

## CIRP regulations (IBC):

### 7th Amendment - disclosure of Beneficial Ownership and 32A eligibility

12 January 2026

#### Background

Insolvency and Bankruptcy Board of India (IBBI) on 22<sup>nd</sup> December 2025, amended the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations (CIRP Regulations) to introduce sub-regulation 3A to existing regulation 38 (Amendment).

In this regard, IBBI had on 6 November 2025 published a discussion paper, inviting public comments on draft formats for declaration of beneficial ownership by prospective resolution applicants (PRAs) and a draft affidavit for the PRAs disclosing whether they are eligible for benefit of Section 32A of the Insolvency and Bankruptcy Code, 2016 (Code) or not (6 November DP). The 6 November DP refers to an earlier discussion paper dated 6 August 2025, wherein IBBI proposed measures for enhancing the integrity of Corporate Insolvency Resolution Process (CIRP) (6 August DP) including measures for enhancing disclosure requirements for PRAs regarding Section 32A of Code. IBBI noted that the effective implementation of Section 32A is facing challenges, particularly with complex, multilayered ownership structures which obscured the ultimate beneficial owners and hence necessitating adequate disclosures to establish the identity of potential beneficiaries so that principle of clean slate can be availed by PRAs.

The Amendment has crystallised the proposal in the 6 August DP and the formats in the 6 November DP into law by introduction of Regulation 38(3A) to CIRP Regulations.

#### Key changes introduced by the amendment:

##### 1. Disclosure of Beneficial Ownership by the PRAs

Regulation 38 of CIRP Regulations provides for mandatory content of a resolution plan to be submitted by a PRA. In this regard newly introduced regulation 38(3A) requires the PRAs to include in the resolution plan a statement of beneficial ownership (Statement), covering details of all natural persons who ultimately owns or controls the PRA, together with the shareholding structure and jurisdiction of each intermediate entity.

IBBI on 29 December 2025, vide circular no. IBBI/CIRP/90/2025 (Circular) has prescribed the format for the Statement and duty has been casted upon the resolution professional to file the Statement with NCLT at the time of seeking approval of resolution plan. Annexure-1 of the Circular requires the PRA to inter alia disclose the name, PAN, nationality, address and manner of ownership and control of the beneficial owner of the PRA. Further, PRAs are also required to disclose the particulars of intermediate entities, including their jurisdictions (where applicable).

For the definition of beneficial owner, the Annexure-1 refers to rule 9(3) of the Prevention of Money Laundering (Maintenance of Records), Rules, 2005 (PMLA Rules).

Under PMLA Rules, the beneficial owner in relation to a company, means the natural person (s), who whether alone or together with one or more juridical person has a controlling ownership interest or exercises control through other means. Controlling Interest means ownership of or entitlement to more than 10% of shares or capital or profits of the company and 'Control' includes right to appoint a majority

of directors or to control the management or policy decisions including by virtue of shareholding or management rights or shareholders agreements or voting agreements.

In case of partnership firms, the beneficial owner is the natural person who whether alone or together with one or more juridical person, has ownership of/entitlement to more than 10% of capital or profits or who exercises control through other means. For unincorporated association or body of individuals, the beneficial owner is the natural person, who alone or together with one or more juridical person, has ownership of entitlement to more than 15% of the property, capital or profits; and where no natural person is identified, senior managing official is deemed to be the beneficial owner. Further, the Circular also provides that any falsification or misrepresentation by PRAs in disclosing the beneficial ownership in the form and manner specified in Annexure-1, would result in consequences under the applicable law.

## 2. **Affidavit of eligibility under Section 32A of the Code**

The second introduction in Regulation 38 of CIRP Regulations is requirement for PRAs to submit an affidavit along with resolution plan, confirming their eligibility or non-eligibility under Section 32A of the Code (Affidavit). The Section 32A grants an immunity against the offences committed by the corporate debtor prior to initiation of CIRP, provided the approval of resolution plan results in change in management or control of corporate debtor to person not associated with the erstwhile management. Thus, as per the Affidavit, the PRAs must disclose whether takeover of the Corporate Debtor under an approved resolution plan will result in a new, untainted management or retention of control by the erstwhile management.

As per the Circular, the PRA is also required to submit a brief statement of facts demonstrating the Section 32A eligibility, including whether the PRA or any person in management or control of PRA is/was a promoter, related party of corporate debtor or was subject to any investigation or prosecution relating to offences committed by the corporate debtor prior to commencement of CIRP. Further, any falsification or misrepresentation in the affidavit will attract consequences under applicable laws.

## Conclusion

The Amendments introduced are part of series of reforms introduced by IBBI to harmonise the Code and PMLA and to prevent post approval challenges in implementation of a resolution plan. In this regard, vide circular no. IBBI/CIRP/87/2025 dated 4 November 2025, IBBI introduced a standard undertaking to be furnished by insolvency professionals while making an application for restitutions of assets of corporate debtor attached by the Enforcement Directorate under PMLA. The present Amendments will further ease out the friction between the Code and PMLA and enable effective and timely implementation of Section 32A of the Code thus further strengthening the Clean Slate principle.

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