

# **INSOLVENCY AND BANKRUPTCY BOARD OF INDIA ( INFORMATION UTILITIES) REGULATIONS, 2017<sup>1</sup>**

**[AMENDED UPTO 01.04.2018]**

IBBI/2016-17/GN/REG009.- In exercise of the powers conferred by sections 196, 209, 210, 211, 212, 213, 214, 215, 216 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Board hereby makes the following Regulations to provide a framework for registration and regulation of information utilities in terms hereof, namely-

## **CHAPTER I PRELIMINARY**

### **1. Short title and commencement.**

- (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017.
- (2) These Regulations shall come into force on 1<sup>st</sup> April, 2017.

### **2. Definitions.**

- (1) In these Regulations, unless the context otherwise requires-
  - (a) “Application Programming Interface” means a mechanism that allows a system or service to access data or functionality provided by another system or service;
  - (b) “certificate of registration” means a certificate of registration granted or renewed by the Board under section 210 read with these Regulations and the terms “registration” and “renewal” shall be construed accordingly;
  - (c) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016) and includes the rules, regulations, guidelines and directions issued thereunder;
  - (d) “control” shall have the meaning assigned to it under section 2(27) of the Companies Act, 2013 (18 of 2013);
  - (e) “Governing Board” means the Board of Directors, as defined under section 2(10) of the Companies Act, 2013 (18 of 2013), of the company registered as an information utility;

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<sup>1</sup>Vide Notification No. IBBI/2016-17/GN/REG009, dated 31<sup>st</sup> March, 2017, published in the Gazette of India, Extraordinary, Part III, Sec.4, vide No. 452, dated 31<sup>st</sup> March, 2017 (w.e.f. 01.04.2017).

- (f) “host bank” means the financial institution hosting the repayment account;
  - (g) “independent director” shall have the meaning assigned to it under section 149(6) of the Companies Act, 2013 (18 of 2013);
  - (h) “information” means financial information as defined in section 3(13);
  - (i) “key managerial personnel” shall have the meaning assigned to it under section 2(51) of the Companies Act, 2013 (18 of 2013);
  - (j) “net worth” shall have the meaning assigned to it under section 2(57) of the Companies Act, 2013 (18 of 2013);
  - (k) “outsourcing” means contracting out services to a third party;
  - (l) “public company” shall have the meaning assigned to it under section 2(71) of the Companies Act, 2013 (18 of 2013);
  - (m) “repayment account” means the bank account to which a debtor is obliged to repay its debt, as recorded in an information utility;
  - (n) “section” means a section of the Code;
  - (o) “secure systems” shall have the meaning assigned to it in section 2(1)(ze) of the Information Technology Act, 2000 (21 of 2000);
  - (p) “Schedule” means schedule attached to these Regulations;
  - (q) “submission of information” includes updating of information, as the context may require;
  - (r) “Technical Standards” means the standards laid down by the Board through guidelines issued under Regulation 13, from time to time; and
  - (s) “user” means a person who avails of the services of an information utility.
- (2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations, shall have the meanings assigned to them in the Code.

## **CHAPTER II REGISTRATION**

### **3. Eligibility for registration.**

No person shall be eligible to be registered as an information utility unless it is a public company and -

- (a) its sole object is to provide core services and other services under these Regulations, and discharge such functions as may be necessary for providing these services;
- (b) its shareholding and governance is in accordance with Chapter III;
- (c) its bye-laws are in accordance with Chapter IV;
- (d) it has a minimum net worth of fifty crore rupees;

<sup>2</sup>[(e)\*\*\*]

<sup>3</sup>[(f)\*\*\*]

- (g) the person itself, its promoters, its directors, its key managerial personnel, and persons holding more than 5%, directly or indirectly, of its paid-up equity share capital or its total voting power, are fit and proper persons:

*Explanation:* For determining whether a person is fit and proper under these Regulations, the Board may take account of relevant considerations, including-

- (i) integrity, reputation and character,
- (ii) absence of conviction by a court for an offence:

Provided that a person may be considered 'fit and proper' if he has been sentenced to imprisonment for a period of less than six months;

Provided that a person shall not be considered 'fit and proper' if he has been sentenced to imprisonment for a period (a) of not less than six

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<sup>2</sup>Clause (e) omitted by Notification No. IBBI/2017-18/ GN/REG016 dated 29<sup>th</sup> September, 2017 (w.e.f. 29-09-2017). Clause (e), prior to omission, stood as "(e) it is not under control of person(s) resident outside India;".

<sup>3</sup>Clause (f) omitted by Notification No. IBBI/2017-18/ GN/REG016 dated 29<sup>th</sup> September, 2017 (w.e.f. 29-09-2017). Clause (f), prior to omission, stood as "(f) not more than 49% of its total voting power or its paid -up equity share capital is held, directly or indirectly, by persons resident outside India;".

months, but less than seven years and a period of five years has not elapsed from the date of expiry of the sentence, or (b) of seven years or more.

(iii) absence of restraint order, in force, issued by a financial sector regulator or the Adjudicating Authority, and

(iv) financial solvency.

#### **4. Application for registration or renewal thereof.**

- (1) A person eligible for registration as an information utility may make an application to the Board in Form A of the Schedule, along with a non-refundable application fee of five lakh rupees.
- (2) An information utility seeking renewal of registration shall, at least six months before the expiry of its registration, make an application for renewal in Form A of the Schedule, along with a non-refundable application fee of five lakh rupees.
- (3) The Board shall acknowledge an application made under this Regulation within seven days of its receipt.

#### **5. Disposal of application.**

- (1) The Board shall examine the application, and give an opportunity to the applicant to remove the deficiencies, if any, in the application.
- (2) The Board may require the applicant to submit, within reasonable time, additional documents or clarification that it deems fit.
- (3) The Board may require the applicant to appear, within reasonable time, before the Board in person, or through its authorised representative for clarifications required for processing the application.
- (4) If the Board is satisfied, after such inspection or inquiry as it deems necessary, that the applicant-
  - (a) is eligible under Regulation 3;
  - (b) has the technical competence and financial capacity required to function as an information utility;
  - (c) has adequate infrastructure to provide services in accordance with the Code;

- (d) has in its employment, persons having adequate professional and other relevant experience, to provide services in accordance with the Code; and
- (e) has complied with the conditions of the certificate of registration, if he has submitted an application for renewal under Regulation 4(2)

it may grant or renew a certificate of registration to the applicant as an information utility in Form B of the Schedule, within sixty days of receipt of the application, excluding the time given by the Board for removing the deficiencies, or presenting additional documents or clarifications, or appearing in person, as the case may be.

- (5) If, after considering an application made under Regulation 4, the Board is of the *prima facie* opinion that the registration ought not to be granted or ought not to be renewed, or be granted or renewed with additional conditions, it shall communicate the reasons for forming such an opinion within forty-five days of receipt of the application, excluding the time given by the Board for removing the deficiencies, presenting additional documents or clarifications, or appearing in person, as the case may be.
- (6) The applicant shall submit an explanation as to why its application should be accepted within fifteen days of the receipt of the communication under sub-regulation (5), to enable the Board to form a final opinion.
- (7) After considering the explanation, if any, given by the applicant under sub-regulation (6), the Board shall communicate its decision to-
  - (a) accept the application, along with the certificate of registration; or
  - (b) reject the application by an order, giving reasons thereof within thirty days of receipt of explanation.
- (8) The order rejecting an application for renewal of registration shall require the information utility to-
  - (a) discharge any pending obligations;
  - (b) continue its functions till such time as may be directed, to enable its users to transfer information stored with it to another information utility; and
  - (c) comply with any other directions as considered appropriate.

## **6. Conditions of registration.**

- (1) The certificate of registration shall be valid for a period of five years from the date of issue.
- (2) The certificate of registration shall be subject to the conditions that the information utility shall—
  - (a) abide by the Code;
  - (b) abide by its bye-laws;
  - (c) at all times after the grant of the certificate continue to satisfy the requirements under Regulation 5(4);
  - (d) pay a fee of fifty lakh rupees to the Board, within fifteen days of receipt of intimation of registration or renewal from the Board, as applicable;
  - (e) pay an annual fee of fifty lakh rupees to the Board, within fifteen days from the end of every year from the date of grant or renewal of the certificate of registration, as applicable;
  - (f) seek prior approval of the Board for—
    - (i) the acquisition of shares or voting power by a person, which taken together with paid-up equity shares or voting power, if any, held by such person, entitles him to hold more than five per cent, directly or indirectly, of the paid-up equity share capital or total voting power;
    - (ii) a change of control;
    - (iii) a merger, amalgamation or restructuring;
    - (iv) sale, disposal, or acquisition of the whole, or substantially the whole, of its undertaking;
    - (v) voluntary liquidation, dissolution, or any similar action involving the discontinuation of its business.
  - (g) intimate the Board if a person holding more than five per cent, directly or indirectly, of its paid-up equity share capital or total voting power ceases to hold at least five per cent, directly or indirectly, of its paid-up equity share capital or total voting power, within fifteen days from such cessation;
  - (h) take adequate steps for redressal of grievances;

- (i) take over information stored with other information utilities on the directions of and in the manner directed by the Board, and provide core services to their users; and
- (j) abide by such other conditions as may be stipulated by the Board.

## **7. In-principle approval.**

- (1) Any person who seeks to establish an information utility may make an application for an in-principle approval, demonstrating that the conditions in sub-regulation (2) are satisfied, along with a non-refundable application fee of five lakh rupees.
- (2) If the Board is satisfied, after such inspection or inquiry as it deems necessary, that-
  - (a) the applicant is a fit and proper person; and
  - (b) the proposed or existing company which may receive registration would be able to meet the eligibility criteria under Regulation 3,

it may grant in-principle approval which shall be valid for a period not exceeding one year and be subject to such conditions as it deems fit.

- (3) During the validity of in-principle approval, the company referred to in sub-regulation 2(b) may make an application for a certificate of registration as an information utility to the Board in accordance with Regulation 4, but shall not be required to pay the application fee for registration.

## **CHAPTER III**

### **SHAREHOLDING AND GOVERNANCE**

## **8. Shareholding.**

- (1) No person shall at any time, directly or indirectly, either by itself or together with persons acting in concert, acquire or hold more than ten per cent of the paid-up equity share capital or total voting power of an information utility:

*Provided* that the following persons may, directly or indirectly, either by themselves or together in concert, acquire or hold up to twenty-five percent of the paid-up equity share capital or total voting power of an information utility :-

- (a) government company;
- (b) stock exchange;

- (c) depository;
  - (d) bank;
  - (e) insurance company; and
  - (f) public financial institution.
- (2) <sup>4</sup>[Notwithstanding anything to the contrary contained in sub-regulation (1) –
- (a) a person may, directly or indirectly, either by itself or together with persons acting in concert, hold up to fifty-one percent of the paid-up equity share capital or total voting power of an information utility up to three years from the date of its registration; or
  - (b) an Indian company, (i) which is listed on a recognised Stock Exchange in India, or (ii) where no individual, directly or indirectly, either by himself or together with persons acting in concert, holds more than ten percent of the paid-up equity share capital, may hold up to hundred percent of the paid-up equity share capital or total voting power of an information utility up to three years from the date of its registration.

Provided that the information utility is registered before 30th September, 2018.]

- (3) The provisions of this Regulation shall not apply to the holding of shares or voting power by the Central Government or a State Government.

## **9. Composition of the Governing Board.**

- (1) More than half of the directors of an information utility shall be independent directors at the time of their appointment, and at all times during their tenure as directors:

*Provided* that no meeting of the Governing Board shall be held without the presence of at least one independent director.

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<sup>4</sup>Substituted by Notification No. IBBI/2017-18/GN/REG016 dated 29<sup>th</sup> September, 2017 (w.e.f. 29-9-2017). Prior to this substitution, Regulation 8(2) stood as under: -

“8(2). Notwithstanding anything to the contrary contained in sub-regulation (1), a person resident in India may, directly or indirectly, either by itself or together with persons acting in concert, hold up to fifty-one percent of the paid-up equity share capital or total voting power of an information utility till the expiry of three years from the date of its registration, or such period as may be extended by the Board.”



<sup>5</sup>[(1A) More than half of the directors of an information utility shall be Indian nationals and resident in India]

- (2) The directors shall elect an independent director as the Chairperson of the Governing Board:

*Explanation-* For the purposes of this Regulation, any fraction contained in ‘more than half’ shall be rounded off to the next higher number.

#### **10. Regulatory Committee.**

- (1) An information utility may constitute a Regulatory Committee from amongst the independent directors.
- (2) The Regulatory Committee, if constituted, shall oversee the information utility’s compliance with the Code.
- (3) The compliance officer shall report to the Regulatory Committee, wherever constituted.

#### **11. Compliance officer.**

- (1) An information utility shall designate or appoint a compliance officer who shall be responsible for ensuring compliance with the provisions of the Code applicable to the information utility, in letter and spirit.
- (2) The compliance officer shall, immediately and independently, report to the Board any non-compliance of any provision of the Code observed by him.
- (3) The compliance officer shall submit a compliance certificate to the Board annually, verifying that the information utility has complied with the requirements of the Code, and has redressed customer grievances.
- (4) The Governing Board shall appoint or remove a compliance officer only by means of a resolution passed at its meeting.

#### **12. Grievance Redressal Policy.**

- (1) An information utility shall have a Grievance Redressal Policy to deal with any grievance from -
  - (a) any user; or

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<sup>5</sup>Inserted by Notification No. IBBI/2017-18/GN/REG016 dated 29<sup>th</sup> September, 2017 (w.e.f. 29-9-2017).

- (b) any other person or class of persons as may be provided by the Governing Board

in respect of its services.

(2) The Grievance Redressal Policy shall provide for-

- (a) the constitution of a Grievance Redressal Committee;
- (b) the functions of the Grievance Redressal Committee;
- (c) the format and manner for filing grievances;
- (d) maximum time and format for acknowledging receipt of a grievance;
- (e) maximum time for the disposal of the grievance by way of dismissal, resolution or the initiation of mediation;
- (f) details of the mediation mechanism;
- (g) provision of a report of the grievance and mediation proceedings to the parties to the grievance upon dismissal or resolution of the grievance;
- (h) action to be taken in case of malicious or false complaints;
- (i) maintenance of a register of grievances received and resolutions arrived at;
- (j) disclosure of receipt and disposal of grievances to the public in the form and manner directed by the Board;
- (k) periodic reporting of the receipt and disposal of grievances to the Governing Board; and
- (l) periodic review of the Grievance Redressal Mechanism by the Governing Board.

**CHAPTER IV**  
**TECHNICAL STANDARDS AND BYE-LAWS**

**13. Technical Standards.**

- (1) The Board may lay down Technical Standards, through guidelines, for the performance of core services and other services under these Regulations.
- (2) Without prejudice to the generality of sub-regulation (1), the Board may lay down Technical Standards for all or any of the following matters, namely :-
  - (a) the Application Programming Interface;
  - (b) standard terms of service;
  - (c) registration of users;
  - (d) unique identifier for each record and each user;
  - (e) submission of information;
  - (f) identification and verification of persons;
  - (g) authentication of information;
  - (h) verification of information;
  - (i) data integrity;
  - (j) consent framework for providing access to information to third parties;
  - (k) security of the system;
  - (l) security of information;
  - (m) risk management framework;
  - (n) porting of information;
  - (o) exchange or transfer of information between information utilities;
  - (p) inter-operability among information utilities;
  - (q) preservation of information; and

- (r) purging of information.

#### **14. Technical Committee.**

The Board shall lay down the Technical Standards based on the recommendations of a Technical Committee constituted by it.

- (1) The Technical Committee shall comprise of at least three members who have special knowledge and experience in the field of law, finance, economics, information technology or data management.
- (2) The Board may invite the Chief Executive Officers or managing directors of information utilities to attend the meetings of the Technical Committee.

#### **15. Bye-laws of information utilities.**

- (1) An information utility, for the conduct of its operations, shall have bye-laws consistent with the Code.
- (2) The bye-laws shall be consistent with, and provide for all matters contained in the Technical Standards, if any.
- (3) Without prejudice to the generality of sub-regulation (1), the bye-laws shall provide for-
  - (a) the manner and process of providing core services and other services under these Regulations;
  - (b) risk management;
  - (c) rights of users; and
  - (d) grievance redressal.
- (4) The bye-laws of the information utility, as amended from time to time, shall be published on its website.

#### **16. Amendment to bye-laws.**

- (1) The Governing Board may amend the bye-laws of the information utility by a resolution passed by votes in favour being not less than three times the number of the votes, if any, cast against the resolution, by the directors.

- (2) A resolution passed in accordance with sub-regulation (1) shall be filed with the Board within seven days from the date of its passing, for its approval.
- (3) The amendments to the bye-laws shall come into effect on the seventh day of the receipt of the approval under sub-regulation (2), unless otherwise directed by the Board.
- (4) The information utility shall file a printed copy of the amended bye-laws with the Board within fifteen days from the date when such amendment is made effective.
- (5) Notwithstanding anything to the contrary contained in this Regulation, the Board may direct an information utility to amend any provision in its bye-laws.

## **CHAPTER V CORE SERVICES**

### **17. Provision of services.**

- (1) An information utility shall provide-
  - (a) core services;
  - (b) other services under these Regulations; in accordance with the Code.
- (2) An information utility may provide services incidental to the services under sub-regulation (1), with the permission of the Board.
- (3) An information utility shall comply with the applicable Technical Standards, while providing services.

### **18. Registration of users.**

- (1) A person shall register itself with an information utility for-
  - (a) submitting information to; or
  - (b) accessing information stored with  
any of the information utilities.
- (2) The information utility shall verify the identity of the person under sub-regulation

- (1) and grant registration.
- (3) Upon registration of a person under sub-regulation (2), the information utility shall intimate it of its unique identifier.
- (4) A person registered once with an information utility shall not register itself with any information utility again.
- (5) An information utility shall provide a registered user a functionality to enable its authorised representatives to carry on the activities in sub-regulation (1) on its behalf.
- (6) An information utility shall-
- (a) maintain a list of the
    - (i) registered users;
    - (ii) the unique identifiers of the registered users; and
    - (iii) the unique identifiers assigned to the debts under Regulation 20.
  - (b) make the list under clause (a) available to all information utilities and the Board.

## **19. Use of different information utilities.**

- (1) A registered user may submit information to any information utility.
- (2) Different parties to the same transaction may use different information utilities to submit, or access information in respect of the same transaction:

*Illustration:* A debt transaction has creditor A and debtor B. A may submit information about the debt to information utility X, while B may submit information about the same debt to information utility Y.

- (3) A user may access information stored with an information utility through any information utility.

## **20. Acceptance and receipt of information.**

- (1) An information utility shall accept information submitted by a user in Form C of the Schedule.

- (2) On receipt of the information submitted under sub-regulation (1), the information utility shall-
  - (a) assign a unique identifier to the information, including records of debt;
  - (b) acknowledge its receipt, and notify the user of-
    - (i) the unique identifier of the information;
    - (ii) the terms and conditions of authentication and verification of information; and
    - (iii) the manner in which the information may be accessed by other parties.

**21. Information of default.**

- (1) On receipt of information of default, an information utility shall expeditiously undertake the processes of authentication and verification of the information.
- (2) On completion of the processes of authentication and verification under sub-regulation (1), the information utility shall communicate the information of default, and the status of authentication to registered users who are-
  - (a) creditors of the debtor who has defaulted;
  - (b) parties and sureties, if any, to the debt in respect of which the information of default has been received.

**22. Storage of information.**

- (1) An information utility shall store all information in a facility located in India.
- (2) The facility under sub-regulation (1) shall be governed by the laws of India.

**23. Access to information.**

- (1) An information utility shall allow the following persons to access information stored with it-
  - (a) the user which has submitted the information;
  - (b) all the parties to the debt and the host bank, if any, if the information is of the categories in section 3(13)(a), (c) and (d);

- (c) the corporate person and its auditor, if the information is of the categories in section 3(13)(b) and (e);
  - (d) the insolvency professional, to the extent provided in the Code;
  - (e) the Adjudicating Authority;
  - (f) the Board;
  - (g) any person authorised to access the information under any other law; and
  - (h) any other person who the persons referred to in (a), (b) or (c) have consented to share the information with.
- (2) An information utility shall in all cases enable the user to view-
- (a) the date the information was last updated;
  - (b) the status of authentication; and
  - (c) the status of verification
- while providing access to the information.
- (3) An information utility shall provide information to the Adjudicating Authority and Board free of charge.

**24. Accessing information stored with other information utilities.**

- (1) An information utility shall provide a functionality to enable users to access information stored with any information utility, which they are entitled to access.
- (2) The functionality under sub-regulation (1) shall enable other information utilities to provide access to information to the user directly.
- (3) The functionality shall ensure privacy and confidentiality of information.

**25. Annual statement.**

- (1) An information utility shall provide every user an annual statement of all information pertaining to the user, free of charge.
- (2) An information utility shall provide the user a functionality to mark information as erroneous and correct it.



**26. Porting information from registries.**

- (1) An information utility may import information from such registries as may be notified by the Board from time to time.
- (2) An information utility shall render the core services under section 3 (9) (b), (c) and (d) in accordance with these Regulations for the information imported under sub-regulation (1).

**27. Duties of the user.**

- (1) A user shall expeditiously update the information submitted by it to an information utility.
- (2) A user shall expeditiously correct information as soon as it finds it erroneous, stating the reasons, if any.

**CHAPTER VI  
DUTIES OF INFORMATION UTILITIES**

**28. General duties.**

- (1) An information utility shall provide services with due and reasonable care, skill and diligence.
- (2) An information utility shall hold the information as a custodian.

**29. Non-discrimination.**

An information utility shall provide services without discrimination in any manner.

*Explanation:* An information utility shall not deny its services to any person on the basis of-

- (a) place of residence or business; or
- (b) type of personality, whether natural or artificial.

**30. Other duties.**

- (1) An information utility shall-
  - (a) provide services to a user based on its explicit consent;
  - (b) guarantee protection of the rights of users;

- (c) establish adequate procedures and facilities to ensure that its records are protected against loss or destruction;
  - (d) adopt secure systems for information flows;
  - (e) protect its data processing systems against unauthorised access, alteration, destruction, disclosure or dissemination of information; and
  - (f) transfer all the information submitted by a user, and stored with it to another information utility on the request of the user.
- (2) An information utility shall not-
- (a) outsource the provision of core services to a third-party service provider;
  - (b) use the information stored with it for any purpose other than providing services under these Regulations, without the prior approval of the Board;
  - (c) seek data or details of users except as required for the provision of the services under these Regulations.

### **31. Insurance.**

An information utility shall make adequate arrangements, including insurance, for indemnifying the users for losses that may be caused to them by any wrongful act, negligence or default of the information utility, its employees or any other person whose services are used for the provision of services under these Regulations.

### **32. Fee.**

- (1) The information utility shall-
- (a) charge uniform fee for providing the same service to different users;
  - (b) disclose the fee structure for provision of services on its website; and
  - (c) disclose any proposed increase in the fees for the provision of services on its website at least three months before the increase in fees is effected.
- (2) The fee charged for -
- (a) providing services shall be a reasonable reflection of the service provided; and

- (b) providing access to information shall not exceed the fee charged for submission of information to the information utility.

### **33. Risk management.**

An information utility shall establish an appropriate risk management framework in accordance with the Technical Standards, if any, which provides for matters, including-

- (a) reliable, recoverable and secure systems;
- (b) provision of core services during disasters and emergencies; and
- (c) business continuity plans which shall include disaster recovery sites.

### **34. Audit of information technology framework.**

- (1) An information utility shall appoint an external auditor having relevant qualifications to audit its information technology framework, interface and data processing systems every year.
- (2) The auditor appointed under sub-regulation (1) shall submit a report to the Governing Board.
- (3) The information utility shall submit the report received under sub-regulation (2), along with the comments of the Governing Board, if any, to the Board within one month from the receipt of the report from the external auditor.

### **35. Preservation Policy.**

- (1) An information utility shall have a Preservation Policy providing for the form, manner and duration of preservation of—
  - (a) information stored with it; and
  - (b) details of the transactions of the information utility with each user in respect of the information stored with it.
- (2) The Preservation Policy shall be consistent with the Technical Standards, if any.

**36. Provision of information to the Board.**

- (1) An information utility shall provide such information as may be required by the Board.
- (2) Without prejudice to the provisions of sub-regulation (1), an information utility shall provide a report to the Board annually, in the manner directed by the Board, stating the-
  - (a) number and types of records collected;
  - (b) number and types of users registered;
  - (c) number and types of unique debts recorded;
  - (d) number and types of security interests recorded;
  - (e) volume of debts recorded;
  - (f) volume of secured debts recorded;
  - (g) number of instances and types of defaults recorded;
  - (h) number and types of disputes recorded;
  - (i) number of times information was accessed by the Adjudicating Authority and Board; and
  - (j) any other information as may be directed by the Board.

**37. Inspection.**

- (1) Without prejudice to the provisions of sections 217-220, the Board shall inspect an information utility with such periodicity as may be considered necessary.
- (2) An information utility shall extend all assistance and co-operation to the Board to carry out an inspection under sub-regulation (1).

## **CHAPTER VII**

### **SERVICES TO INSOLVENCY PROFESSIONALS**

#### **38. Storing information submitted by insolvency professionals.**

- (1) An insolvency professional may submit reports, registers and minutes in respect of any insolvency resolution, liquidation or bankruptcy proceedings to an information utility for storage.
- (2) The information utility shall not provide access to the reports, registers and minutes submitted under sub-regulation (1) to any person other than the concerned insolvency professional, the Board or the Adjudicating Authority.
- (3) The information utility shall discharge the duties specified in Chapter VI in respect of the reports, registers and minutes submitted under sub-regulation (1).

## **CHAPTER VIII**

### **SURRENDER OR CANCELLATION OF REGISTRATION**

#### **39. Exit management plan.**

- (1) An information utility shall, at all times, have an exit management plan which shall include-
  - (a) mechanisms to enable users to transfer information to other information utilities expeditiously;
  - (b) mechanisms for preservation and transfer of information; and
  - (c) timelines and cost estimates of implementing the exit management plan.
- (2) An information utility shall not amend its exit management plan without the prior approval of the Board.

#### **40. Surrender of registration.**

- (1) An information utility may submit an application for surrender of its certificate of registration to the Board, providing -
  - (a) the reasons for such surrender;
  - (b) details of its pending and on-going activities; and

- (c) details of how the exit management plan shall be implemented.
- (2) The Board shall within seven days of receipt of the application, publish a notice of receipt of such application on its website and invite objections to the surrender of registration to be submitted within fourteen days of the publication of the notice.
- (3) After considering the application and the objections received, if any, the Board may, within thirty days from the last date for submission of objections, approve the application for surrender of registration subject to such conditions as it deems fit.
- (4) The approval under sub-regulation (3) may require the information utility to-
  - (a) discharge any pending obligations; or
  - (b) continue such functions till such time as may be directed.
- (5) The Board, after being satisfied that the requirements of sub-regulation (4) have been complied with, shall publish a notice on its website stating that the surrender of registration by the information utility has taken effect.

#### **41. Disciplinary proceedings.**

- (1) Based on the findings of an inspection or investigation, or on material otherwise available on record, if the Board is of the *prima facie* opinion that sufficient cause exists to take actions permissible under section 220, it shall issue a show-cause notice to the information utility.
- (2) The show-cause notice shall be in writing and shall state-
  - (a) the provisions of the Code under which it has been issued;
  - (b) the details of the alleged facts;
  - (c) the details of the evidence in support of the alleged facts;
  - (d) the provisions of the Code allegedly violated, or the manner in which the public interest has allegedly been affected;
  - (e) the actions or directions that the Board proposes to take or issue if the allegations are established;
  - (f) the manner in which the information utility is required to respond to the show-cause notice;

- (g) consequences of failure to respond to the show-cause notice within the given time; and
  - (h) procedure to be followed for disposal of the show-cause notice.
- (3) The show-cause notice shall enclose copies of relevant documents and extracts of relevant portions from the report of investigation or inspection, or other records.
- (4) A show-cause notice issued shall be served on the information utility in the following manner-
  - (a) by sending it to the information utility at its registered office, by registered post with acknowledgement due; and
  - (b) by an appropriate electronic means to the email address provided by the information utility to the Board.
- (5) The Disciplinary Committee shall dispose of the show-cause notice by a reasoned order in adherence to principles of natural justice.
- (6) The Disciplinary Committee shall endeavor to dispose of the show-cause notice within a period of six months of the issue of the show-cause notice.
- (7) The order in disposal of a show-cause notice may provide for-
  - (a) no action;
  - (b) warning;
  - (c) any of the actions under section 220(2) to (4); or
  - (d) a reference to the Board to take any action under section 220(5).
- (8) The order passed under sub-regulation (7) shall not become effective until thirty days have elapsed from the date of issue of the order, unless the Disciplinary Committee states otherwise in the order along with the reasons for the same.
- (9) The order passed under sub-regulation (7) shall be issued to the information utility immediately, and be published on the website of the Board.
- (10) If the order passed under sub-regulation (7) suspends or cancels the registration of the information utility, the Disciplinary Committee may require the information utility to-

- (a) discharge pending obligations;
- (b) continue its functions till such time as may be directed, only to enable users to transfer information stored with it to another information utility; and
- (c) comply with any other directions.

## 42. Appeal.

An appeal may be preferred under section 211, within a period of thirty days of receipt of the order, in the manner prescribed in Part III of the <sup>6</sup>[National Company Law Appellate Tribunal Rules, 2016].

### SCHEDULE FORM A

#### APPLICATION FOR CERTIFICATE OF REGISTRATION

*(Under Regulation 4 of the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017)*

To  
*The Chairperson*  
*The Insolvency and Bankruptcy Board of India*  
*[Insert address]*

From  
*[Name and address]*

Subject: Application for grant or renewal of certificate of registration as information utility

Madam/Sir,

1. I, being duly authorized for the purpose, hereby apply on behalf of *[name and address of the applicant]* for
  - (a) grant of certificate of registration as information utility, or
  - (b) renewal of certificate of registration as information utility,

and enclose a copy of the board resolution authorizing me to make this application to and correspond with the Board in this respect.

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<sup>6</sup>Substituted by Notification No. IBBI/2017-18/GN/REG029 dated 27<sup>th</sup> March, 2018 (w.e.f. 01-04-2018). The words and figures before substitution, stood as under:  
 “National Company Law Tribunal Rules, 2016”.



2. A copy of
  - (a) the memorandum of association,
  - (b) the articles of association,
  - (c) the bye-laws,
  - (d) the business plan and
  - (e) the exit management plan of the applicant is enclosed.
3. I, on behalf of [*insert name*], affirm that the applicant is eligible to be registered as an information utility.
4. I, on behalf of [*insert name*], hereby affirm that –
  - (a) all information contained in this application is true and correct in all material respects,
  - (b) no material information relevant for the purpose of this application has been suppressed, and
  - (c) registration granted or renewed in pursuance of this application may be cancelled summarily if any information submitted is found to be false or misleading in material respects at any stage.
5. If granted registration, I, on behalf of [*insert name*], undertake to comply with the requirements of the Code, the rules, regulations, guidelines or directions issued thereunder, and such other conditions and terms as may be contained in the certificate of registration or be specified or imposed by the Board subsequently.

Yours faithfully,

Sd/-  
Authorized Signatory  
(Name)  
(Designation)

Date :  
Place :

**ANNEXURE TO FORM A**  
**PART I**  
**GENERAL**

1. Name of the applicant.
2. Address of registered office and principal place of business of the applicant.
3. Corporate Identity Number (CIN).
4. PAN.
5. Name, designation and contact details of the person authorized to make this application and correspond with the Board in this respect.

**<sup>7</sup>[PART II]**  
**MEMORANDUM OF ASSOCIATION, ARTICLES OF ASSOCIATION AND BYE-LAWS**

6. Please state if the memorandum of association, articles of association and bye-laws provide for all matters as required in, and are consistent with the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017 and the Code.

**PART III**  
**SHAREHOLDING AND FINANCIAL STRENGTH**

7. Please provide details of the persons holding more than 5%, directly or indirectly, of the paid-up equity share capital or total voting power of the applicant.

Sl. No.	Name and address of the shareholder	PAN / Passport No. and country of issue/ company registration number	Percentage of shareholding in the applicant company and/ or holding company

8. Do persons resident outside India in aggregate hold more than 49% of the paid-up equity share capital or total voting power of the applicant? Please provide details.
9. Who exercises control over the applicant? Please provide details.

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<sup>7</sup>Inserted by Notification No. IBBI/2017-18/GN/REG029 dated 27<sup>th</sup> March, 2018 (w.e.f. 01-04-2018).

10. Do persons resident outside India exercise control over the applicant? If so, please provide details.
11. Please provide audited financial statements of:
- a company holding more than 5% of the paid-up equity share capital or total voting power of the applicant (if any),
  - a company who is in control of the applicant (if any),
  - promoter company (if any),
  - the applicant company itself, of the last three years or from the date of incorporation of the company, whichever is less.

#### **PART IV DIRECTORS AND EMPLOYEES**

12. Please provide the details of the applicant's Board of Directors, key managerial personnel and compliance officer, if any:

Sl. No.	Name and address of the director	DIN and PAN

13. Please provide number of employees, category-wise.

#### **PART V INFRASTRUCTURE**

14. Please provide the details of infrastructure the applicant currently has and proposes to have to enable it to discharge its functions as an information utility, including-
- Technology
  - Data Security
  - Facilities for hosting the data center
  - Grievance redressal and disciplinary proceedings
  - Any further plan for additional/ improved infrastructure to be indicated.

#### **PART VI BUSINESS PLAN**

15. Please provide a summary of the applicant's Business Plan.
16. Please provide the time frame in which the applicant will be able to provide the services of an information utility from the date of registration.

**PART VII**  
**EXIT MANAGEMENT PLAN**

17. Please provide a summary of the applicant's Exit Management Plan, including the manner in which users will be enabled to transfer their information to other utilities.

**PART VIII**  
**FIT AND PROPER CRITERIA**

18. Please provide information to demonstrate that the persons holding more than 5% of the paid-up equity share capital or total voting power of the company, the promoters, the key managerial personnel, the directors of the applicant and the applicant are fit and proper persons.

Sl. No.	Name	Relationship to the applicant	DIN/ CIN/ PAN	Details of conviction orders, if any, against the person	Details of restraining orders, if any, against the person	Is the person an undischarged insolvent or bankrupt? If yes, please provide details	Details pertaining to the character, reputation and integrity of the person	Any other information

**PART IX**  
**COMPLIANCE**

*[For applications for renewal of registration]*

19. Please provide details of the information utility's compliance with the conditions of its certificate of registration.
20. Please provide details of the information utility's compliance with the Code, rules, regulations, guidelines and directions thereunder, during the period of registration.

Please provide any other details you consider relevant in support of the application.

Sd/-  
Authorized Signatory  
(Name)  
(Designation)

Date :  
Place :

## FORM B

*(Under Regulation 5 of the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017)*

### THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

CERTIFICATE OF REGISTRATION No. \_

The Insolvency and Bankruptcy Board of India hereby grants/ renews this /the certificate of registration to/of \_\_\_\_\_ *[insert name and address]* to act as an information utility in accordance with the Insolvency and Bankruptcy Code, 2016.

The certificate of registration is valid from *[insert start date]* to *[insert end date]* and may be renewed.

Sd/-

(Name and Designation)

(For and on behalf of Insolvency and Bankruptcy Board of India)

Place :

Date :

## FORM C

*(Under Regulation 20 of the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017)*

Information may be accepted in this form with such modifications as the information utility deems fit.

### A. Details relating to Creation of Debt

Details of the user submitting information		
1.	Full Name (Please provide your First Name, Middle Name and Last Name)	

2.	Relationship of the person submitting information to the Debt (Debtor/Creditor/Debenture Trustee/Guarantor/ please specify any other)	
3.	Unique Identifier as registered with an Information Utility	
4.	Date of Birth/ Date of incorporation	
5.	Full Address	
6.	Telephone No.	
7.	Mobile No.	
8.	Email ID	
9.	Fax No.	
10.	Signature	
<b>Details of Other Parties to the Debt (Apart from the person submitting the debt)</b>		
<i>Details of Parties (please add as many parties as may be applicable)</i>		
11.	Relationship of the party to the debt (Debtor/Creditor/Debenture Trustee/Guarantor/ please specify any other)	
12.	Full Name (Please provide your First Name, Middle Name and Last Name)	
13.	Unique Identifier as registered with an Information Utility, if any	
14.	Date of Birth/ Date of incorporation	
15.	Full address	
16.	Telephone No.	
17.	Mobile No.	
18.	Email ID	
19.	Fax No.	
<b>Details of the Debt</b>		
20.	Unique identifier of the debt, in case the debt has previously been recorded in any Information Utility	
21.	Loan Agreement Number / Loan Account Number	
22.	Date of Loan Agreement	
23.	Nature of the Debt (Operational/Financial)	
24.	Currency of the Debt	
25.	Date of disbursement of the debt	
26.	Date of maturity of the debt	

27.	Date of expiry of the debt	
28.	Date of Renewal of the Debt	
29.	Amount of debt owed on the date of creation	
30.	Amount of debt owed currently	
31.	Rate of Interest (as updated from time to time)	
32.	Security on Debt (If yes, please fill Section B dealing with <i>Details relating to Creation of Security on Debt</i> )	
33.	Host bank and Repayment Account number, if any	
34.	Details of repayment schedule of the debt, if any	
35.	Details of terms of demand loan, if any	
36.	Details of confirmed balance, if any	
37.	List out Documents Attached as Proof: A. Copy of the Loan Agreement (as revived from time to time) B. Repayment Schedule (If in possession of the submitter) C. Balance Confirmation D. Balance Sheet and Cash Flow Statements (If the submitter is the Debtor) E. Any other document relating to creation of debt/change in terms of the debt	

**B. Details relating to Creation of Security on Debt (If not applicable, please write NA)**

38.	Security Interest Type (Mortgage/charge/hypothecation/assignment/pledge etc.)	
39.	Asset Type (Movable, immovable, intangible)	
40.	Type of Security (Vehicle, inventory, receivable, equipment, Plot etc.)	
41.	Joint Security Interest (Yes or No)	
42.	Number of Security Interest Holders	
43.	Security Interest ID (As per CERSAI)	
44.	Description of the security (Number, Identification Marks etc.)	
45.	Date of Creation of Security Interest	
46.	Date of Modification of Security Interest	
47.	Final amount secured	
48.	Value of Security	
49.	Date of Valuation	

50.	List out documents attached as proof: A. Copy of the Security Deed B. Copy of the Valuation Report C. Proof of Registration with CERSAI D. Copy of the Certificate of Registration of Charge E. Any other document relating to creation of security	
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**C. Details relating to Default of Debt (If not applicable, please write NA)**

Details of the Default		
51.	Date of Default	
52.	Days past due	
53.	Total amount due and default amount	
54.	Date and amount of last payment	
55.	Suit filed or not	
56.	Documents attached as proof of default	

Dr. M. S. Sahoo  
Chairperson Insolvency and Bankruptcy  
Board of India