditor as could not be realised by him or the amount of the workmen’s portion in his security (if payable under the law), whichever is less, <i>pari passu</i> with the workmen’s dues:</p> <p><i>Provided</i> that in case of the winding up of a company, the sums referred to in sub-clauses (i) and (ii) of clause (b) of the Explanation, which are payable for a period of two years</p>	

preceding the winding up order or such other period as may be prescribed, shall be paid in priority to all other debts (including debts due to secured creditors), within a period of thirty days of sale of assets and shall be subject to such charge over the security of secured creditors as may be prescribed.

(2) The debts payable under the proviso to sub-section (1) shall be paid in full before any payment is made to secured creditors and thereafter debts payable under that sub-section shall be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions.

Explanation. –For the purposes of this section, and section 327—

(a) “workmen”, in relation to a company, means the employees of the company, being workmen within the meaning of clause (s) of section 2 of the Industrial Disputes Act, 1947;

(b) “workmen’s dues”, in relation to a company, means the aggregate of the following sums due from the company to its workmen, namely:—

(i) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any workman in respect of services rendered to the company and any compensation payable to any workman under any of the provisions of the Industrial Disputes Act, 1947;

(ii) all accrued holiday remuneration becoming payable to any workman or, in the case of his death, to any other person in his right on the termination of his employment before or by the effect of the winding up order or resolution;

(iii) unless the company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company or unless the company has, at the commencement of the winding up, under such a contract with insurers as is mentioned in section 14 of the Workmen’s Compensation Act, 1923, rights capable of being transferred to and vested in the workmen, all amount due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any workman of the company;

(iv) all sums due to any workman from the provident fund, the pension fund, the gratuity fund or any other fund for the welfare of the workmen, maintained by the company.

(c) “workmen’s portion”, in relation to the security of any

	<p>secured creditor of a company, means the amount which bears to the value of the security the same proportion as the amount of the workmen's dues bears to the aggregate of the amount of workmen's dues and the amount of the debts due to the secured creditors.</p> <p style="text-align: center;"><i>Illustration</i></p> <p>The value of the security of a secured creditor of a company is Rs. 1,00,000. The total amount of the workmen's dues is Rs. 1,00,000. The amount of the debts due from the company to its secured creditors is Rs.3,00,000. The aggregate of the amount of workmen's dues and the amount of debts due to secured creditors is Rs. 4,00,000. The workmen's portion of the security is, therefore, one-fourth of the value of the security, that is Rs. 25,000."</p>	
	<p><u>19.</u> In section 327, —</p> <p>(a) after sub-section (6), the following sub-section shall be inserted, namely :-</p> <p style="padding-left: 40px;">“(7) Sections 326 and 327 shall not be applicable in the event of liquidation under the Insolvency and Bankruptcy Code, <u>2016</u>.”;</p> <p>(b) in the <i>Explanation</i>, for clause (c), the following clause shall be substituted, namely :-:</p> <p style="padding-left: 40px;">“(c)the expression “relevant date” means in the case of a company being wound up by the Tribunal, the date of appointment or first appointment of a provisional liquidator, or if no such appointment was made, the date of the winding up order, unless, in either case, the company had commenced to be wound up voluntarily before that date under the Insolvency and Bankruptcy Code,<u>2016</u>.”.</p>	
<p>Transfers not in good faith to be void.</p>	<p>20. For section 329, the following section shall be substituted, namely: -</p> <p>“329. Any transfer of property, movable or immovable, or any delivery of goods, made by a company, not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser or *<u>encumbrancer</u> in good faith and for valuable consideration, if made within a period of one year before the presentation of a petition for winding up by the Tribunal under this Act shall be void against the Company Liquidator.”.</p>	
	<p>21. For section 334, the following section shall be substituted,</p>	

<p>Transfer etc., after commencement of winding up to be void.</p>	<p>namely:- “334. In the case of a winding up by the Tribunal, any disposition of the property including actionable claims, of the company and any transfer of shares in the company or alteration in the status of its members, made after the commencement of the winding up shall, unless the Tribunal otherwise orders, be void.”</p>	
	<p>22. *** *** ***</p> <p><u>In section 336, in sub-section (1), in the opening paragraph, for the words “whether by the Tribunal or voluntarily, or which is subsequently ordered to be wound up by the Tribunal or which subsequently passes a resolution for voluntary winding up”, the words “by the Tribunal under this Act or which is subsequently ordered to be wound up by the Tribunal under this Act” shall be substituted;</u></p>	
	<p>23. In section 337, for the words “or which subsequently passes a resolution for voluntary winding up,”, the words “under this Act”, shall be substituted.</p>	
	<p>24.** <u>In section 342, sub-sections (2), (3) and (4) shall be omitted.</u></p>	
	<p>25. **<u>In section 343, for sub-section (1), the following sub-section shall be substituted, namely-</u></p> <p>“(1)The Company Liquidator may, with the sanction of the Tribunal, when the company is being wound up by the Tribunal,—</p> <p style="padding-left: 40px;">(i)pay any class of creditors in full;</p> <p style="padding-left: 40px;">(ii)make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, against the company, or whereby the company may be rendered liable; or</p> <p style="padding-left: 40px;">(iii)compromise any call or liability to call, debt, and liability capable of resulting in a debt, and any claim, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or alleged to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability</p>	

	to the company, and all questions in any way relating to or affecting the assets or liabilities or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.”.	
	26.** <u>In</u> section 347, <u>for sub-section (1)</u> , the following sub-section shall be substituted, namely- “(I)When the affairs of a company have been completely wound up and it is about to be dissolved, * the books and papers ** <u>of such company and those of the Company Liquidator</u> may be disposed of in such manner as the Tribunal directs.”	
	27.** <u>In</u> section 348, <u>for sub-section (1)</u> , the following sub-section shall be substituted, namely- “(I)If the winding up of a company is not concluded within one year after its commencement, the Company Liquidator shall, unless he is exempted from so doing, either wholly or in part by the Central Government, within two months of the expiry of such year and thereafter until the winding up is concluded, at intervals of not more than one year or at such shorter intervals, if any, as may be prescribed, file a statement in such form containing such particulars as may be prescribed, duly audited, by a person qualified to act as auditor of the company, with respect to the proceedings in, and position of, the liquidation, with the Tribunal: Provided that no such audit as is referred to in this sub-section shall be necessary where the provisions of section 294 apply”.	
Commencement of winding up by Tribunal.	28. For section 357, the following section shall be substituted, namely:- “357. The winding up of a company by the Tribunal under this Act shall be deemed to commence at the time of the presentation of the petition for the winding up.”.	
	29. In section 370, in the proviso, after the words “obtained for the winding up the company”, the words “in accordance with the provisions of this Act or of the Insolvency and Bankruptcy Code, <u>2016</u> ” shall be inserted.	
	30. In section 372, after the words “The provisions of this Act”, the words “or of the Insolvency and Bankruptcy Code, <u>2016</u> , ** <u>as the case may be,</u> ” shall be inserted.	
	31. ***	

	32 ***	
	33. ***	
	<p>34. ** <u>In section 419, for sub-section (4), the following sub-section shall be substituted, namely: -</u></p> <p>“(4) The Central Government shall, by notification, establish such number of benches of the Tribunal, as it may consider necessary, to exercise the jurisdiction, powers and authority of the Adjudicating Authority conferred on such Tribunal by or under Part II of the Insolvency and Bankruptcy Code,<u>2016</u>”.</p> <p>***</p>	
	<p>35. In ** section 424,–</p> <p>(i) <u>in sub-section (1), after the words, “other provisions of this Act”, the words “or of the Insolvency and Bankruptcy Code,<u>2016</u>” shall be inserted;</u></p> <p>(ii) <u>in sub-section (2), after the words, “under this Act”, the words “or under the Insolvency and Bankruptcy Code,<u>2016</u>” shall be inserted.</u></p>	
	<p>36. In ** section 429, **</p> <p>***</p> <p>***</p> <p><u>In section 429, for sub-section (1), the following sub-section shall be substituted, namely :-</u></p> <p><u>“(1) The Tribunal may, in any proceedings for winding up of a company under this Act or in any proceedings under the Insolvency and Bankruptcy Code, 2016, in order to take into custody or under its control all property, books of account or other documents, request, in writing, the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector within whose jurisdiction any such property, books of account or other documents of such company under this Act or of corporate persons under the said Code, are situated or found, to take possession thereof, and the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector, as the case may be, shall, on such request being made to him,–</u></p> <p><u>(a) take possession of such property, books of account or other documents; and</u></p> <p><u>(b) cause the same to be entrusted to the Tribunal or other persons authorised by it.”.</u></p>	

<p>Transfer of certain pending proceedings.</p>	<p>37. For section 434, the following section shall be substituted, namely: -</p> <p>“434.(1)On such date as may be notified by the Central Government in this behalf,—</p> <p>(a)all matters, proceedings or cases pending before the Board of Company Law Administration (herein in this section referred to as the Company Law Board) constituted under sub-section (1) of section 10E of the Companies Act, 1956, immediately before such date shall stand transferred to the Tribunal and the Tribunal shall dispose of such matters, proceedings or cases in accordance with the provisions of this Act;</p> <p>(b)any person aggrieved by any decision or order of the Company Law Board made before such date may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order:</p> <p>Provided that the High Court may if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days; and</p> <p>(c)all proceedings under the Companies Act, 1956, including proceedings relating to arbitration, compromise, arrangements and reconstruction and winding up of companies, pending immediately before such date before any District Court or High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer:</p> <p>Provided that only such proceedings relating to the winding up of companies shall be transferred to the Tribunal that are at a stage as may be prescribed by the Central Government.</p> <p>(2) The Central Government may make rules consistent with the provisions of this * Actto ensure timely transfer of all matters, proceedings or cases pending before the Company Law Board or the courts, to the Tribunal under this section.”</p>	
	<p>38.**<u>In</u> section 468, <u>for sub-section (2),</u> the following sub-section shall be substituted, namely -</p> <p>“(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the</p>	

	<p>following matters, namely:—</p> <p>(i) as to the mode of proceedings to be held for winding up of a company by the Tribunal under this Act;</p> <p>(ii) for the holding of meetings of creditors and members in connection with proceedings under section 230;</p> <p>(iii) for giving effect to the provisions of this Act as to the reduction of the capital;</p> <p>(iv) generally for all applications to be made to the Tribunal under the provisions of this Act;</p> <p>(v) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;</p> <p>(vi) the settling of lists of contributories and the rectifying of the register of members where required, and collecting and applying the assets;</p> <p>(vii) the payment, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;</p> <p>(viii) the making of calls; and</p> <p>(ix) the fixing of a time within which debts and claims shall be proved.”</p>	
	<p>39. ** <u>In Schedule V, in Part II, in section III, for clause (b),</u>the following clause shall be substituted, namely: -</p> <p>“(b) where the company—</p> <p>(i) is a newly incorporated company, for a period of seven years from the date of its incorporation, or</p> <p>(ii) is a sick company, for whom a scheme of revival or rehabilitation has been ordered by the Board for Industrial and Financial Reconstruction for a period of five years from the date of sanction of scheme of revival,</p> <p>(iii) is a company in relation to which a resolution plan has been approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code, <u>2016</u> for a period of five years from the date of such approval,</p> <p>it may pay remuneration up to two times the amount permissible under section II.”</p>	

(vide para 2 of the Report)

Motion in Lok Sabha for reference of the Bill to the Joint Committee.

“That the Insolvency and Bankruptcy Code, 2015 be referred to a Joint Committee of the Houses consisting of the following 20 Members from this House:-

1. Shri P.P. Chaudhary
2. Shri Gopal Chinayya Shetty
3. Shri Subhash Beharia
4. Shri Nishikant Dubey
5. Shri Shivkumar C. Udasi
6. Shri Anil Shirole
7. Shri Abhishek Singh
8. Shri Gajendra Singh Sekhawat
9. Shri Sanjay Jaiswal
10. Shri Jagdambika Pal
11. Shri Jaidev Galla
12. Shri Chandrakant Khaire
13. Shri Chirag Paswan
14. Shri K.C. Venugopal
15. Smt. Sushmita Dev
16. Dr. P. Venugopal
17. Shri Kalyan Banerjee
18. Shri Bhartruhari Mahtab
19. Shri B. Vinod Kumar
20. Shri Jitendra Choudhury

and 10 Members from the Rajya Sabha;

That in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee

That the committee shall make a report to this House by the last day of the first week of the Budget Session, 2016;

That in other respects the Rules of Procedure of this House relating to Parliamentary Committee shall apply with such variations and modifications as the Speaker may make; and

That this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the name of the members to be appointed by Rajya Sabha to the Joint Committee."

(vide para 2 of the Report)

Motion in Rajya Sabha for reference of the Bill to the Joint Committee.

“That this House concurs in the recommendation of the Lok Sabha that this House do join in the Joint Committee of the Houses on the Bill to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interest of all the stake holders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Fund and for matters connected therewith or incidental thereto and resolves that the following Members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Shri Ajay Sancheti
2. Shri Bhupender Yadav
3. Shri Naresh Gujral
4. Shri Anand Sharma
5. Dr. Bhalchandra Mungekar
6. Shri Praful Patel
7. Shri Ravi Prakash Verma
8. Shri K.C. Tyagi
9. Shri Sukhendu Sekhar Roy
10. Shri Satish Chandra Misra".

(Vide para 2 of the Report)

Motion regarding Report of the Joint Committee on the Insolvency and Bankruptcy Code, 2015 -- Extension of Time

Shri Bhartruhari Mahtab moved the following motion:-

"That this House do extend time for presentation of the Report of the Joint Committee on the Insolvency and Bankruptcy Code, 2015 upto the last day of the first week of second part of the Budget Session, 2016."

The motion was adopted.

(vide para 6 of the Report)

List of stakeholders/public at large from whom memoranda were received by the Joint Committee in response to the Press communiqué issued on 26.01.2016

Sl. No.	Name of Person/Organisation
1	Shri Bala S S Email: ssbalki13@gmail.com
2	Shri Nikhil Shah Managing Director Alvarez & Marsal India 7 th Floor, Tower A Peninsula Corporate Park Lower Parel, Mumbai – 400013 Tel: 022 61296000 Mob: 09769026000
3	Shri Sridhar Ramchandran B.com, ACA, Grad CMA, CPA (USA) Freelance Investment Banker C701, Sai Radiance CHS, Plot No. 59-61, Sec. 15, CBD Belapur, Navi Mumbai, Maharashtra 400614 Tel; 022-27563691 Mob:09930932764
4	Mrs. Nidhi Parmar Deputy Manager Indian Securitisation Foundation 601-C, Neelkanth 98, Marine Drive, Mumbai-400 002 Phone 022-22817427
5.	Rohit Kumar IPUC HEPS Alvas Pre University College Moodbidri Dist Dakshin Kannada Karnataka
6.	Received from Mail id charuawalkar@rediffmail.com
7.	Shri V V Anand General Manager(Retd.) State Bank of India 09920227284, Valamur.anand@yahoo.co.in

	Anurag Das Managing Partner RAIN TREE CAPITAL MANAGEMENT PTE LTD. 12, Marina View, #21-01, Asia Squiare Towr 2, Singapore-018961
9.	Dilip Salvekar, Secy. General Chamber of Small Industry Associations, TSSIA House, Plot No. P 26, Road No. 16 t, Wagle Industrial Estate, Thane, Maharashtra – 400604
10.	Received from Dr. Stephen Louie, Adv. Madras High Court mail id drrslouie@gmail.com
11.	Dhananjay Kumar, Partner Cyril Amarchand Mangaldas Dhananjay.kumar@cyrilshroff.com
12.	Ashwin Bishnoi, Associate Partner, Khaitan & Co. Ashoka Estate, 12 th Floor, 24 Barakhamba Road, New Delhi 110001
13.	Kristin van Zwieten, Law Faculty University of Oxford, St. Cross Road, Oxford, +44 7830056820 kristin.van-zwieten@law.ox.ac.uk
14.	Vijay Kumar Adwant 2-1-474/9 Anand Apartments, Street no 7, opp post office, nallakunta, OU Road, Hyderabad 500044, Telangana 9849462620 Email drvijaykumaradwant@gmail.com
15	Sunder Ram Korivi, PhD 91-22-66735163 Dean - School for Securities Education NISM, Plot 82, Sector 17 Vashi, Navi Mumbai 400 703 INDIA
16.	Akola Industries Association Plot P25 Appu Square, MIDC, Phase 3 , AKOLA 444104, (MS)
17	Shri Manilal K Gada Mob: 09427932744 Phone 0265-2417584
18	Mrs.Sobha Rastogi C-199 (First Floor) Greater Kailash-I, New Delhi 110048 Mob: 9818201761

19	Shri P.D.Sharma, President Apex Chamber of Commerce & Industry (Punjab) Room No. 204, 2 nd Floor, Savitri Complex-I, G.T.Road Ludhiyana -141003 Mob. 09914220555 Tel: 0161-5036851
20	Shri Raman Aggarwal, Chairman, Finance Industry Development Council (FIDC) D-2, 5 th Floor Southern Park Saket Place, Saket New Delhi – 110017 Tel 011-66025603 Fax 011-66025799 Mob 09810016667
21	Mail recd from Titusmita Mishra Mail id mishratitusmita@gmail.com
22.	National Youth Project Unit malout 152107 (Distt Muktsar Sahib) Dr. Gurdev Singh Sidhu, S. Amrik Singh Kaler
23.	Nagalakshimi w o babu swami Tuljapur, aurad (B), Bidar, Karnataka- 585326
24.	Shri D.K. Datta Gupta 29 D, Sarkar hat Lane, Kolkata – 700061
25.	Shri Mohini Kamwani, 101 Mauli CHS, 1 st Floor, Plot No. 20 C, Sector 4, Vashi, Navi Mumbai, 400703 Mohini.kamwani@gmail.com
26.	Shri Kalyan Kumar 450/05 /D, Radhe Housing, P.O. Dhalua. Pin – 700182

(vide para 8 of the Report)

List of Experts/ Statutory/ Regulatory/ Government Bodies/ Trade Unions as well as organizations representing Industry and Professional Bodies who submitted memoranda and tendered evidence before the Joint Committee

Sl. No.	Name of Association / Organisation/Experts/Individual etc.	Date on which evidence was taken
1	2	3
1.	Shri T K Vishwanathan B-1/102, UNI World City, Sector 30, Gurgaon - 122001	20th January, 2016
2.	Reserve Bank of India (RBI) 6, Sansad Marg, Sansad Marg Road Area, New Delhi, 110001	8th February, 2016
3.	Indian Banks' Association (IBA) World Trade Centre, 6th Floor Centre 1 Building, World Trade Centre Complex, Cuff Parade, Mumbai 400005	8th February, 2016
4.	Securities and Exchange Board of India (SEBI) Plot No.C4-A, 'G' Block, Bandra Kurla Complex, Bandra (East),Mumbai 400051	8th February, 2016
5.	Competition Commission of India (CCI) The Hindustan Times House 18-20, Kasturba Gandhi Marg, New Delhi 110001, India	8th February, 2016
6.	Employment Provident Fund Organization (EPFO) Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi 110066	8th February, 2016
7.	Pension Fund Regulatory and Development Authority(PFRDA) 1st Floor, ICADR Building, Plot No.6, Vasant Kunj Institutional Area, Phase-II, New Delhi-110070	8th February, 2016
8.	Confederation of Indian Industries (CII) The Mantosh Sondhi Centre ,23, Institutional Area, Lodi Road, New Delhi, 110 003	9th February, 2016

Sl. No.	Name of Association / Organisation/Experts/ Individual etc.	Date on which evidence was taken
1	2	3
9.	Federation of Indian Chambers of Commerce and Industries (FICCI) Federation House, Tansen Marg, New Delhi 110001	9th February, 2016
10.	The Associated Chambers of Commerce and Industries of India (ASSOCHAM) ASSOCHAM Corporate Office, 5, Sardar Patel Marg, Chanakyapuri, New Delhi 110021	9th February, 2016
11.	International Centre for Alternative Dispute Resolution(ICADR) Plot No.6, Vasant Kunj Institutional Area, Phase-II, New Delhi - 110 070	9th February, 2016
12.	The Institute of Chartered Accountants of India (ICAI) ICAI Bhawan', Post Box No. 7112 , Indraprastha Marg, New Delhi 110 002	9th February, 2016
13.	The Institute of Cost Accountants of India Delhi Office,3 ,Institutional Area Lodhi Road, New Delhi – 110003	9th February, 2016
14.	The Institute of Company Secretaries of India (ICSI) Plot No.22, ICSI House, Lodi Road, Institutional Area, New Delhi 110003	9th February, 2016
15.	Bar Council of India (BCI) 21, Rouse Avenue Institutional Area, Near Bal Bhawan, New Delhi 110 002	9th February, 2016
16.	Vidhi Centre for Legal Policy D-21, Lower Ground Floor, Jangpura Ext., New Delhi 110014	15th February, 2016
17.	Centre for Law and Policy Research (CLPR) D6, Donna Cynthia,35, Primrose Road, Craig Park Layout, Ashok Nagar, Bengaluru, Karnataka 560025	15th February, 2016

Sl. No.	Name of Association / Organisation/Experts/ Individual etc.	Date on which evidence was taken
1	2	3
18.	PRS Legislative Research 3rd Floor, Gandharva Mahavidyalaya 212, Deen Dayal Upadhaya Marg, New Delhi 110002	15th February, 2016
19.	Indira Gandhi Institute of Development Research (IGIDR) Gen. A.K. Vaidya Marg, Goregaon(E), Mumbai 400 065	15th February, 2016
20	National Institute of Public Finance and Policy (NIPFP) 18/2, Satsang Vihar Marg, Special Institutional Area (Near JNU), New Delhi 110067	15th February, 2016
21.	Insurance Regulatory Development Authority of India (IRDAI) Parishram Bhavan, 3rd Floor, Basheer Bagh, Hyderabad 500004	15th February, 2016
22.	BDO INDIA LLP The Ruby, Level 9, NW Wing, Senapati Bapat Marg, Dadar (West), Mumbai 400028	15th February, 2016
23.	Bhartiya Mazdoor Sangh Dattopant Thengadi Bhawan,27, Deendayal Upadhyay Marg, New Delhi 110 002	15th February, 2016
24.	Indian National Trade Union Congress "Shramik Kendra", 4, Bhai Veer Singh Marg, New Delhi - 110001	15th February, 2016
25.	Centre for Indian Trade Unions B.T. Ranadive Bhawan, 13, A, Rouse Avenue, New Delhi 110002	15th February, 2016
26.	Hind Mazdoor Sabha 120 Babar Road, New Delhi 110001	15th February, 2016

Minutes of the First sitting of the Joint Committee on the Insolvency and Bankruptcy Code, 2015, held on Tuesday, the 19th January, 2016.

The Committee sat from 1500 hrs. to 1730 hrs. in Committee Room 'C', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhupender Yadav - **Chairperson**

LOK SABHA

2. Shri P.P.Chaudhary
3. Shri Gopal Chinayya Shetty
4. Shri Subhash Baheria
5. Shri Nishikant Dubey
6. Shri Shivkumar C. Udasi
7. Shri Anil Shirole
8. Dr. Sanjay Jaiswal
9. Shri Jayadev Galla
10. Shri Chandrakant Khaire
11. Shri Chirag Paswan
12. Shri K.C.Venugopal
13. Smt.. Sushmita Dev
14. Dr. P. Venugopal
15. Shri Kalyan Banerjee
16. Shri Bhartruhari Mahtab
17. Shri B. Vinod Kumar
18. Shri Jitendra Chaudhury

RAJYA SABHA

19. Shri Ajay Sancheti
20. Shri Naresh Gujral
21. Shri Anand Sharma
22. Dr. Balachandra Mungekar
23. Shri Ravi Prakash Verma

SECRETARIAT

1. Smt. Sudesh Luthra - Joint Secretary
2. Shri J. V. G. Reddy - Director
3. Smt. Jagriti Tewatia - Deputy Secretary

REPRESENTATIVES OF THE MINISTRIES/DEPARTMENTS

Ministry of Finance (Department of Economic Affairs)

1	Shri Shaktikanta Das	-	Secretary
2	Shri Ajay Tyagi	-	Additional Secretary
3	Dr. C.K.G. Nair	-	Advisor (FSLRC)
4	Ms. Sheyphali B. Sharan	-	Director (FSLRC)
5	Shri Praveen Trivedi	-	OSD

Ministry of Law and Justice (Legislative Department)

1	Dr. G. Narayana Raju	-	Secretary
2	Dr. Mukulita Vijayawargiya	-	Additional Secretary
3	Smt. Veena Kothavale	-	Additional Legislative Counsel

2. At the outset, the Chairperson welcomed the members to the first sitting of the Joint Committee. The Chairperson apprised that the Joint Committee of the Houses has been constituted on a motion moved and adopted in Lok Sabha on the 23rd December, 2015 and concurred in by Rajya Sabha on the same date to examine the Bill titled 'The Insolvency and Bankruptcy Code, 2015' and present report to the House. The Chairperson apprised the Committee that the aforesaid Bill is an important legislation which seeks to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner. As per the motion, the report on the Bill has to be presented to Parliament by the last day of the first week of the Budget Session 2016. The Chairperson then apprised the Committee about the laid down procedure followed by the Joint/Select Committees for examination of a Bill. The Chairperson also sought the cooperation of all to fulfill the onerous task entrusted to the Committee.

3. The Committee, thereafter, deliberated on the methodology for completion of the task assigned and decided that memoranda from important experts, trade unions, regulatory bodies, professional bodies and concerned Ministries on the aforesaid Bill may be obtained and their views heard by the Committee for a comprehensive and in-depth examination of the legislation.

[The representatives of the Ministry of Finance (Department of Economic Affairs) and representatives of the Ministry of Law and Justice (Legislative Department) were then called in.]

4. The Chairperson welcomed the representatives of the Ministry of Finance (Department of Economic Affairs) and Ministry of Law and Justice (Legislative Department) and drew their attention to Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the proceedings of the Committee.

5. The Secretary, Department of Economic Affairs then made a power-point presentation highlighting the background of the legislation, the existing laws governing bankruptcy and insolvency, the need for a new law, as also in brief the provisions made in Insolvency and Bankruptcy Code, 2015. The members raised queries on various aspects/issues concerning the legislation during the course of deliberations, to which the representatives of the Ministries responded. The representatives were asked to send written replies to the points on which the information was not readily available. The representatives were also asked to submit a comparative chart indicating the existing law with regard to Insolvency and Bankruptcy as well as the provisions made in this regard in the Insolvency and Bankruptcy Code, 2015.

The witnesses then withdrew.

A verbatim record of the proceedings has been kept.

The Committee then adjourned.

Minutes of the Second sitting of the Joint Committee on the Bill titled 'The Insolvency and Bankruptcy Code, 2015', held on Wednesday, the 20th January, 2016.

The Committee sat from 1100 hrs. to 1340 hrs. in Committee Room 'E', Basement, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhupender Yadav

-

Chairperson

LOK SABHA

2. Shri Gopal Chinayya Shetty
3. Shri Subhash Baheria
4. Shri Nishikant Dubey
5. Shri Shivkumar C. Udasi
6. Shri Anil Shirole
7. Dr. Sanjay Jaiswal
8. Shri Jagdambika Pal
9. Shri Jayadev Galla
10. Shri Chirag Paswan
11. Smt.. Sushmita Dev
12. Dr. P. Venugopal
13. Shri Bhartruhari Mahtab
14. Shri Jitendra Chaudhury

RAJYA SABHA

15. Shri Ajay Sancheti
16. Shri Naresh Gujral
17. Shri Anand Sharma
18. Dr. Balachandra Mungekar
19. Shri K.C. Tyagi

SECRETARIAT

1. Smt. Sudesh Luthra - Joint Secretary
2. Shri J. V. G. Reddy - Director
3. Smt. Jagriti Tewatia - Deputy Secretary

WITNESS

EXPERT

Shri T. K. Viswanathan – Chairperson, Bankruptcy Law Reforms Committee

REPRESENTATIVES FROM THE MINISTRIES/DEPARTMENTS

Ministry of Corporate Affairs

- | | | |
|---|----------------------------|--------------------------|
| 1 | Shri Tapan Ray | - Secretary |
| 2 | Shri Manoj Kumar | - Joint Secretary |
| 3 | Shri Amardeep Singh Bhatia | - Joint Secretary |
| 4 | Shri S.B.Gautam | - Director, ICLS Academy |

Ministry of Finance (Department of Financial Services)

- | | | |
|---|-------------------------|---------------------|
| 1 | Ms. Anjuly Chibb Duggal | - Secretary |
| 2 | Shri Manoj Kumar | - Special Secretary |
| 3 | Shri Rajesh Aggarwal | - Joint Secretary |
| 4 | Shri Mohammad Mustafa | - Joint, Secretary |
| 5 | Dr. Shashank Saksena | - Economic Advisor |
| 6 | Shri R.N.Dubey | - Economic Advisor |
| 7 | Shri Ashwani Kumar | - Chairman, IBA |

Ministry of Finance (Department of Economic Affairs)

- | | | |
|---|----------------------|------------------------|
| 1 | Shri Shaktikanta Das | - Secretary |
| 2 | Shri Ajay Tyagi | - Additional Secretary |
| 3 | Dr. C.K.G. Nair | - Advisor (FSLRC) |

Ministry of Law & Justice (Legislative Department)

- | | | |
|---|----------------------------|-------------------|
| 1 | Dr. G. Narayanan | - Secretary |
| 2 | Shri Manoj Kumar | - Joint Secretary |
| 3 | Shri Amardeep Singh Bhatia | - Joint Secretary |

2. At the outset, the Chairperson welcomed the members of the Committee and Shri T.K.Viswanathan, former Law Secretary, former Secretary General, Lok Sabha and Chairman, Bankruptcy Law Reforms Committee to the sitting of the Committee and drew their attention to Direction 55(1) of the Directions by Speaker regarding confidentiality of the proceedings of the Committee. Thereafter, Shri T.K.Viswanathan presented his considered views on the proposed legislation which he described as a comprehensive Code. He also stated that the whole rationale of this Code is to be based on a default based test to find out the sickness at the earlier stages instead of net worth erosion test which is followed in the SICA and other laws. He also elaborated as to how the Code would address the constraints and difficulties being faced in the insolvency resolution of the companies and individuals under the existing framework. The members, thereafter, raised pertinent queries to which the expert responded. To some of the queries raised by the Committee on which the replies were not readily available, the witness was requested to furnish written replies.

[The expert then withdrew and the representatives of the Ministry of Corporate Affairs, Ministry of Finance (Department of Financial Services), Department of Economic Affairs as well as Legislative Department were called in to brief the Committee.]

3. The Chairperson welcomed the representatives of the Ministry of Corporate Affairs, Departments of Financial Services, Economic Affairs and the Legislative Department to the sitting of the Committee and drew their attention to Direction 55(1) of the Directions by the Speaker whereby the deliberations held are treated as confidential till the report on the subject is presented to Parliament.

4. The representatives of the Department of Financial Services then made a power point presentation and elaborated about the various aspects of the Insolvency and Bankruptcy Code in the context of their mandate. The Code, 2015 seeks to provide for designating the National Company Law Tribunal (NCLT) and Debt Recovery Tribunal (DRT) as the Adjudicating Authorities for corporate persons and firms and individuals, respectively, for resolution of insolvency, liquidation and bankruptcy. In this context, the representatives elaborated about the various aspects related to setting up new branches and strengthening the infrastructure of these tribunals as well as issues

related to synchronizing of the provisions of three Acts which the Department administers, viz. Recovery of Debts due to Banks and Financial Institution Act, 1953, The Securitisation and Reconstruction Of Financial Assets and Enforcement of Security Interest Act of 2002 (SARFESI), Payment and Settlement Act (PSS Act) with the provisions made in Insolvency and Bankruptcy Code, 2015. The representatives responded to the queries of the Chairperson and members and assured written replies to the points on which information was not readily available.

The representatives of Ministries/Departments then withdrew.

5. The Committee thereafter, decided that keeping in view the importance of the Bill, the views of experts/organisations/stakeholders and individuals may be invited by giving an advertisement in media through DAVP.

A verbatim record of the proceedings has been kept.

The Committee then adjourned.

Minutes of the Third sitting of the Joint Committee on the Bill titled Insolvency and Bankruptcy Code, 2015, held on Monday, the 8th February, 2016.

The Committee sat from 1100 hrs. to 1300 hrs. and 1400 hrs. to 1515 hrs. in Committee Room No. 074, Ground Floor, Parliament Library Building, New Delhi.

PRESENT

Shri Bhupender Yadav

-

Chairperson

LOK SABHA

2. Shri P. P Chaudhary
3. Shri Gopal Chinayya Shetty
4. Shri Subhash Baheria
5. Shri Nishikant Dubey
6. Shri Anil Shirole
7. Dr. Sanjay Jaiswal
8. Shri Jayadev Galla
9. Shri K. C. Venugopal
10. Ms. Sushmita Dev
11. Dr. P. Venugopal
12. Shri Kalyan Banerjee
13. Shri Bhartruhari Mahtab
14. Shri B. Vinod Kumar

RAJYA SABHA

15. Shri Naresh Gujral
16. Shri Anand Sharma
17. Dr. Balachandra Mungekar
18. Shri Praful Patel
19. Shri Ravi Prakash Verma
20. Shri K.C. Tyagi

SECRETARIAT

1. Smt. Sudesh Luthra - Joint Secretary
2. Shri J. V. G. Reddy - Director
3. Smt. Jagriti Tewatia - Deputy Secretary

REPRESENTATIVES OF THE MINISTRIES/DEPARTMENTS

Ministry of Finance (Department of Economic Affairs)

1. Shri Ajay Tyagi - Additional Secretary
2. Dr. C.K.G. Nair - Advisor (FSLRC)
3. Shri Praveen Trivedi - OSD

Ministry of Law & Justice (Legislative Department)

1. Dr. Reeta Vasishtha, Additional Secretary
2. Smt. Veena Kothavale, Additional Legislative Counsel

2. At the outset, the Chairperson welcomed the members to the sitting of the Committee convened to take oral evidence of some of the Statutory/Regulatory/Government Bodies in connection with examination of the Bill. The Committee then took the oral evidence of the representatives of the following Bodies:

(i) Reserve Bank of India (RBI)

1. Shri R. Gandhi - Deputy Governor
2. Shri N.S. Vishwanathan - Executive Director
3. Shri Sudarshan Sen - Principal Chief General Manager, Department of Banking Regulations

(ii) Indian Banks' Association (IBA)

1. Shri Ashwini Kumar - Chairman
2. Shri M. V. Tanksale – Chief Executive
3. Shri Shrikant Johri – Senior Executive, Legal

(iii) Securities and Exchange Board of India (SEBI)

1. Shri U.K.Sinha - Chairman
2. Shri R.K.Agarwal - Whole Time Member
3. Shri J.Ranganayakulu - Executive Director

(iv) Competition Commission of India (CCI)

1. Shri Devender K. Sikri - Chairperson
2. Ms. Smita Jhingran - Secretary
3. Ms. Archana Goyal Gulati - Adviser (FA)
4. Ms. R. Bhama - Adviser (Law)

(v) Employees Provident Fund Organization (EPFO)

1. Shri Heera Lal Samariya - Central P.F. Commissioner
2. Shri Rajesh Bansal - Additional Central Provident Fund Commissioner (HQ)
3. Shri Jag Mohan - Additional Central Provident Fund Commissioner (Coordination)

(vi) Pension Fund Regulatory and Development Authority (PFRDA)

Shri Hemant Contractor - Chairman

3. The representatives of above-mentioned Statutory/Regulatory/Government Bodies deposed before the Committee one-by-one. Before the Committee proceeded to hear the oral evidence of the representatives of these stakeholders, the Chairperson drew their attention to the provisions contained in Direction 55 and 58 of the Directions by the Speaker regarding the confidentiality of the evidence tendered before the Committee. The representatives presented their views on various aspects related to examination of the above-mentioned Bill particularly in the context of their mandate

4. During the course of evidence, members raised certain queries/sought clarifications which were responded to by the representatives of the aforesaid Bodies. The representatives were asked to submit written replies/clarifications in respect of queries to which replies were not readily available.

The witnesses then withdrew.

5. A verbatim record of the proceedings has been kept.

The Committee then adjourned.

Minutes of the Fourth sitting of the Joint Committee on the Bill titled 'The Insolvency and Bankruptcy Code, 2015', held on Tuesday, the 9th February, 2016.

The Committee sat from 1100 hrs. to 1345 hrs. in Committee Room No. 074, Ground Floor, Parliament Library Building, New Delhi.

PRESENT

Shri Bhupender Yadav

-

Chairperson

LOK SABHA

2. Shri P. P Chaudhary
3. Shri Gopal Chinayya Shetty
4. Shri Subhash Baheria
5. Shri Nishikant Dubey
6. Shri Anil Shirole
7. Shri Gajendra Singh Shekhawat
8. Dr. Sanjay Jaiswal
9. Shri Jayadev Galla
10. Ms. Sushmita Dev
11. Dr. P. Venugopal
12. Shri Bhartruhari Mahtab
13. Shri B. Vinod Kumar

RAJYA SABHA

14. Shri Ajay Sancheti
15. Shri Naresh Gujral
16. Shri Anand Sharma
17. Dr. Balachandra Mungekar
18. Shri Ravi Prakash Verma
19. Shri Sukhendu Sekhar Roy

SECRETARIAT

1. Smt. Sudesh Luthra - Joint Secretary
2. Shri J. V. G. Reddy - Director
3. Smt. Jagriti Tewatia - Deputy Secretary

REPRESENTATIVES OF THE MINISTRIES/DEPARTMENTS

Ministry of Finance (Department of Economic Affairs)

1. Shri Ajay Tyagi, Additional Secretary
2. Dr. C.K.G. Nair, Advisor (FSLRC)
3. Shri Praveen Trivedi, OSD

Ministry of Law & Justice (Legislative Department)

1. Dr. Mukulita Vijayawargiya, Additional Secretary
2. Smt. Veena Kothavale, Additional Legislative Counsel

2. At the outset, the Chairperson welcomed the members to the sitting of the Committee and informed them that in continuation of evidence of stakeholders held on the 8th February, 2016, the Committee at this sitting would be taking oral evidence of some of the organisations representing Industry, International Centre for Alternative Dispute Resolution, Institutes of Chartered Accountants, Cost Accountants and Company Secretaries and Bar Council of India in connection with examination of the Bill. The Committee then took the oral evidence of the representatives of the following stakeholders:

(i) Confederation of Indian Industries (CII)

1. Shri Gyanendra Kumar, Member, CII National Committee on Regulatory Affairs & Cyril Amarchand Mangaldas, partner
2. Shri T S Asokraj, Senior Vice President & Head Law, Axis Bank
3. Shri V. Kashyup, Director

(ii) Federation of Indian Chambers of Commerce and Industries (FICCI)

1. Mr. Sidharth Birla, Chairman, FICCI's Core Group on Insolvency Laws and Past President, FICCI
2. Mr. Abizer Diwanji, Partner and National Leader, EY
3. Mr. Alok Dhir, Managing Partner, Dhir & Dhir Associates
4. Ms. Jyoti Vij, Deputy Secretary General, FICCI
5. Mr. Piyush Mishra, Partner, Cyril Amarchand Mangaldas

(iii) The Associated Chambers of Commerce and Industries of India (ASSOCHAM)

1. Shri Sunil Kanoria, President ,ASSOCHAM
2. Shri Raman Aggarwal, Chairman , FIDC

(iv) International Centre for Alternative Dispute Resolution(ICADR)

1. Shri B.S. Saluja, Secretary General

(v) The Institute of Chartered Accountants of India (ICAI)

1. CA. S. Santhanakrishnan, Central Council Member & Chairman Corporate Laws & Corporate Governance Committee, ICAI
2. CA. Naveen ND Gupta, Central Council Member & Chairman, Committee on Economic, Commercial Law & WTO, ICAI
3. A. Dhinal Shah, Central Council Member & Vice- Chairman, Committee on Economic,Commercial Law & WTO, ICAI
4. CA. Sarika Singhal, Assistant Secretary, ICAI

(vi) The Institute of Cost Accountants of India

1. CMA P.V. Bhatlad, Persident
2. CMA B.B. Goyal, Former Addl. Chief Advisor, M/o Finance
3. Dr. J.D. Sharma – Dir. Indian Overseas Bank
4. Shri Giri Ketharaj, Joint Director

(vii) The Institute of Company Secretaries of India (ICSI)

1. Ms. Mamta Binani, President ICSI
2. Shri Vineet K. Chaudhary, Council Member, ICSI
3. Ms. Lakshmi Arun, Deputy Director, Directorate of Corporate Laws and Governance, ICSI

(viii) Bar Council of India (BCI)

Shri Bhoj Chander Thakur, Member, BCI

3. The above-mentioned stakeholders deposed before the Committee one-by-one. Before the Committee proceeded to hear the oral evidence of the representatives of the stakeholders, the Chairperson drew their attention to the provisions contained in Direction 55 and 58 of the Directions by the Speaker regarding the confidentiality of the evidence tendered before the Committee. The representatives presented their views on

various aspects related to examination of the above-mentioned Bill particularly in the context of their mandate

4. During the course of evidence, members raised certain queries/sought clarifications which were responded to by the representatives of the aforesaid Organisations/Institutes. The representatives were asked to submit written replies/clarifications in respect of queries to which replies could not be furnished immediately.

The witnesses then withdrew.

5. A verbatim record of the proceedings has been kept.

The Committee then adjourned.

Minutes of the Fifth sitting of the Joint Committee on the Bill titled 'The Insolvency and Bankruptcy Code, 2015', held on Monday, the 15th February, 2016.

The Committee sat from 1100 hrs. to 1545 hrs. in Committee Room No. 074, Ground Floor, Parliament Library Building, New Delhi.

PRESENT

Shri Bhupender Yadav

-

CHAIRPERSON

LOK SABHA

2. Shri Gopal Chinayya Shetty
3. Shri Subhash Baheria
4. Shri Nishikant Dubey
5. Shri Shivkumar C. Udasi
6. Shri Anil Shirole
7. Shri Jagdambika Pal
8. Shri Jayadev Galla
9. Shri Chandrakant Khaire
10. Shri Chirag Paswan
11. Shri K. C. Venugopal
12. Shri Kalyan Banerjee
13. Shri Bhartruhari Mahtab
14. Shri B. Vinod Kumar

RAJYA SABHA

15. Shri Naresh Gujral
16. Shri Anand Sharma
17. Shri Ravi Prakash Verma
18. Shri Satish Chandra Misra

SECRETARIAT

1. Smt. Sudesh Luthra - Joint Secretary
2. Shri J. V. G. Reddy - Director
3. Smt. Jagriti Tewatia - Deputy Secretary

REPRESENTATIVES OF THE MINISTRIES/DEPARTMENTS

Ministry of Finance

Department of Economic Affairs (DEA)

1. Shri Ajay Tyagi - Additional Secretary
2. Dr. C K G Nair - Advisor
3. Ms. Sheyphali B. Sharan - Director
4. Shri Praveen Trivedi - OSD
5. Shri Revant Gupta - Consultant

Ministry of Law and Justice

Legislative Department

1. Dr. Mukulita Vijayawargiya - Addl. Secretary
2. Shri Sanjeev Kumar Srivastava - Assistant Legislative Counsel

2. At the outset, the Chairperson welcomed the members to the sitting of the Committee convened to take oral evidence of various research organisations, a regulatory body, a LLP organisation, Trade Unions and also Ministries of Labour & Employment, Heavy Industries & Public Enterprises (Department of Public Enterprises) in connection with examination of the Bill titled 'The Insolvency and Bankruptcy Code, 2015'. The Committee then took oral evidence of the representatives of the following stakeholders:-

Vidhi Centre for Legal Policy

(The organization has worked with Bankruptcy Law Reforms Committee)

1. Shri Debanshu Mukherjee - (BCL, University of Oxford) SRF and Lead (Corporate Law and Financial Regulation)
2. Ms. Shreya Garg - Research Fellow

Centre for Law and Policy Research

Ms. Aparna Ravi -

PRS Legislative Research

1. Dr. M R Madhavan
2. Dr. Mandira Kala
3. Shri Aravind Gayam
4. Shri Vatsal Khullar

Indira Gandhi Institute of Development Research

1. Dr Susan Thomas - Assistant Professor
2. Ms. Anjali Sharma - Research Associate
3. Dr. Rajeswari Sengupta - Assistant Professor

National Institute of Public Finance and Policy (NIPFP)

1. Dr. Ajay Shah - Professor
2. Ms. Bhargavi Zaveri - Consultant

Insurance Regulatory Development Authority of India (IRDAI)

1. Shri T S Vijayan - Chairman
2. Ms. Mamta Suri - Head of Department (F&A)
3. Mukesh Sharma - Joint Director

BDO INDIA LLP

1. Shri Milind Kothari - Managing Partner
2. Shri Pranay Bhatia - Partner Direct Tax

Bhartiya Mazdoor Sangh

Sh. K. Sashi Kumar Kedlaya

Indian National Trade Union Congress

Shri Ashok Singh - Vice President

Centre for Indian Trade Unions

Shri A K Padmanabhan - President

Hind Mazdoor Sabha

1. Shri C.A. Rajasridhar - President
2. Shri Anand Swaroop - Director Education

Ministry of Labour & Employment

1. Shri Shankar Aggarwal - Secretary
2. Shri HeeraLal Samariya - Additional Secretary
3. Shri P.P. Mitra - Principal Labour & Employment Advisor
(Secretary Rank)
4. Shri Manish Gupta - Joint Secretary.
5. Shri Deepak Kumar - Director General (AS Rank)

Ministry of Heavy Industries and Public Enterprises (Department Of Public Enterprises)

1. Shri Ameising Luikham - Secretary
2. Shri S K Goyal - Adviser
3. Shri Anand Singh Bhal - Adviser

3. The above-mentioned stakeholders deposed before the Committee one-by-one. Before the Committee proceeded to hear the oral evidence of the representatives of the stakeholders, the Chairperson drew their attention to the provisions contained in Direction 55 and 58 of the Directions by the Speaker regarding the confidentiality of the evidence tendered before the Committee. The representatives of each of the aforesaid stakeholders presented their views on various aspects related to examination of the above-mentioned Bill particularly in the context of their mandate

4. During the course of evidence, members raised certain queries/sought clarifications which were responded to by the representatives of the various stakeholders. The representatives were asked to submit written replies/clarifications in respect of queries to which replies were not readily available.

5. A verbatim record of the proceedings has been kept.

The Committee then adjourned.

Minutes of the Sixth sitting of the Joint Committee on the Bill titled 'The Insolvency and Bankruptcy Code, 2015', held on Tuesday, the 16th February, 2016.

The Committee sat from 1100 hrs. to 1425 hrs. in Committee Room No. 074, Ground Floor, Parliament Library Building, New Delhi.

PRESENT

Shri Bhupender Yadav - CHAIRPERSON

LOK SABHA

2. Shri P. P Chaudhary
3. Shri Gopal Chinayya Shetty
4. Shri Subhash Baheria
5. Shri Nishikant Dubey
6. Shri Shivkumar C Udasi
7. Shri Anil Shirole
8. Dr. Sanjay Jaiswal
9. Shri Jagdambika Pal
10. Shri Jayadev Galla
11. Shri Chandrakant Khaire
12. Shri Kalyan Banerjee
13. Shri Bhartruhari Mahtab

RAJYA SABHA

14. Shri Ajay Sancheti
15. Shri Naresh Gujral
16. Shri Anand Sharma
17. Shri Ravi Prakash Verma
18. Shri Satish Chandra Misra

SECRETARIAT

1. Smt. Sudesh Luthra - Joint Secretary
2. Shri J. V. G. Reddy - Director
3. Smt. Jagriti Tewatia - Deputy Secretary

REPRESENTATIVES OF THE MINISTRIES

Ministry of Finance (Department of Economic Affairs)

1. Shri Shaktikanta Das - Secretary
2. Shri Ajay Tyagi - Additional Secretary
3. Dr. C K G Nair - Advisor

Ministry of Finance (Department of Financial Services)

1. Ms. Anjuly Chibb Duggal - Secretary
2. Ms. Snehlata Shrivastava - Special Secretary
3. Shri R N Dubey - Economic Adviser
4. Shri Rajesh Aggarwal - Joint Secretary
5. Shri Mohammad Mustafa - Joint Secretary
6. Dr. Shashank Saxena - Economic Adviser

Ministry of Law and Justice (Legislative Department)

1. Dr. G Narayanan Raju - Secretary
2. Dr. Mukulita Vijayawargiya - Addl. Secretary

Ministry of Corporate Affairs

1. Shri Tapan Ray - Secretary
2. Shri Pritam Singh - Additional Secretary
3. Shri Amardeep Singh Bhatia - Joint Secretary

2. At the outset the Chairperson welcomed the members and representatives to the sitting of the Joint Committee convened to take oral evidence of the representatives of Departments of Economic Affairs, Financial Services, Legislative Department and Ministry of Corporate of Affairs on the provisions contained in the Bill titled 'The Insolvency and Bankruptcy Code, 2015. The Chairperson then drew the attention to the provisions of the Direction 55(1) regarding the confidentiality of the evidence tendered before the Committee.

3. The representatives of the Department of Financial Services then made a power point presentation highlighting various aspects of the legislation particularly in the

context of their mandate. The members raised pertinent queries on various aspects related to the provisions contained in the Code which include issues related to Non-Performing Assets in Banks, Mechanism of Alternate Dispute Resolution under Corporate Debt Restructuring (CDR), Joint Lending Forum (JLF) and Strategic Debt Restructuring (SDR), pre-litigation mediation, provisions of IBC viz-a-viz SARFAESI Act, resolution plan, cross border insolvency, territorial jurisdiction of the NCLT/DRT, model by-laws for insolvency resolution professionals agencies, identification of the nodal Ministry for implementation of the Code, priority of distribution of the proceeds and the limit of 12 months wages to workmen and employees, etc. The representatives of the Departments of Economic Affairs, Financial Services, Legislative Department and Ministry of Corporate of Affairs submitted their respective clarifications to the queries raised by the members. They were asked to submit written replies/clarifications in respect of the queries on which information was not readily available.

The representatives then withdrew.

4. The Committee, thereafter, reviewed the status of examination of Bill and noted that as per the mandate of the House, the Committee were required to finalise and present the Report on the Bill by the last day of the first week of the Budget Session 2016 i.e. 26 February, 2016. The Committee observed that they had completed evidence of various experts/stakeholders, concerned Union Ministries/Departments, but they were yet to complete certain stages of examination of the Bill which included giving notice of amendments by the members, which would be followed by clause-by-clause consideration of the Bill, drafting, consideration, adoption and presentation of the Report to the Parliament. Considering the work involved in completing the remaining stages of examination, the Committee felt that it would not be possible to finalise and present the Report by the stipulated date i.e. 26 February, 2016. The Committee, therefore, decided to seek extension of time for presentation of the Report upto the last day of the first week of the second part of the Budget Session, 2016 i.e. 29 April, 2016.

5. The Committee also decided that the members of the Committee may give notice of amendments on the clauses of the Bill up to 23 February, 2016.

6. The Committee then decided to hold the next sitting on 3 March, 2016 to take up clause-by-clause consideration of the Bill.

7. A verbatim record of the proceedings has been kept.

The Committee then adjourned.

Minutes of the Seventh sitting of the Joint Committee on the Bill titled Insolvency and Bankruptcy Code, 2015, held on Thursday, the 3rd March, 2016.

The Committee sat from 0930 hrs. to 1015 hrs. in Room No. 062, Parliament House, New Delhi.

PRESENT

Shri Bhupender Yadav - CHAIRPERSON

LOK SABHA

2. Shri P. P Chaudhary
3. Shri Gopal Chinayya Shetty
4. Shri Subhash Baheria
5. Shri Nishikant Dubey
6. Shri Shivkumar C Udasi
7. Shri Anil Shirole
8. Shri Gajendra Singh Shekhawat
9. Shri Jayadev Galla
10. Shri Chandrakant Khaire
11. Shri Chirag Paswan
12. Dr. P Venugopal
13. Shri Bhartruhari Mahtab
14. Shri Jitendra Chaudhury

RAJYA SABHA

15. Shri Ajay Sancheti
16. Shri Naresh Gujral

SECRETARIAT

1. Smt. Sudesh Luthra - Joint Secretary
2. Shri J. V. G. Reddy - Director
3. Smt. Jagriti Tewatia - Deputy Secretary

REPRESENTATIVES OF THE MINISTRIES/DEPARTMENTS

Ministry Of Finance

Department of Economic Affairs

1. Shri Shaktikanta Das - Secretary
2. Shri Ajay Tyagi - Additional Secretary
3. Dr. C K G Nair - Advisor
4. Ms. Sheyphali B Sharan - Director (FSLRC)

Ministry of Law and Justice

A. Legislative Department

1. Dr. G Narayanan Raju - Secretary
2. Dr. Mukulita Vijayawargiya - Addl. Secretary

B. Department of Legal Affairs

1. Shri P K Malhotra - Secretary
2. Shri Mahendra Khandewal - Add. Gov. Adv.

2. At the outset, the Chairperson welcomed the members of the Joint Committee and representatives of Department of Economic Affairs, Legislative Department and Department of Legal Affairs to the sitting of the Committee convened to take up clause-by-clause consideration of the Bill titled 'The Insolvency and Bankruptcy Code, 2015'. The Chairperson then apprised the Committee that having concluded the evidences the members of the Joint Committee were requested to give notice of amendments as per laid down rules/procedure. The last date for giving notice of amendment by members was 23 February, 2016 which was further extended upto 29 February, 2016 on the request of some of the members of the Committee. 106 amendments and another 36 suggestions on the Bill, which contains 252 clauses have been received from members of the Committee. The amendments have been consolidated, arranged clause-wise by the Secretariat and circulated to the members of the Committee. The Chairperson also apprised the Committee that House has granted extension of time for presentation of the report on the Insolvency Code, 2015 upto last day of the first week of second part of Budget Session, 2016 i.e. 29 April, 2016.

3. The Chairperson then drew the attention of the Committee to provisions of Direction 55(1) of the Directions by the Speaker Lok Sabha regarding the confidentiality of the proceedings of the sitting of the Committee. The Committee after some deliberations decided to meet again on 17 March, 2016 to take up clause-by-clause consideration of the Bill.

4. A verbatim record of the proceedings has been kept.

The Committee then adjourned.

Minutes of the Eighth sitting of the Joint Committee on the Insolvency and Bankruptcy Code, 2015, held on Thursday, the 17th March, 2016.

The Committee sat from 1100 hrs. to 1350 hrs. in Committee Room No. G074, PLB, New Delhi.

PRESENT

Shri Bhupender Yadav - CHAIRPERSON

LOK SABHA

2. Shri P. P Chaudhary
3. Shri Gopal Chinayya Shetty
4. Shri Subhash Baheria
5. Shri Nishikant Dubey
6. Shri Anil Shirole
7. Shri Sanjay Jaiswal
8. Shri Jayadev Galla
9. Shri Chandrakant Khaire
10. Shri Chirag Paswan
11. Dr. P Venugopal
12. Shri Bhartruhari Mahtab
13. Shri B. Vinod Kumar

RAJYA SABHA

14. Shri Ajay Sancheti
15. Shri Naresh Gujral
16. Shri Ravi Prakash Verma
17. Shri Sukhendu Sekhar Roy

SECRETARIAT

1. Smt. Sudesh Luthra - Joint Secretary
2. Shri J. V. G. Reddy - Director
3. Smt. Jagriti Tewatia - Deputy Secretary

REPRESENTATIVES OF MINISTRY OF FINANCE

DEPARTMENT OF ECONOMIC AFFAIRS

1. Shri Shaktikanta Das - Secretary
2. Shri Ajay Tyagi - Additional Secretary
3. Dr. C K G Nair - Advisor
4. Ms. Sheyphali B Sharan - Director (FSLRC)

REPRESENTATIVES OF MINISTRY OF LAW AND JUSTICE

(A) LEGISLATIVE DEPARTMENT

1. Dr. G Narayanan Raju - Secretary
2. Dr. Mukulita Vijayawargiya - Addl. Secretary

(B) DEPARTMENT OF LEGAL AFFAIRS

1. Shri P K Malhotra - Secretary
2. Shri Mahendra Khandewal - Add. Gov. Adv.

2. At the outset, the Chairperson welcomed the members and representatives of the Department of Economic Affairs, Legislative Department and Department of Legal Affairs to the sitting. The Chairperson informed the members that the consolidated lists of amendments containing 106 amendments and another 36 suggestions on the Bill, as received from members have already been circulated to the members of the Committee. Another statement containing the amendments and the comments of stakeholders as well as various Ministries/Departments and two sets of consolidated replies of stakeholders and Ministries/Departments have also been circulated to you to facilitate reference to views received from various quarters.

3. The Chairperson then put the Bill before the Committee clause-by-clause as per Direction 77 and requested members to move their amendments on a clause, if any, followed by deliberations by the Committee. The Chairperson also drew the attention of members to Rule 92 whereby clause one, the Enacting Formula, the Preamble and the Title of a Bill stand postponed until the other clauses and schedules have been disposed of. The Chairperson also drew the attention to the provisions of Direction 55(1) regarding confidentiality of the proceedings of the Committee.

4. The Committee then took up clause-by-clause consideration of the Code from clause 2 onwards. The Committee took up clauses one by one and after deliberations took decisions on clause 2-13.

5. The Committee, thereafter, decided to consider the remaining Clauses at the next sittings of the Committee. The Committee desired that the Legislative Department may suggest formulation wherever accepted by the Committee. It was also decided that the Legislative Department may also take care of the consequential amendments that may be required in other Clauses of the Bill pursuant to the amendments accepted by the Committee.

The Committee then adjourned.

Minutes of the ninth sitting of the Joint Committee on the Insolvency and Bankruptcy Code, 2015, held on Thursday, the 6th April, 2016.

The Committee sat from 1100 hrs. to 1640 hrs in Committee Room No. G074, PLB, New Delhi.

PRESENT

Shri Bhupender Yadav - Chairperson

LOK SABHA

2. Shri P. P Chaudhary
3. Shri Gopal Chinayya Shetty
4. Shri Subhash Baheria
5. Shri Nishikant Dubey
6. Shri Abhishek Singh
7. Shri Sanjay Jaiswal
8. Shri Jayadev Galla
9. Dr. P Venugopal
10. Shri Bhartruhari Mahtab
11. Shri B. Vinod Kumar
12. Shri Jitendra Chaudhury

RAJYA SABHA

13. Shri Ajay Sancheti
14. Shri Naresh Gujral
15. Shri Praful Patel
16. Shri Ravi Prakash Verma
17. Shri K C Tyagi
18. Shri Satish Chandra Mishra

SECRETARIAT

1. Smt. Sudesh Luthra - Joint Secretary
2. Shri J. V. G. Reddy - Director
3. Smt. Jagriti Tewatia - Deputy Secretary

REPRESENTATIVES OF THE MINISTRIES/DEPARTMENTS

MINISTRY OF FINANCE

DEPARTMENT OF ECONOMIC AFFAIRS

1. Shri Shaktikanta Das - Secretary
2. Shri Ajay Tyagi - Additional Secretary

MINISTRY OF LAW AND JUSTICE

LEGISLATIVE DEPARTMENT

1. Dr. G Narayanan Raju - Secretary
2. Dr. Mukulita Vijayawargiya - Addl. Secretary

MINISTRY OF LAW AND JUSTICE

DEPARTMENT OF LEGAL AFFAIRS

- Shri P K Malhotra - Secretary

2. At the outset, the Chairperson welcomed the members and the representatives of Department of Economic Affairs, Legislative Department and Department of Legal Affairs to the sitting of the Joint Committee. The Chairperson drew the attention of the members of the Committee to the extension granted by the House for presentation of the report i.e. upto the last day of the first week of Budget Session, 2016. He then apprised the members about the prorogation of Lok Sabha on 29th March, 2016 and as a result of which the second part of the Budget Session, 2016 stood cancelled. In these circumstances, the Committee decided that a motion stating that the extension of time granted to the Joint Committee on the Insolvency and Bankruptcy Code, 2015 by the House on 26th February, 2016 for presentation of the Report upto the last day of the first week of the second part of the Budget Session, 2016, may be treated as extension upto the last day of the first week of the current Session, may be moved in the House when convened during the next Session i.e. Eighth Session of Lok Sabha. The attention of Committee was also drawn to Direction 55(1) regarding confidentiality of the proceedings of the Committee.

3. In continuation of the clause-by-clause consideration undertaken by the Committee at their sitting held on the 17th March, 2016, the Chairperson put the

Insolvency and Bankruptcy Code, 2015 from clause 14 onwards before the Committee. The members moved the amendments clause-wise as given in the notices of amendments circulated to the members of the Committee. The general suggestions given by the members were also considered by the Committee while taking decision the respective clause. The Committee after deliberations took decision from clause 14 to 93.

4. The Committee, thereafter, decided to consider the remaining Clauses at the next sittings of the Committee. The Committee desired that the Legislative Department may suggest formulation wherever accepted by the Committee. It was also decided that the Legislative Department may also take care of the consequential amendments that may be required in other Clauses of the Bill pursuant to the amendments accepted by the Committee.

The Committee then adjourned.

Minutes of the tenth sitting of the Joint Committee on the Bankruptcy and Insolvency Code, 2015 held on Thursday, the 07th April, 2016.

The Committee sat from 1100 hrs. to 1810 hrs in Committee Room No. G074, PLB, New Delhi.

PRESENT

Shri Bhupender Yadav - CHAIRPERSON

LOK SABHA

2. Shri P P Chaudhary
3. Shri Gopal Chinayya Shetty
4. Shri Subhash Baheria
5. Shri Nishikant Dubey
6. Shri Abhishek Singh
7. Shri Gajendra Singh Shekhawat
8. Shri Sanjay Jaiswal
9. Shri Jagdambika Pal
10. Shri Jayadev Galla
11. Dr. P Venugopal
12. Shri Bhartruhari Mahtab
13. Shri Jitendra Chaudhury

RAJYA SABHA

14. Shri Ajay Sancheti
15. Shri Naresh Gujral
16. Shri Ravi Prakash Verma
17. Shri K C Tyagi
18. Shri Satish Chandra Mishra

SECRETARIAT

1. Smt. Sudesh Luthra - Joint Secretary
2. Shri J. V. G. Reddy - Director
3. Smt. Jagriti Tewatia - Deputy Secretary

REPRESENTATIVES OF THE MINISTRIES OF FINANCE

DEPARTMENT OF ECONOMIC AFFAIRS

1. Shri Shaktikanta Das - Secretary
2. Shri Ajay Tyagi - Additional Secretary

REPRESENTATIVES OF MINISTRY OF LAW AND JUSTICE

(A) LEGISLATIVE DEPARTMENT

1. Dr. G Narayanan Raju - Secretary
2. Dr. Mukulita Vijayawargiya - Addl. Secretary

(B) DEPARTMENT OF LEGAL AFFAIRS

Shri Suresh Chandra - JS & LA

2. At the outset, the Chairperson welcomed the members and the representatives of Department of Economic Affairs, Legislative Department and Department of Legal Affairs to the sitting of the Joint Committee. The attention of Committee was drawn to Direction 55(1) regarding confidentiality of the proceedings of the Committee.

3. In continuation of the clause-by-clause consideration undertaken by the Committee at their sittings held on the 17th March, and 6th April, 2016, the Chairperson put the Insolvency and Bankruptcy Code, 2015 from clause 94 onwards before the Committee. The members moved the amendments clause-wise as given in the notices of amendments circulated to the members of the Committee. The general suggestions given by the members were also considered by the Committee while taking decision the respective clause. The Committee after deliberations took decision from clause 94 to 241. The Committee also considered clause 242 to 252 alongwith The First Schedule to Eleventh Schedule, whereby amendments to various Acts, consequent to the provisions made in the Code, 2015, have been proposed. The Committee requested the representatives of the Legislative Department and Department of Economic Affairs to look into the consequential amendments that may be required in view of the modifications suggested by the Committee to various clauses

4. The Committee desired that the Legislative Department may suggest formulation wherever accepted by the Committee. It was also decided that the Legislative Department may also take care of the consequential amendments that may be required in other Clauses of the Bill pursuant to the amendments accepted by the Committee.

The Committee then adjourned.

Minutes of the Eleventh sitting of the Joint Committee on the Insolvency and Bankruptcy Code, 2015, held on Thursday, the 21st April, 2016.

The Committee sat from 1100 hrs. to 1228 hrs in Committee Room "E", Basement, PHA, New Delhi.

PRESENT

Shri Bhupender Yadav - CHAIRPERSON
LOK SABHA

2. Shri P. P Chaudhary
3. Shri Gopal Chinayya Shetty
4. Shri Nishikant Dubey
5. Shri Anil Shirole
6. Shri Sanjay Jaiswal
7. Shri Jagdambika Pal
8. Shri Chandrakant Khaire
9. Smt. Sushmita Dev
10. Shri Kalyan Banerjee
11. Shri Bhartruhari Mahtab
12. Shri B. Vinod Kumar
13. Shri Jitendra Chaudhury

RAJYA SABHA

14. Shri Ajay Sancheti
15. Shri Praful Patel
16. Shri Ravi Prakash Verma

SECRETARIAT

1. Smt. Sudesh Luthra - Joint Secretary
2. Shri J. V. G. Reddy - Director
3. Smt. Jagriti Tewatia - Deputy Secretary

REPRESENTATIVES OF THE MINISTRIES OF FINANCE AND LAW & JUSTICE

MINISTRY OF FINANCE

DEPARTMENT OF ECONOMIC AFFAIRS

Shri Ajay Tyagi - Additional Secretary

MINISTRY OF LAW AND JUSTICE

LEGISLATIVE DEPARTMENT

1. Dr. G Narayanan Raju - Secretary
2. Dr. Mukulita Vijayawargiya - Addl. Secretary

MINISTRY OF LAW AND JUSTICE

DEPARTMENT OF LEGAL AFFAIRS

Shri Suresh Chandra - JS & LA

2. At the outset, the Chairperson welcomed the members and the representatives of Department of Economic Affairs, Legislative Department and Department of Legal Affairs to the sitting of the Joint Committee. The Chairperson apprised the members that the sitting of the Committee has been convened to consider and approve the formulations with regard to the amended clauses as decided by the Committee at their sittings held on 17 March, 6 and 7 April, 2016. In this regard, two documents (i) the amendments as incorporated in the Bill, as drafted by the Legislative Department in consultation with the Department of Economic Affairs; and (ii) the draft report incorporating the formulations have been circulated to the members of the Committee for their consideration and approval. The attention was also drawn to Direction 55(1) regarding confidentiality of the proceedings of the Committee.

The Committee then considered and approved the draft formulations with regard to the amendments decided by the Committee.

The representatives of the Department of Economic Affairs suggested some modifications with regard to clause 65, 68 to 74, clause 76 & 77, clause 184 to 187 relating to offences and penalties, clause 142 relating to annulment of bankruptcy order,

new clause 205 as proposed by the Committee relating to model bye-laws, clause 216(1)(b) relating to removal of information from the records of the information utility. The Committee after deliberations decided to modify these clauses.

5. The Committee decided to meet again on 26.4.2016 for consideration and adoption of the draft report on the Bill.

The Committee then adjourned.

Minutes of the twelfth sitting of the Joint Committee on the Bankruptcy and Insolvency Code, 2015 held on Thursday, the 26th April, 2016.

The Committee sat from 1300 hrs. to 1320 hrs in Committee Room "B", PHA, New Delhi.

PRESENT

Shri Bhupender Yadav - Chairperson

LOK SABHA

2. Shri P. P Chaudhary
3. Shri Gopal Chinayya Shetty
4. Shri Nishikant Dubey
5. Shivkumar C Udasi
6. Shri Anil Shirole
7. Shri Gajendra Singh Shekhawat
8. Shri Jayadev Galla
9. Shri Chandrakant Khaire
10. Shri Chirag Paswan
11. Smt. Sushmita Dev
12. Shri Bhartruhari Mahtab
13. Shri B. Vinod Kumar
14. Shri Jitendra Chaudhury

RAJYA SABHA

15. Shri Ajay Sancheti
16. Shri Praful Patel
17. Shri Ravi Prakash Verma
18. Shri K C Tyagi
19. Shri Anand Sharma
20. Shri Naresh Gujral
21. Shri Bhubaneswar Kalita

SECRETARIAT

- | | | | |
|----|----------------------|---|------------------|
| 1. | Smt. Sudesh Luthra | - | Joint Secretary |
| 2. | Smt. Jagriti Tewatia | - | Deputy Secretary |

REPRESENTATIVES OF THE MINISTRIES OF FINANCE AND LAW & JUSTICE

MINISTRY OF FINANCE

DEPARTMENT OF ECONOMIC AFFAIRS

- | | | | |
|----|----------------------|---|----------------------|
| 1. | Shri Shaktikanta Das | - | Secretary |
| 2. | Shri Ajay Tyagi | - | Additional Secretary |

MINISTRY OF LAW AND JUSTICE

LEGISLATIVE DEPARTMENT

- | | | |
|----------------------------|---|-----------------|
| Dr. Mukulita Vijayawargiya | - | Addl. Secretary |
|----------------------------|---|-----------------|

2. At the outset, the Chairperson welcomed the members and the representatives of the Department of Economic Affairs, Legislative Department and Department of Legal Affairs to the sitting of the Joint Committee convened to consider and adopt the draft report on the Bill titled 'Insolvency and Bankruptcy Code, 2015' alongwith the amended Bill. The Chairperson then felicitated Shri Anand Sharma and Shri Naresh Gujral, members of Rajya Sabha for their re-appointment to the Joint Committee. The Chairperson also felicitated Shri Bhubaneshwar Kalita, member of Rajya Sabha for joining the Committee on his appointment to the Joint Committee.

3. The Committee then considered the general suggestions given by Dr. P.Venugopal and Shri Anil Shirole, members of the Joint Committee *vide* letters dated 22.4.2016. The Committee after consideration decided that the provision for time bound disposal of assets of debtor may be added appropriately in the Code. The Committee, thereafter, considered and adopted the draft report on the Bill titled 'The Insolvency and Bankruptcy Code, 2015'. The Committee then adopted clause one with a drafting correction i.e. to substitute '2015' by '2016'. The Enacting Formula then was adopted by the Committee with a modifications to substitute 'Sixty-sixth year' by 'Sixty-seventh year'. The Preamble of the Bill was then adopted with a drafting correction i.e. to substitute 'Insolvency and Bankruptcy Fund' by 'Insolvency and Bankruptcy Board of

India'. The title of the Bill was then adopted with a modification to substitute '2015' by '2016'.

4. Subsequent to adoption of the draft report, the Committee took the following decisions:-

- (i) The Legislative Department was authorised to correct patent errors, if any, in the Bill.
- (ii) The records of evidence tendered before the Committee may be laid on the Table of both the Houses of Parliament.
- (iii) Two sets of memoranda containing comments and suggestions of stakeholders on the provisions of the Bill, as circulated to the Members of the Committee in Parliament Library, after the Report has been presented, for reference of the Members of Parliament.
- (iv) To authorise Chairperson to finalise and present/lay the report to Lok Sabha and Rajya Sabha.

5. The Chairperson drew the attention of members of the Committee to Direction 84 and 85 and stated that members desirous of submitting dissent note may do so by 1200 hrs. on 27th April, 2016,

6. The Chairperson in his concluding remarks thanked all the members of the Joint Committee for their unstinted support and cooperation which made the Committee to examine and finalize the report on a comprehensive and important legislation within a short time. The Chairperson then thanked Shri T.K. Viswanathan, Chairman, Bankruptcy Law Reforms Committee, various experts/representatives of Statutory/Regulatory/Government Bodies and Research Bodies/Trade Unions, organisations representing Industry and Professional Bodies, stakeholders, Ministry of Labour & Employment, Department of Public Enterprises and Department of Financial Services for submitting their views before the Committee. The Chairperson also thanked the Secretaries, Department of Economic Affairs, Legislative Department and Department of Legal Affairs and their team of officers for furnishing necessary information/documents and rendering valuable assistance to the Committee. The Chairperson, thereafter placed on record the appreciation for the relentless assistance provided to the Committee by the officers and staff of the Lok Sabha Secretariat.

The Committee then adjourned.