



# **Recap of Recent Regulatory & Legal Updates**

**(October, 2023)**

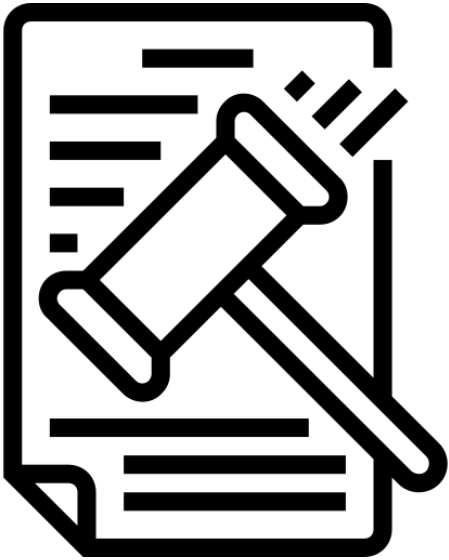


# **Regulatory Company Law**

## **updates:**



## Companies may hold AGM & EGMs through Video Conference (VC) or other audio-visual means (OAVM) up to 30th September, 2024



- MCA has extended the provision for companies to hold AGMs scheduled for 2023 or 2024 virtually until **September 30, 2024**, following the requirements provided in paragraphs 3 and 4 of Circular No. 20/2020 issued on May 5, 2020. Additionally, companies can conduct EGMs using virtual means or postal ballots up to the same date, in accordance with Circular Nos. 14/2020 and 17/2020, dated April 8, 2020, and April 13, 2020, respectively. Previously, the last date was 30<sup>th</sup> September, 2023.
- It's important to note that this does not extend the original AGM timelines set by the Companies Act, 2013, and non-compliance may result in legal consequences.





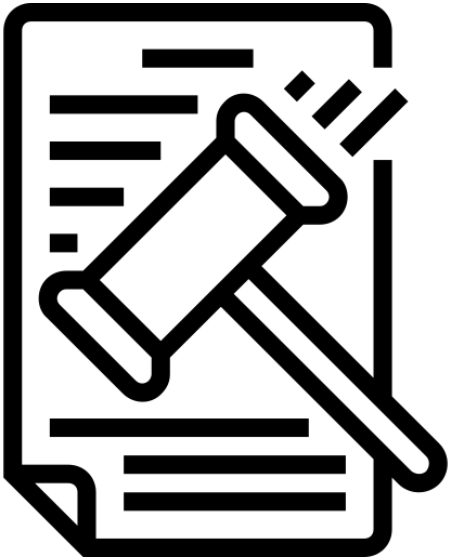
# **Securities Framework** to **nominate directors in** **REITs and InvITs**

## **Laws:**



# SEBI releases framework for unitholders of REITs/ InvITs to nominate director on the Board of Manager/ Investment Manager

SEBI has introduced a framework that allows Eligible Unitholder(s) of REITs/ InvITs to nominate a director on the Board of the Manager/ Investment Manager.

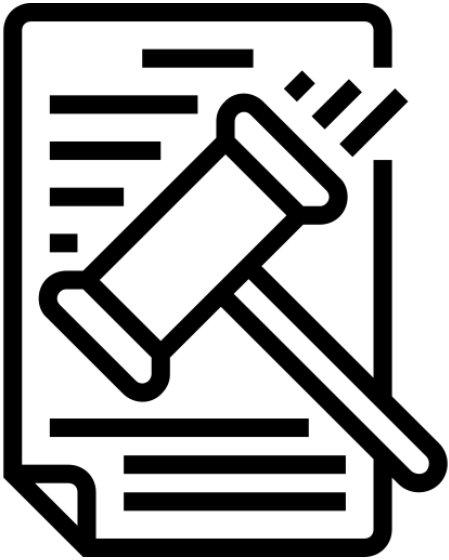


## The key highlights of the Circular are:

- **Formulation of Policy:** Manager/ Investment Manager shall formulate a policy setting out the eligibility, qualification criteria etc.
- **Intimation to Unitholders:** Manager/ Investment Manager shall send an intimation to all the unitholders informing them of their right and process of nomination.
- **Nomination Notice:** The eligible and interested unitholders may send a nomination notice of the candidature within 10 days of receipt from the Manager/ Investment Manager.



## SEBI releases framework for unitholders of REITs/ InvITs to nominate director on the Board of Manager/ Investment Manager

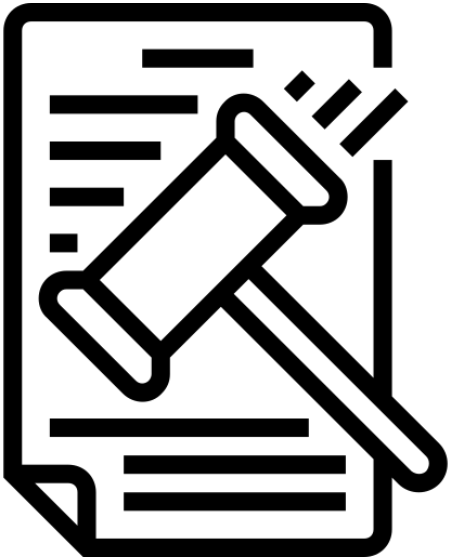


- **Evaluation and confirmation:** The eligibility of the candidate will be assessed by the Nomination and Remuneration Committee and/or the Board of Directors of the Manager/ Investment Manager.
- **Review and Reporting:** The Manager/ Investment Manager shall review the eligibility of the unitholder every month and submit a report to the Trustee.
- **Amendment of certain Charter Documents:** The Manager/ Investment Manager shall amend the Trust Deed/ Investment Management Agreement within a period of six months.



# SEBI releases framework for unitholders of REITs/ InvITs to nominate director on the Board of Manager/ Investment Manager

## Other key conditions:



- **Aggregating of unitholding:** The eligible unitholders may aggregate their unitholding and nominate a candidate. Such group shall have an Authorized representative (up to two) who will be the point of contact.
- **Existence of a Prior Right:** Where eligible unitholders have a right to nominate a director as a shareholder/lender of Manager/ Investment Manager, they will not be entitled to exercise such right.
- **Voting on certain matters:** The Unitholder Nominee Director shall not vote on related transactions.





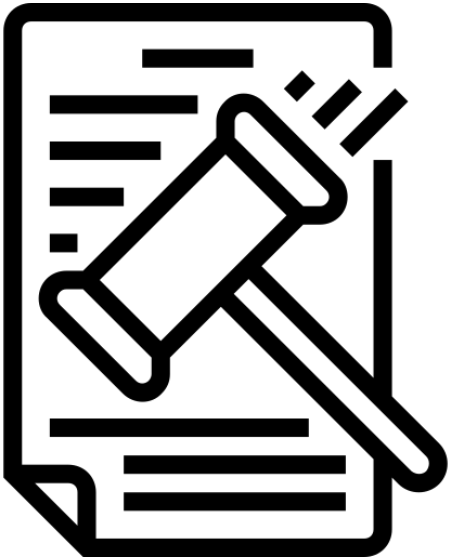
# Securities Laws : **SEBI** **(LODR), 2015**





## SEBI amends LODR Regulations

SEBI has amended the SEBI (LODR) Regulations, 2015 to introduce a new regulation regarding the listing of subsequent issuances of non-convertible debt securities.

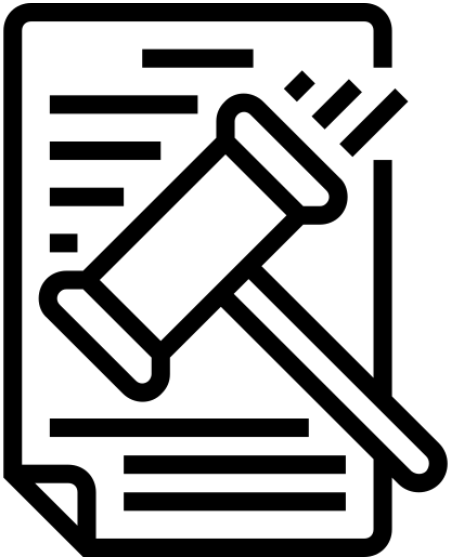


### The key highlights of New Regulation 62A are:

- **Listing of Non-Convertible Debt Securities:** Listed entities with non-convertible debt securities are required to list all such securities proposed to be issued on or after January 1, 2024.
- **Listing of Outstanding Unlisted Securities:** Listed entities, whose subsequent issues of unlisted non-convertible debt securities made on or before December 31, 2023 are outstanding on the said date, **may list** such securities.



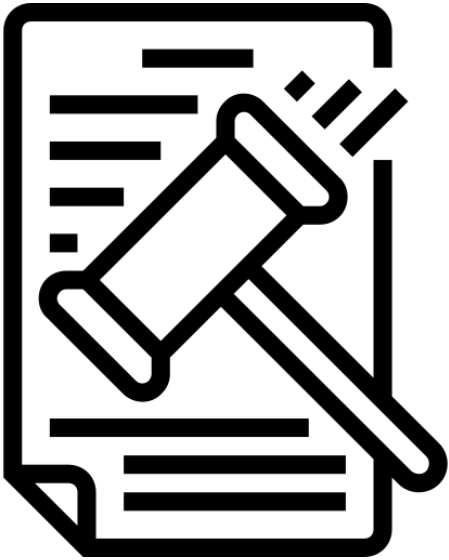
## SEBI amends LODR Regulations



- **Listing of Outstanding Securities Issued After January 1, 2024:** Any listed entity that proposes to list non-convertible debt securities on or after January 1, 2024, shall list all previously issued securities, issued on or after January 1, 2024, within 3 months from the date of listing of the proposed securities.
- **Exceptions:** Listed entities shall not be required to list the following types of securities:
  - Bonds issued under section 54EC of the Income Tax Act, 1961.
  - Non-convertible debt securities issued as part of agreements with multilateral institutions.
  - Non-convertible debt securities issued in compliance with orders from courts, tribunals, or regulatory requirements imposed by financial sector regulators such as SEBI, RBI, IRDAI, or Pension Fund and Regulatory Development Authority.



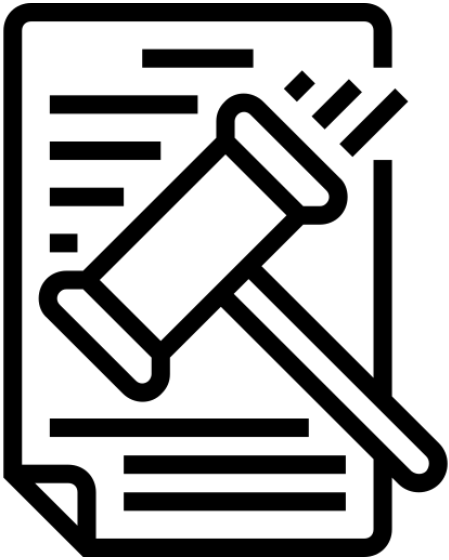
## SEBI amends LODR Regulations



- **Lock-in and Holding Period:** Securities issued under clauses (ii) and (iii) above shall be held by investors until maturity, and they should not be encumbered.
- **Disclosure Requirements:** Listed entities planning to issue securities as above are needed to disclose all key terms of such securities to the stock exchanges. These may include details such as embedded options, security types, interest rates, charges, commissions, premium (if any), maturity period, and any other details mandated by SEBI.



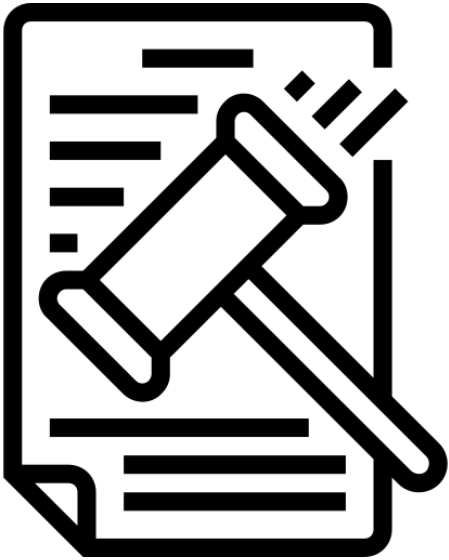
## Extension of timeline for verification of market rumours by listed entities



- The proviso to Regulation 30(11) requires top 100 listed entities by market capitalization with effect from October 1, 2023 and top 250 listed entities by market capitalization with effect from April 1, 2024 to mandatorily verify and confirm, deny or clarify market rumours.
- Now, the SEBI has extended the effective date of implementation of the proviso to regulation 30(11) of the LODR Regulations for top **100 listed entities** by market capitalization, to **February 1, 2024** and for **top 250 listed entities** by market capitalization, to **August 1, 2024**.



## Informal Guidance with respect of the disclosure of material events/ information

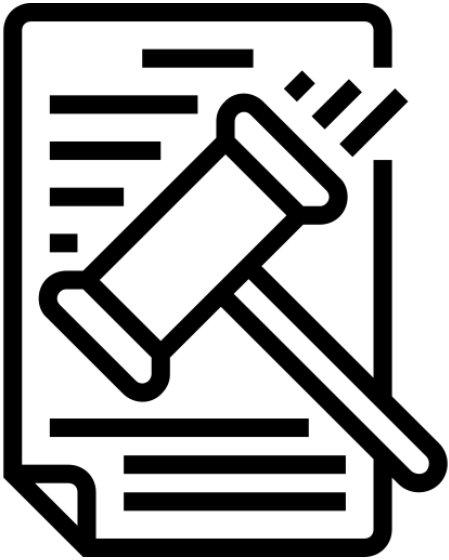


**Query – 1: With reference to Point No. 8 of Para B of Part A of Schedule III of the LODR Regulations, whether details of arbitral proceedings of pending arbitration matters or arbitral awards can be disclosed to SEBI as it may contravene Section 42A of Arbitration and Conciliation Act, 1996?**

***Response:*** The disclosure of the details of arbitral proceedings or arbitral awards can be made to the extent it is legally permissible under the Arbitration and Conciliation Act, 1996 which would inter-alia include disclosure of fact of initiation of arbitration proceedings, amount of claim involved in such proceedings, fact of passing of arbitral award and its effect on the listed entity, fact of termination of the arbitration proceedings, court orders in relation to the arbitration proceedings etc.



## Informal Guidance with respect of the disclosure of material events/ information



**Query – 2:** With reference to the above provision, in the SEBI Circular, what does 'cumulative basis' mean. Whether it includes:

- i) In case there are multiple litigations/ cases with the same party, whether the claims by/ against the said party in all such multiple litigations/ cases are to be taken together for arriving at the cumulative figure (deciding materiality)?**
- ii) In any single litigation/ case, whether claim by the listed entity and counter-claim against the listed entity needs to be added together, for the purpose of arriving at the cumulative figure (deciding materiality)?**

**Response:** It is clarified that the cumulative figure is to be arrived at by taking together the claims by/ against a party in all ongoing litigations or disputes with the same party. However, claim by the listed entity and counter-claim against the listed entity in any single litigation/ case may not be added together or set-off for the purpose of arriving at the aforesaid cumulative figure.

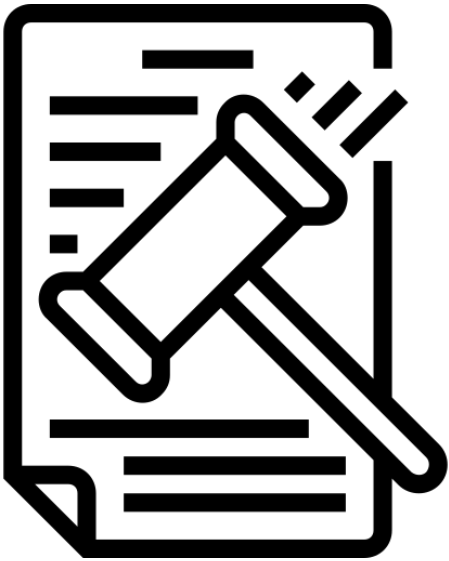




# **Securities Laws : New format of Abridged Prospectus**



# New format of Abridged Prospectus for public issues of Non-Convertible Debt Securities and/or Non-convertible Redeemable Preference Shares'



SEBI has revised the format for disclosures in the abridged prospectus. The objective is to simplify information, enhance clarity, and ensure consistency in disclosures across various documents related to public issues of these securities.

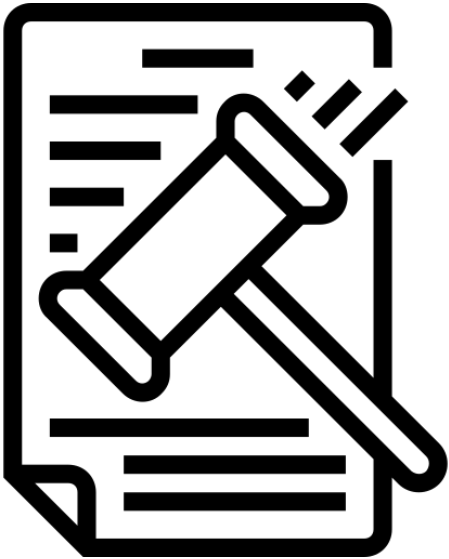
## The key highlights of the Circular are:

- a) Effective Date:** The new format for the abridged prospectus will be applicable to public issues that open on or after October 1, 2023. This means that issuers planning to launch such issues on or after this date must adhere to the revised format.
- b) Replacement of Schedule I:** The new format for the abridged prospectus replaces Part B of Schedule I of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021.





## New format of Abridged Prospectus for public issues of Non-Convertible Debt Securities and/or Non-convertible Redeemable Preference Shares'



**c) Inclusion of Quick Response (QR) Code:** A notable addition is the requirement for issuers or Merchant Bankers to insert a Quick Response (QR) code on the last page of the abridged prospectus. This QR code will serve as a convenient way for investors to access the full prospectus. Scanning the QR code will lead to the complete prospectus, providing investors with access to detailed information about the securities being offered.

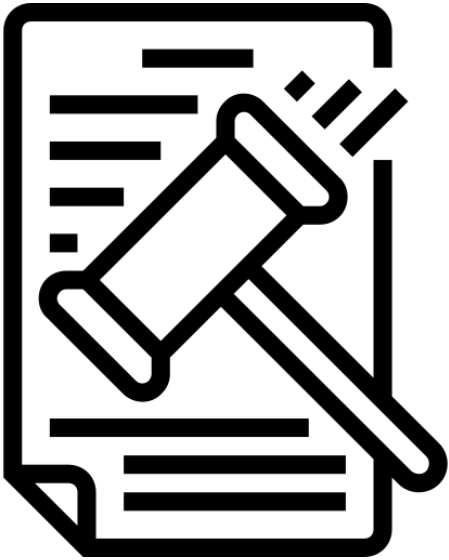




# **Securities Laws :** **Nomination in Demat** **Accounts**



## Extension of timelines (i) for nomination in eligible demat accounts and (ii) for submission of PAN, Nomination and KYC details by physical security holders; and voluntary nomination for trading accounts



- SEBI stipulated that trading accounts and demat account which do not have 'choice of nomination' by **September 30, 2023** shall be frozen. As a step towards ease of doing business, SEBI vide circular dated September 26, 2023, has prescribed that submission of 'choice of nomination' for trading accounts has been made voluntary.
- However, with respect to demat accounts, the last date for submission of 'choice of nomination' has been extended to **December 31, 2023**. Further, for physical security holders the last date for submission of PAN, Nomination, Contact details, Bank A/c details and Specimen signature for their corresponding folio numbers has been extended to December 31, 2023.

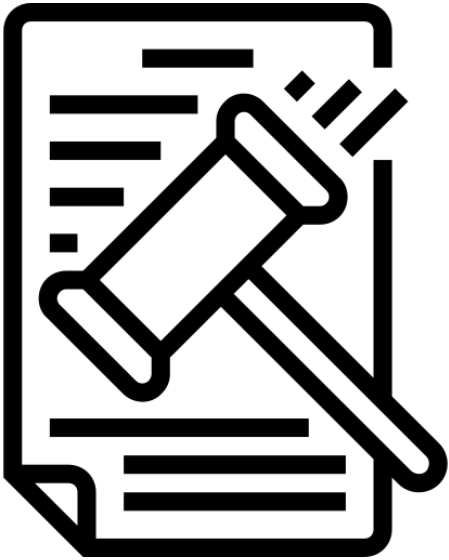




# **Securities Laws :** **Alternative Investment Funds (AIFs)**



## Regulatory Reporting by Alternative Investment Funds (AIFs)



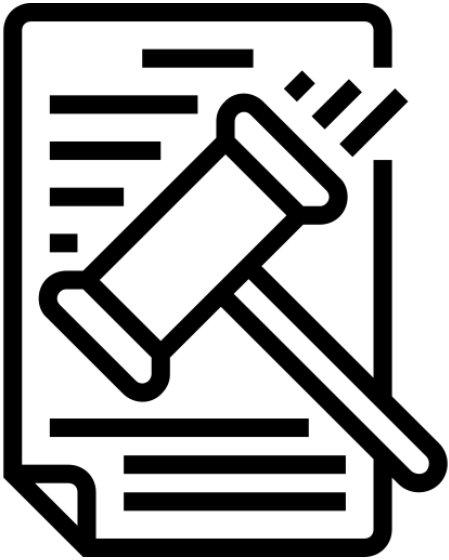
SEBI has reviewed and revised the quarterly reporting format for AIFs. The aim is to establish uniform compliance standards, streamline compliance reporting, and facilitate regulatory and developmental purposes.

### The key highlights of the Circular are:

- a) Hosting of Reporting Format:** It is mandated that the revised reporting format should be hosted on the websites of AIF associations within 2 working days of the issuance of this circular. This ensures that AIFs and stakeholders have access to the updated reporting guidelines.
- b) Quarterly Reporting Deadline:** AIFs are required to submit their quarterly reports within 15 calendar days from the end of each quarter.



## Regulatory Reporting by Alternative Investment Funds (AIFs)



**c) Trial Run for June 2023 Quarter:** To implement the revised reporting format, AIF associations are encouraged to engage with all AIFs. They should ensure that a trial run is carried out, and the quarterly report for the June 2023 quarter should be submitted in the revised format by October 15, 2023. The submission is to be made through the SEBI Intermediary Portal (SI Portal).



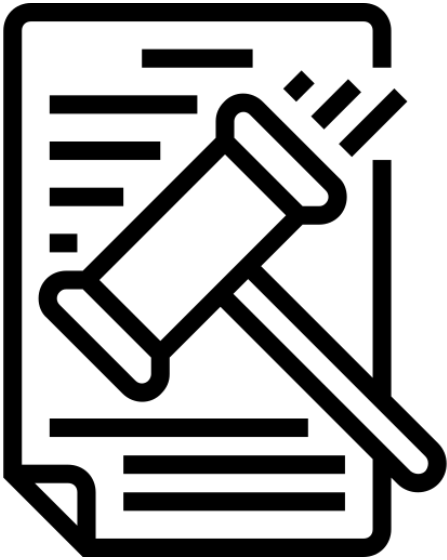


# Insolvency Law



# IBBI amends the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations)

IBBI has introduced several significant amendments to the CIRP Regulations. These amendments are aimed at improving and streamlining the insolvency resolution process in India:

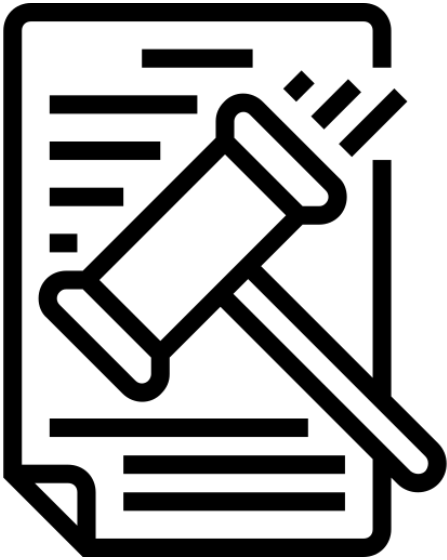


- a) Enhancing CIRP Efficiency:** Detailed Procedure for Custody and Control of CD Assets and Records: To facilitate smooth conduct of CIRP, a provision regarding the assistance and cooperation expected from the personnel of the corporate debtor (CD) by providing a detailed procedure for taking custody and control of assets and records of the CD by the resolution professional (RP) has been inserted;
- b) Extended Claim Filing Timelines and Empowerment of RP and CoC:** The amendments extend the timeline for filing claims up to the date of issuing a request for resolution plans under regulation 36B or 90 days from the insolvency commencement date, whichever is later. It empowers the RP to give opinions on the acceptance of claims submitted beyond this timeline, and the committee of creditors (CoC) can recommend their acceptance for inclusion in the list of claims and resolution plan.





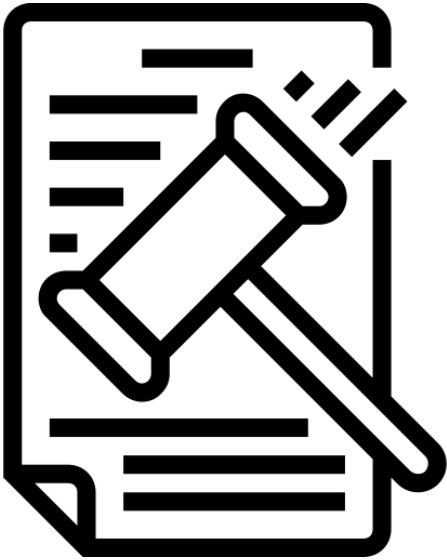
# IBBI amends the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations)



- c) **Empowering Home Buyers with the Enhanced Role of Authorized Representative:** The amendments enhance the responsibilities of the authorized representative, particularly for the class of creditors such as home buyers. The AR's duties include reviewing RP-prepared minutes, assisting creditors in evaluating resolution plans, updating creditors on CIRP progress, and participating in resolution plan modifications. AR fees have also been increased.
- d) **Audit of Corporate Debtor to enhance Transparency:** Committee members can now request an audit of the corporate debtor, and the costs of such audits will be part of the CIRP expenses.
- e) **Streamlining Procedural Timelines:** The amendments align various procedural timelines, including the issuance of information memorandums and requests for resolution plans.
- f) **Form G amended to enhance the Value in Resolution Plans:** Changes to Form G provide more information to prospective resolution applicants with reduced effort on their part.



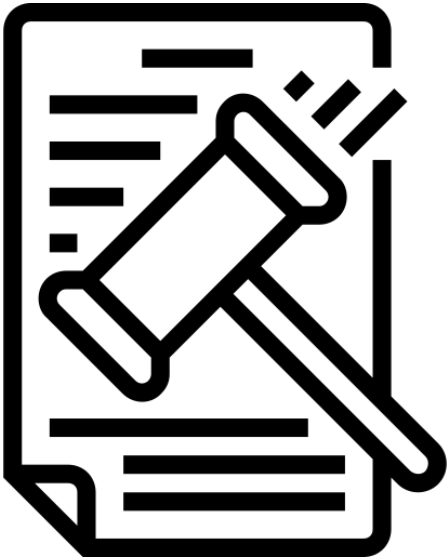
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- g) Inclusion of CoC Minutes in Compliance Certificate:** The minutes of committee of creditors' meetings where resolution plans are approved will now be included in the compliance certificate (Form H) to help the Adjudicating Authority (AA) understand the CoC's decision rationale.
- h) Streamlined Debt Assignment Process:** Creditors are required to provide details of debt assignment to the RP within 7 days to facilitate CoC meetings.
- i) Detailed Chronology and Evidence Submission:** The amendments require applicants under sections 7 or 9 to submit details of the debt chronology, default, and limitation along with evidence, aiding the AA in adjudicating such cases.



# IBBI amends the IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 and IBBI (Insolvency Professionals) Regulations, 2016



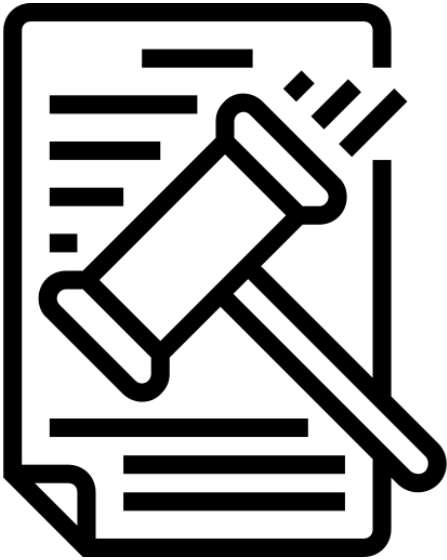
IBBI has introduced significant amendments to the Regulations related to Model Bye-Laws and Governing Board of Insolvency Professional Agencies (IPAs) and Insolvency Professionals (IPs). These amendments aim to simplify the enrolment and registration process, streamline exit procedures, and enhance compliance in the insolvency profession.

## The key highlights of these amendments are:

- a) Unified Enrolment and Registration Application:** A single application form has been introduced, enabling individuals to apply for both enrolment and registration processes in one go.
- b) Streamlining Approval Timelines:** The amendments establish specific timelines, with a 60-day period for the approval of the unified application for enrolment by the IPA and a 30-day period for forwarding the unified application for registration to the Board.



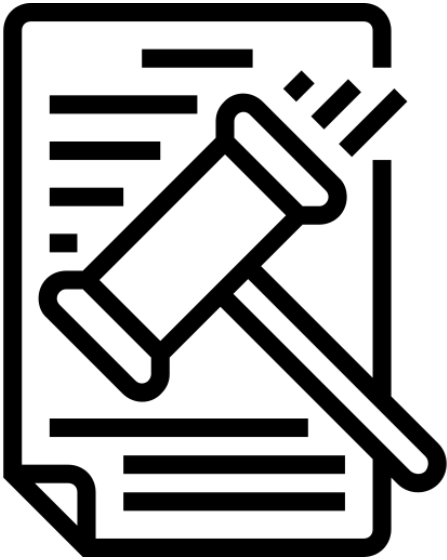
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- c) **Additional Requirements for Surrender or Expulsion:** IPAs now have additional criteria to consider when accepting applications for surrender of professional membership or expelling professional members. These criteria include compliance with fee payments to the Board, disciplinary orders from the IPA or the Board, regulatory filings and disclosures, record maintenance and transfer arrangements, and any other stipulated requirements under the Code and relevant rules.
- d) **Reduced Timelines for Registration:** The timelines for the approval of unified registration applications or communication of prima facie refusal by the Board have been reduced.



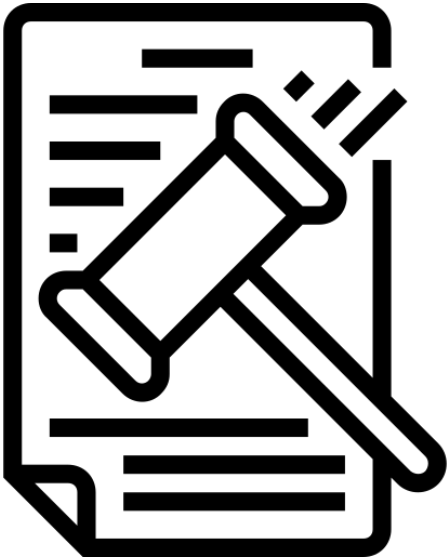
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- e) Intimations and Special Procedures:** IPAs are now required to inform the Board in cases such as the acceptance of membership surrender, expulsion of members, demise of an individual, or the winding up or dissolution of a company, LLP, or registered partnership firm registered as IPs. Special procedures have been introduced by the Board in response to these notifications.
- f) Surrender of Certificate:** A provision has been introduced for IPs to surrender their certificate of registration to the Board.



# Clarification w.r.t. Liquidators' fee under Regulation 4(2)(b) of IBBI (Liquidation Process) Regulations, 2016



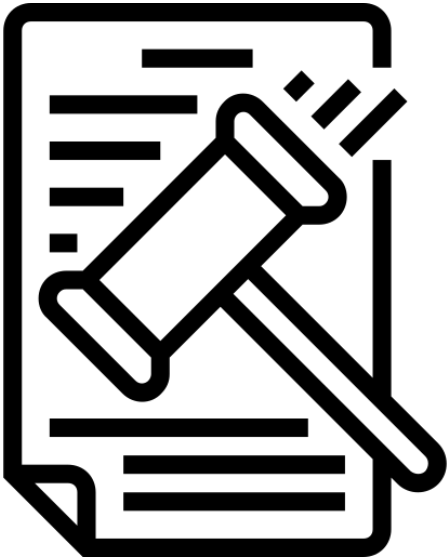
IBBI has provided clarification regarding the determination of liquidators' fees under Regulation 4(2)(b) of the IBBI (Liquidation Process) Regulations, 2016.

## **The key points of this clarification are:**

- a. Sub-regulation (1) and (1A) of Regulation 4 state that the fee payable to the liquidator should be decided by the Committee of Creditors (CoC) or the Stakeholders' Consultation Committee (SCC), depending on the circumstances.
- b. If the liquidator's fee is not determined under sub-regulation (1) and (1A), clause (b) of sub-regulation (2) of Regulation 4 specifies that the liquidator shall be entitled to a fee as a percentage of the amount realized net of other liquidation costs and the amount distributed during the remaining period of liquidation. The exact fee calculation is provided in a specified table in the notification.



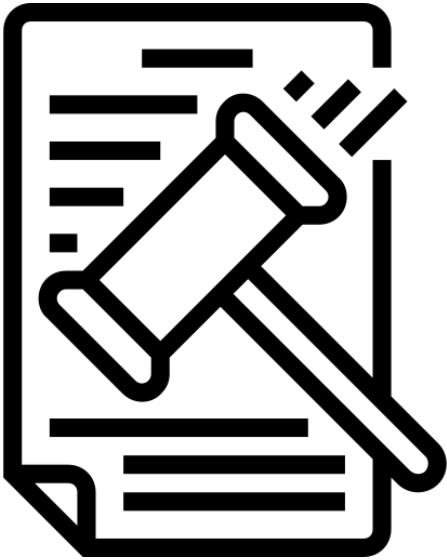
## Clarification w.r.t. Liquidators' fee under Regulation 4(2)(b) of IBBI (Liquidation Process) Regulations, 2016



In essence, this clarification ensures that liquidators' fees are determined in a transparent manner. If the CoC or SCC does not set the fee, a default fee structure based on a percentage of realized and distributed amounts is applied as per the specified table in the notification. This clarification aims to provide clarity and consistency in the fee-determination process during the liquidation of assets.



## MCA exempts aircraft related transactions from IBC



- The Convention on International Interests in Mobile Equipment and the Protocol specific to Aircraft Equipment, established under the International Civil Aviation Organization and the International Institute for the Unification of Private Law in Cape Town on November 16, 2001.
- India, a signatory to these agreements, deposited its instruments of accession on March 31, 2008.
- The Central Government of India, utilizing its powers under the IBC, 2016, has issued a notification exempting transactions, arrangements, and agreements related to aircraft, aircraft engines, airframes, and helicopters governed by the Convention and the Protocol from the provisions of section 14(1) of the IBC.
- This exemption is expected to enhance the aviation industry, attract investment, and align India's legal framework with international standards in the sector.





# THANK YOU