

**PART I**  
**PRELIMINARY**

**1. Short title, extent and commencement. -**

(1) This Code may be called the Insolvency and Bankruptcy Code, 2016.

(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.

**2. Application. –**

The provisions of this Code shall apply to—

(a) any company incorporated under the Companies Act, 2013 (18 of 2013) or under any previous company law;

(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;

(c) any Limited Liability Partnership incorporated under the Limited Liability Partnership Act, 2008 (6 of 2009);

(d) such other body incorporated under any law for the time being in force, as the Central Government may, by notification, specify in this behalf; <sup>1</sup>[\*\*\*]

[<sup>2</sup> (e) personal guarantors to corporate debtors;

(f) partnership firms and proprietorship firms; and

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

in relation to their insolvency, liquidation, voluntary liquidation or bankruptcy, as the case may be.

**3. Definitions. –**

In this Code, unless the context otherwise requires, -

(1) “Board” means the Insolvency and Bankruptcy Board of India established under

---

<sup>1</sup> The word “and” omitted by Act 8 of 2018, sec. 2(i) (w.r.e.f. 23-11-2017).

<sup>2</sup> Subs. by Act 8 of 2018, sec. 2 (ii), for clause (e) (w.r.e.f. 23-11-2017). Clause (e), before substitution, stood as under:

“(e) partnership firms and individuals.”.

sub-section (1) of section 188;

(2) “bench” means a bench of the Adjudicating Authority;

(3) “bye-laws” mean the bye-laws made by the insolvency professional agency under section 205;

(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;

(5) “Chairperson” means the Chairperson of the Board;

(6) “claim” means –

(a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured, or unsecured;

(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;

(7) “corporate person” means a company as defined in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013), a limited liability partnership, as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009), 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 manner as 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 <sup>3</sup>[paid] by the debtor or the corporate debtor, as the case may be;

---

<sup>3</sup> Subs. by Act No. 26 of 2018, sec. 2 for the word ‘repaid’ (w.e.f. 6-6-2018).

(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.

(14) “financial institution” means-

- (a) a scheduled bank;
- (b) financial institution as defined in section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);
- (c) public financial institution as defined in clause (72) of section 2 of the Companies Act, 2013 (18 of 2013); and
- (d) such other institution as the Central Government may by notification specify as a financial institution;

(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;

(16) “financial service” includes any of the following services, namely: –

- (a) accepting of deposits;
- (b) safeguarding and administering assets consisting of financial products, belonging to another person, or agreeing to do so;
- (c) effecting contracts of insurance;
- (d) offering, managing or agreeing to manage assets consisting of financial products belonging to another person;
- (e) rendering or agreeing, for consideration, to render advice on or soliciting for the purposes of—
  - (i) buying, selling, or subscribing to, a financial product;
  - (ii) availing a financial service; or
  - (iii) exercising any right associated with financial product or financial service;

- (f) establishing or operating an investment scheme;
- (g) maintaining or transferring records of ownership of a financial product;
- (h) underwriting the issuance or subscription of a financial product; or
- (i) selling, providing, or issuing stored value or payment instruments or providing payment services;

(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;

(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;

(19) “insolvency professional” means a person enrolled under section 206 with an insolvency professional agency as its member and registered with the Board as an insolvency professional under section 207;

(20) “insolvency professional agency” means any person registered with the Board under section 201 as an insolvency professional agency;

(21) “information utility” means a person who is registered with the Board as an information utility under section 210;

(22) “notification” means a notification published in the Official Gazette, and the terms “notified” and “notify” shall be construed accordingly;

(23) “person” includes -

- (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 by a statute,

and includes a person resident outside India;

(24) “person resident in India” shall have the meaning as assigned to such term in clause (v) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);

(25) “person resident outside India” means a person other than a person resident in India;

(26) “prescribed” means prescribed by rules made by the Central Government;

(27) “property” includes money, goods, actionable claims, land and every description of property situated in India or outside India and every description of interest including present or future or vested or contingent interest arising out of, or incidental to, property;

(28) “regulations” means the regulations made by the Board under this Code;

(29) “Schedule” means the Schedule annexed to this Code;

(30) “secured creditor” means a creditor in favour of whom security interest is created;

(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:

Provided that security interest shall not include a performance guarantee;

(32) “specified” means specified by regulations made by the Board under this Code and the term “specify” shall be construed accordingly;

(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;

(34) “transfer” includes sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien;

(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;

(36) “workman” shall have the same meaning as assigned to it in clause (s) of section 2 of the Industrial Disputes Act, 1947(14 of 1947);

(37) words and expressions used but not defined in this Code but defined in the Indian Contract Act, 1872(9 of 1872), the Indian Partnership Act, 1932 (9 of 1932), the Securities Contract (Regulation) Act, 1956 (42 of 1956), the Securities Exchange Board of India Act, 1992 (15 of 1992), the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993), the Limited Liability Partnership Act, 2008 (6 of 2009) and the Companies Act, 2013 (18 of 2013), shall have the meanings respectively assigned to them in those Acts.