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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th January,* 2018/*Pausha* 29, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 18th January, 2018, and is hereby published for general information:—

THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2017

NO. 8 OF 2018

[18*th January,* 2018.]

An Act to amend the Insolvency and Bankruptcy Code, 2016.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Insolvency and Bankruptcy Code (Amendment) Act, 2018.

(*2*) It shall be deemed to have come into force on the 23rd day of November, 2017.

Amendment of section 2.

31 of 2016.

2. In the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the principal Act), in section 2,—

(*i*) in clause (*d*), the word "and" shall be omitted;

(*ii*) for clause (*e*), the following clauses shall be substituted, namely:—

"(*e*) personal guarantors to corporate debtors;

(*f*) partnership firms and proprietorship firms; and

(*g*) individuals, other than persons referred to in clause (*e*),".

Amendment of section 5.

3. In section 5 of the principal Act,—

(*a)* for clause (*25*), the following clause shall be substituted, namely:—

'(*25*) "resolution applicant" means a person, who individually or jointly with any other person, submits a resolution plan to the resolution professional pursuant to the invitation made under clause (*h*) of sub-section (*2*) of section 25;';

(*b)* in clause (*26*), for the words "any person", the words "resolution applicant" shall be substituted.

Amendment of section 25.

4. In section 25 of the principal Act, in sub-section (*2*), for clause (*h*), the following clause shall be substituted, namely:—

"(*h*) invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans.".

Insertion of new section 29A.

5. After section 29 of the principal Act, the following section shall be inserted, namely:—

Persons not eligible to be resolution applicant.

"29A. A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly or in concert with such person—

(*a)* is an undischarged insolvent;

(*b*) is a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949; 10 of 1949.

(*c*) has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 and at 10 of 1949. least a period of one year has lapsed from the date of such classification till the date of commencement of the corporate insolvency resolution process of the corporate debtor:

Provided that the person shall be eligible to submit a resolution plan if such person makes payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission of resolution plan;

(*d*) has been convicted for any offence punishable with imprisonment for two years or more;

(*e*) is disqualified to act as a director under the Companies Act, 2013; 18 of 2013.

(*f*) is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;

(*g*) has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code;

(*h*) has executed an enforceable guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code;

(*i*) has been subject to any disability, corresponding to clauses (*a*) to (*h*), under any law in a jurisdiction outside India; or

(*j*) has a connected person not eligible under clauses (*a*) to (*i*).

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Explanation.— For the purposes of this clause, the expression "connected person" means—

(*i*) any person who is the promoter or in the management or control of the resolution applicant; or

(*ii*) any person who shall be the promoter or in management or control of the business of the corporate debtor during the implementation of the resolution plan; or

(*iii*) the holding company, subsidiary company, associate company or related party of a person referred to in clauses (*i*) and (*ii*):

Provided that nothing in clause (*iii*) of this *Explanation* shall apply to—

(*A*) a scheduled bank; or

(*B*) an asset reconstruction company registered with the Reserve Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; or

54 of 2002.

(*C*) an Alternate Investment Fund registered with the Securities and Exchange Board of India.".

6. In section 30 of the principal Act, for sub-section (*4*), the following sub-section shall be substituted, namely:— Amendment of section 30.

"(*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, after considering its feasibility and viability, and such other requirements as may be specified by the Board:

Provided that the committee of creditors shall not approve a resolution plan, submitted before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017, where the resolution applicant is ineligible under section 29A and may require the resolution professional to invite a fresh resolution plan where no other resolution plan is available with it:

Ord. 7 of 2017.

Provided further that where the resolution applicant referred to in the first proviso is ineligible under clause (*c*) of section 29A, the resolution applicant shall be allowed by the committee of creditors such period, not exceeding thirty days, to make payment of overdue amounts in accordance with the proviso to clause (*c*) of section 29A:

Provided also that nothing in the second proviso shall be construed as extension of period for the purposes of the proviso to sub-section (*3*) of section 12, and the corporate insolvency resolution process shall be completed within the period specified in that sub-section.".

7. In section 35 of the principal Act, in sub-section (*1*), in clause (*f*), the following proviso shall be inserted, namely:— Amendment of section 35.

"Provided that the liquidator shall not sell the immovable and movable property or actionable claims of the corporate debtor in liquidation to any person who is not eligible to be a resolution applicant.".

8. After section 235 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 235A.

"235A. If any person contravenes any of the provisions of this Code or the rules or regulations made thereunder for which no penalty or punishment is provided in this Code, such person shall be punishable with fine which shall not be less than one lakh rupees but which may extend to two crore rupees.". Punishment where no specific penalty or punishment is provided.

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Amendment of section 240.

9. In section 240 of the principal Act, in sub-section (*2*),—

(*i*) after clause (*s*), the following clause shall be inserted, namely:—

"(*sa*) other conditions under clause (*h*) of sub-secton (*2*) of section 25;";

(*ii*) after clause (*w*), the following clause shall be inserted, namely:—

"(*wa*) other requirements under sub-section (*4*) of section 30;".

Repeal and savings.

10. (*1*) The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017 is hereby repealed. Ord. 7 of 2017.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Insolvency and Bankruptcy Code, 2016, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Code, as amended by this Act. 31 of 2016.

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DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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