

# DRAFT FOR PUBLIC COMMENTS

## INSOLVENCY AND BANKRUPTCY (APPLICATION TO ADJUDICATING AUTHORITY) RULES, 2016

In exercise of the powers conferred under sub-section (2) of section 7, sub-section (1) of section 8, sub-section (2) of section 9, sub-section (2) of section 10, sub-sections (1) and (2) of section 239 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby makes the following Rules, namely:

### 1. Short title and commencement

- (1) These Rules may be called the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
- (2) They shall come into force from the date of their publication in the Official Gazette.

### 2. Definitions

- (1) In these Rules, unless the context otherwise requires:
  - (a) “corporate insolvency resolution process” means the insolvency resolution process for corporate persons under Chapter II of Part II of the Code;
  - (b) “credit information company” has the meaning given to such term in the Credit Information Companies (Regulation) Act, 2005;
  - (c) “identification number” means the Limited Liability Partnership Identity Number or the Corporate Identity Number of any corporate entity;
  - (d) “Regulations” means the Insolvency and Bankruptcy (Insolvency Resolution Process for Corporate Persons) Regulations, 2016; and
  - (e) “Rules” means the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
- (2) Unless the context requires otherwise, words and expressions used and not defined in these Rules, but defined in the Code, the Indian Contract Act, 1872, the Indian Partnership Act, 1932, the Securities Contract (Regulation) Act, 1956, the Securities and Exchange Board of India Act, 1992, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the Limited Liability Partnership Act, 2008 and the Companies Act, 2013, shall have the meanings respectively assigned to them in those Acts.

### 3. Application by sole financial creditor

- (1) An application filed with the Adjudicating Authority for initiating a corporate insolvency resolution process by a financial creditor solely on its own behalf shall state:
  - (a) the name, date of incorporation, identification number and the address of the registered office and principal office, if any, of the financial creditor;

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- (b) the name, date of incorporation, identification number and the address of the registered office and principal office, if any, of the corporate debtor;
- (c) the nominal share capital and the paid-up share capital of the corporate debtor, if applicable;
- (d) the name and address of one or more persons resident in India authorised to accept on behalf of the financial creditor the service of process and any notices or other documents required to be served on the financial creditor;
- (e) subject to Rule 10, the name of the insolvency professional proposed to act as an interim resolution professional along with his address, email address and telephone number;
- (f) the name, address and authority of the person submitting application on behalf of the financial creditor; and
- (g) the following in relation to the financial debt:
  - (i) the total amount claimed to be in default by the financial creditor;
  - (ii) particulars of how and when the relevant financial debt was incurred by the corporate debtor;
  - (iii) particulars of any security held, the date of its creation, its estimated value as per the creditor and if the corporate debtor is a company, a certified copy of a certificate of registration of charge issued by the Registrar of Companies;
  - (iv) particulars of an order by a court or tribunal of a suit or arbitration proceeding in relation to the amount of default;
  - (v) certified copies of any of the following documents which can demonstrate its the debt and default :
    - (A) financial contract that provides for a date on or before which the whole or part of the debt is required to be repaid and the manner of such repayment;  
  
*Provided* that the financial creditor shall affirm that no waiver or extension has been granted in relation to the amount of debt to be repaid or the date of repayment under the financial contract and that the financial contract has not been materially amended in any other respect; or
    - (B) a record of default as available with any credit information company;

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*Provided* that such documents shall not be submitted if such debt and default can be verified through an information utility;

- (vi) record of the default recorded with the information utility; and
- (vii) succession certificate, or probate of a will, or will, or letter of administration, or court decree as may be applicable, under the Indian Succession Act, 1925, if required.

*Provided* that where a financial creditor seeks to initiate the corporate insolvency resolution process on account of a default to another financial creditor of the corporate debtor, the application shall additionally include a certified copy of the financial contract between the corporate debtor and such other financial creditor and any other evidence of the nature that the applicant financial creditor is entitled to submit in the event of a default under a financial contract to which it was a party.

*Provided* further that where a financial creditor is an assignee or transferee of a financial contract, the applicant shall include a certified copy of the assignment or transfer agreement and other relevant documentation to demonstrate that the financial contract has been validly assigned or transferred to such financial creditor.

- (2) An application under this Rule shall contain a written submission from the insolvency professional proposed to act as the interim resolution professional:
    - (a) agreeing to accept appointment as the interim resolution professional if an order admitting the application under this Rule is made;
    - (b) disclosing the registration number assigned to him by the Board and affirming that he is qualified to practise as an insolvency professional;
    - (c) disclosing the number of cases of corporate insolvency resolution process for which he is currently serving as an interim resolution professional, resolution professional or liquidator;
    - (d) disclosing any of the following situations, which may result in conflict of interest in respect of his appointment :
      - (i) the existence of any pecuniary or personal relationship between him and
        - (A) the corporate debtor; and
        - (B) the persons entitled to a distribution if the corporate debtor were to be liquidated and its assets were to be distributed in accordance with section 53 of the Code,
- (collectively stakeholders);

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- (ii) if he is a relative of any of the stakeholders, or is a shareholder of such stakeholder, or is any principal or employee, or is a business partner or has a controlling interest in the business of any of the stakeholders;
- (iii) if he has, at any time during the previous three years, had a professional, financial or business relation with the stakeholders;
- (e) certifying that there are no disciplinary proceedings pending against him with the Board or the insolvency professional agency he is a member of;
- (f) certifying that the facts averred by the applicant under this Rule are true, accurate and complete in respect of the relevant corporate debtor,

*Provided* that he may also certify that a default has occurred.

- (3) An application made under this Rule shall be in Form A of Schedule I of these Rules.
- (4) The financial creditor shall serve on the corporate debtor a copy of the application filed with the Adjudicating Authority under this Rule.
- (5) If the financial creditor making the application under this Rule, at any time before the application has been admitted, submits a request for withdrawing the application, confirming that the default has been repaid or otherwise settled by the corporate debtor to the satisfaction of the financial creditor, the Adjudicating Authority shall permit the withdrawal of the application.

#### **4. Joint application by two or more financial creditors**

- (1) An application filed with the Adjudicating Authority for initiating a corporate insolvency resolution process jointly by two or more financial creditors shall:
  - (a) state that the application is a joint application;
  - (b) state the name, date of incorporation, identification number and the address of the registered office and principal office, if any of each financial creditor;
  - (c) state the name, date of incorporation, identification number and the address of the registered office and principal office, if any of the corporate debtor;
  - (d) state the nominal share capital and the paid-up share capital of the corporate debtor, if applicable;
  - (e) nominate one financial creditor among the joint applicants to act on behalf of all such applicant financial creditors for the purpose of these Rules;
  - (f) state the name and address of one or more persons resident in India authorised to accept on behalf of the financial creditor nominated under this Rule, the service of process and any notices or other documents required to be served on any of the applicant financial creditors;

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- (g) the name, address and authority of the person submitting application on behalf of the financial creditor nominated under this Rule;
- (h) subject to Rule 10, the name of the insolvency professional proposed to act as an interim resolution professional along with his address, email address and telephone number; and
- (i) state the following in relation to each of the financial debts:
  - (i) the total amount claimed to be in default by each applicant financial creditor;
  - (ii) particulars of how and when the relevant financial debt was incurred by the corporate debtor and documents to substantiate interest payment requirements;
  - (iii) particulars of any security held, the date of its creation, its estimated value as per the creditor and if the corporate debtor is a company, a certified copy of a certificate of registration of charge issued by the Registrar of Companies;
  - (iv) particulars of an order by a court or tribunal of a suit or arbitration proceeding in relation to the amount of default;
  - (v) certified copies of any of the following documents which can demonstrate its the debt and default:
    - (A) financial contract that provides for a date on or before which the whole or part of the debt is required to be repaid and the manner of such repayment;  
  
*Provided* that the relevant financial creditor shall affirm that no waiver or extension has been granted in relation to the amount of debt to be repaid or the date of repayment under the financial contract and that the financial contract has not been materially amended in any other respect; or
    - (B) a record of default as available with any credit information company;  
  
*Provided* that such documents shall not be submitted if such debt and default can be verified through an information utility;
  - (vi) record of the default recorded with the information utility,; and
  - (vii) succession certificate, or probate of a will, or will, or letter of administration, or court decree as may be applicable, under the Indian Succession Act, 1925, if required.

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*Provided* that where a financial creditor seeks to initiate the corporate insolvency resolution process on account of a default to another financial creditor of the corporate debtor, the application shall additionally include a certified copy of the financial contract between the corporate debtor and such other financial creditor and any other evidence of the nature that the applicant financial creditor is entitled to submit in the event of a default under a financial contract to which it was a party.

*Provided* further that where a financial creditor is an assignee or transferee of a financial contract, the applicant shall include a certified copy of the assignment or transfer agreement and other relevant documentation to demonstrate that the financial contract has been validly assigned or transferred to such financial creditor.

- (2) An application under this Rule shall contain a written submission from the insolvency professional proposed to act as the interim resolution professional:
- (a) agreeing to accept appointment as the interim resolution professional if an order admitting the application under this Rule is made;
  - (b) disclosing the registration number assigned to him by the Board and affirming that he is qualified to practise as an insolvency professional;
  - (c) disclosing the number of cases of corporate insolvency resolution process for which he is currently serving as an interim resolution professional, resolution professional or liquidator;
  - (d) disclosing any of the following situations, which may result in conflict of interest in respect of his appointment :
    - (i) the existence of any pecuniary or personal relationship between him and
      - (A) the corporate debtor; and
      - (B) the persons entitled to a distribution if the corporate debtor were to be liquidated and its assets were to be distributed in accordance with section 53 of the Code,  
  
(collectively stakeholders);
    - (ii) if he is a relative of any of the stakeholders, or is a shareholder of such stakeholder, or is any principal or employee, or is a business partner or has a controlling interest in the business of any of the stakeholders;
    - (iii) if he has, at any time during the previous three years, had a professional, financial or business relation with the stakeholders;

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- (e) certifying that there are no disciplinary proceedings pending against him with the Board or the insolvency professional agency he is a member of;
- (f) certifying that the facts averred by the applicant under this Rule are true, accurate and complete in respect of the relevant corporate debtor,

*Provided* that he may also certify that a default has occurred.

- (3) For the purposes of these Rules any notices or other documents served on the financial creditor nominated under this Rule shall be deemed to have been served on all the applicant financial creditors.
- (4) The financial creditor nominated under this Rule shall immediately furnish any notice or document served on it in its capacity as a nominee of the other financial creditors to such other financial creditors.
- (5) The format of any application made under this Rule shall be in Form B of the Schedule I of these Rules.
- (6) The financial creditor nominated under this Rule shall serve on the corporate debtor a copy of the application filed with the Adjudicating Authority under this Rule;
- (7) If the financial creditor nominated to make the application under this Rule, at any time before the application has been admitted, submits a request for withdrawing the application, confirming that the default has been repaid or otherwise settled by the corporate debtor to the satisfaction of the all applicant financial creditors, the Adjudicating Authority shall permit the withdrawal of the application.

### **5. Demand notice by operational creditor**

- (1) A demand notice or an invoice demanding payment delivered by the operational creditor under section 8(1) of the Code shall:
  - (a) specify the names of the operational creditor and the corporate debtor;
  - (b) specify the total amount claimed to be in default by the operational creditor with a description of the unpaid amount of principal, interest charged, if any, and interest charged due to delay in payment, if any, and the rate at which any interest has been charged;
  - (c) specify the particulars of how and when the relevant operational debt was incurred by the corporate debtor;
  - (d) particulars of any security held, the date of its creation, its estimated value as per the creditor and if the corporate debtor is a company, a certified copy of a certificate of registration of charge issued by the Registrar of Companies;

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- (e) provide certified copies of any employment contracts, invoices or other documents by reference to which the existence and default in relation to the relevant operational debt can be substantiated;
  - (f) provide details of retention of title arrangements, if any, in respect of goods to which the operational debt refers; and
  - (g) provide a certificate from an information utility confirming that no record of a dispute raised in relation to the relevant operational debt has been filed by any person at any information utility.
- (2) The format of any demand notice or invoice demanding payment made under this Rule shall be in Form C of Schedule I of these Rules.
- (3) A certified copy of any demand notice or invoice demanding payment served under this Rule by an operational creditor shall also be filed with an information utility.

### **6. Application by operational creditor**

- (1) An application filed with the Adjudicating Authority for initiating a corporate insolvency resolution process by an operational creditor shall:
- (a) contain a certified copy of the demand notice or invoice demanding payment served on the corporate debtor;
  - (b) state the name, date of incorporation and identification number, if any, and the address of the registered office and principal office, if any, of the operational creditor;
  - (c) state the name, date of incorporation, identification number and the address of the registered office and principal office, if any, of the corporate debtor;
  - (d) state the name and address of one or more persons resident in India authorised to accept on behalf of the operational creditor the service of process and any notices or other documents required to be served on the operational creditor;
  - (e) subject to Rule 10, the name of the insolvency professional proposed to act as an interim resolution professional along with his address, email address and telephone number, in case such operational creditor has nominated an insolvency professional to act as an interim resolution professional;
  - (f) the name, address and authority of the person submitting the application on behalf of the operational creditor;
  - (g) contain a certified copy of the statement of all bank accounts of the operational creditor displaying all credit and debit transactions with the corporate debtor obtained from the relevant financial institutions maintaining accounts of the



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operational creditor, from the date of the demand notice or invoice demanding payment having been served under Rule 5 to the date of the application, if any;

*Provided* that inability or refusal of such financial institutions in producing such statement of accounts shall not in any way affect the maintainability of the application or admission of the application;

- (h) certified copies of any of the following documents which can demonstrate its the debt and default:
    - (i) an order of a court or tribunal that has adjudicated upon the amount of the default; or
    - (ii) a contract for the supply of goods and services between the operational creditor and the corporate debtor; or
    - (iii) a contract by way of which the corporate debtor has agreed to engage the services of the operational creditor;
  - (i) succession certificate, or probate of a will, or will, or letter of administration, or court decree as may be applicable, under the Indian Succession Act, 1925, if required; and
  - (j) have annexed to it an affidavit in support of the application sworn and filed before the Adjudicating Authority in accordance with Rule 7.
- (2) An application under this Rule shall contain a written submission from the insolvency professional proposed to act as the interim resolution professional:
- (a) agreeing to accept appointment as the interim resolution professional if an order admitting the application under this Rule is made;
  - (b) disclosing the registration number assigned to him by the Board and affirming that he is qualified to practise as an insolvency professional;
  - (c) disclosing the number of cases of corporate insolvency resolution process for which he is currently serving as an interim resolution professional, resolution professional or liquidator;
  - (d) disclosing any of the following situations, which may result in conflict of interest in respect of his appointment :
    - (i) the existence of any pecuniary or personal relationship between him and
      - (A) the corporate debtor; and

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(B) the persons entitled to a distribution if the corporate debtor were to be liquidated and its assets were to be distributed in accordance with section 53 of the Code,

(collectively stakeholders);

(ii) if he is a relative of any of the stakeholders, or is a shareholder of such stakeholder, or is any principal or employee, or is a business partner or has a controlling interest in the business of any of the stakeholders;

(iii) if he has, at any time during the previous three years, had a professional, financial or business relation with the stakeholders

(e) certifying that there are no disciplinary proceedings pending against him with the Board or the insolvency professional agency he is a member of;

(f) certifying that the facts averred by the applicant under this Rule are true, accurate and complete in respect of the relevant corporate debtor,

*Provided* that he may also certify that a default has occurred. The format of any application made under this Rule shall be in Form D of Schedule I of these Rules.

(3) The operational creditor shall serve on the corporate debtor a copy of the application filed with the Adjudicating Authority under this Rule;

(4) If the operational creditor making the application under this Rule, at any time before the application has been admitted, submits a request for withdrawing the application, confirming that the default has been repaid or otherwise settled by the corporate debtor to the satisfaction of the operational creditor, the Adjudicating Authority shall permit the withdrawal of the application.

### **7. Affidavit by operational creditor**

(1) An affidavit in accordance with this Rule shall be sworn and filed before the Adjudicating Authority by the person submitting the application on behalf of the operational creditor under Rule 6.

(2) The affidavit shall confirm that no notice was served by the corporate debtor raising a dispute in relation to the existence or amount of the unpaid operational debt due to the operational creditor in accordance with section 8 of the Code.

### **8. Application by corporate applicant**

(1) An application filed with the Adjudicating Authority for initiating a corporate insolvency resolution process by a corporate applicant shall state the following:

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- (a) the name, date of incorporation, identification number and the address of the registered office and principal office, if any, of the corporate applicant;
  - (b) the name, date of incorporation, identification number and the address of the registered office and principal office, if any, of the corporate debtor;
  - (c) the name and address of one or more persons resident in India authorised to accept on behalf of the corporate applicant the service of process and any notices or other documents required to be served on the corporate applicant;
  - (d) subject to Rule 10, the name of the insolvency professional proposed to act as an interim resolution professional along with his address, email address and telephone number;
  - (e) the name, address and authority of the person submitting application on behalf of the corporate applicant; and
  - (f) in relation to the default:
    - (i) the total amount in default;
    - (ii) particulars of how and when the relevant debt was incurred by the corporate debtor;
    - (iii) particulars of any security held, the date of its creation, its estimated value as per the creditor and if the corporate debtor is a company, a certified copy of a certificate of registration of charge issued by the Registrar of Companies; and
    - (iv) record of the default recorded with the information utility; and
    - (v) a certified copy of a demand notice or invoice demanding payment, if any, served by an operational creditor on the corporate debtor.
- (2) An application under this Rule shall contain a written submission from the insolvency professional proposed to act as the interim resolution professional:
- (a) agreeing to accept appointment as the interim resolution professional if an order admitting the application under this Rule is made;
  - (b) disclosing the registration number assigned to him by the Board and affirming that he is qualified to practise as an insolvency professional;
  - (c) disclosing the number of cases of corporate insolvency resolution process for which he is currently serving as an interim resolution professional, resolution professional or liquidator;

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- (d) disclosing any of the following situations, which may result in conflict of interest in respect of his appointment :
    - (i) the existence of any pecuniary or personal relationship between him and
      - (A) the corporate debtor; and
      - (B) the persons entitled to a distribution if the corporate debtor were to be liquidated and its assets were to be distributed in accordance with section 53 of the Code,  
  
(collectively stakeholders);
    - (ii) if he is a relative of any of the stakeholders, or is a shareholder of such stakeholder, or is any principal or employee, or is a business partner or has a controlling interest in the business of any of the stakeholders;
    - (iii) if he has, at any time during the previous three years, had a professional, financial or business relation with the stakeholders;
  - (e) certifying that there are no disciplinary proceedings pending against him with the Board or the insolvency professional agency he is a member of;
  - (f) certifying that the facts averred by the corporate applicant under this Rule are true, accurate and complete in respect of the relevant corporate debtor,
- (3) *Provided* that he may also certify that a default has occurred The corporate applicant shall annex the following documents to the application filed under this Rule:
- (a) the written submission from the proposed interim resolution professional under sub-rule (2);
  - (b) a certified copy of the relevant extracts of the books of accounts of the corporate debtor for the preceding two financial years and the latest audited financial statements, provided that if the latest audited financial statements of the corporate debtor do not relate to the financial year in which the application is sought to be filed then a copy of the books of accounts of the corporate debtor not earlier than thirty days from the date of application and certified by the person who is in charge of the control and supervision over the financial affairs of the corporate debtor;
  - (c) a statement of affairs made up to a date not earlier than fourteen days before the insolvency commencement date containing the following information:

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- (i) a list of the company's assets and liabilities, divided into such categories as are appropriate for easy identification, with estimated values assigned to each category;
  - (ii) in the case of any property on which a claim against the corporate debtor is wholly or partly secured, particulars of the claim and its amount, and of how and when the security was created;
  - (iii) the names and addresses of the financial creditors and operational creditors of the corporate debtor, with the amounts of their respective claims;
  - (iv) particulars of any debts owed by or to the corporate debtor to or by persons connected with it;
  - (v) whether any, and if so what, guarantees have been given in relation to the debts of the corporate debtor by other persons, specifying which, if any, of the guarantors is a related party to the corporate debtor and the corporate applicant;
  - (vi) the names and addresses of the members and partners of the corporate debtor, as the case may be, with details of their respective shareholdings.
- (d) a certified copy of:
- (i) any constitutional document or shareholders' agreement that records the authority of the corporate applicant to make this application, where the corporate applicant is a member or partner of the corporate debtor; or
  - (ii) an employment agreement, constitutional document or fillings made to the Registrar of Companies confirming the authority of the corporate applicant to make this application, where the corporate applicant is an individual in charge of managing the operations and resources of the corporate debtor or has control and supervision over the financial affairs of the corporate debtor;
- (e) an affidavit in support of the application sworn and filed before the Adjudicating Authority in accordance with Rule 9.
- (4) The format of any application made under this Rule shall be in Form E of Schedule I of these Rules.

### **9. Affidavit by corporate applicant**

- (1) An affidavit in accordance with this Rule shall be sworn and filed before the Adjudicating Authority by the person submitting the application on behalf of the corporate applicant under Rule 8 and where such an affidavit is submitted on behalf of a

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corporate debtor a board resolution of the corporate debtor authorising the deponent to swear on the affidavit.

- (2) The affidavit shall:
  - (a) confirm whether there are to the knowledge of the corporate applicant any circumstances giving rise to the possibility of an offence having been committed under sections 68, 71 or 77 of the Code or the possibility of an order being made under sections 44 to 51 of the Code;
  - (b) confirm that the corporate applicant is not disentitled from filing an application to initiate corporate insolvency resolution process under section 11 of the Code.

### **10. Eligibility for appointment of interim resolution professional**

- (1) A person shall be eligible to be appointed as an interim resolution professional for a company if he:
  - (a) is eligible to be appointed as an independent director on the board of the company under section 149 of the Companies Act, 2013; and
  - (b) is not be a related party of the company.
- (2) A person shall be eligible to be appointed as an interim resolution professional for a corporate debtor other than a company, if he is not and has not been:
  - (a) a related party of the corporate debtor; or
  - (b) an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of:
    - (i) a firm of auditors or company secretaries in practice or cost auditors of the corporate debtor; or
    - (ii) any legal or a consulting firm that has or had any transaction with the corporate debtor amounting to ten per cent. or more of the gross turnover of such firm.

### **11. Filing of application and application fee**

- (1) The application made under section 7(1), section 9(1) or section 10(1) of the Code shall be filed before the Adjudicating Authority in accordance with the relevant rules of procedure of the Adjudicating Authority.

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- (2) The relevant applicant under these Rules shall immediately notify the Adjudicating Authority of any winding-up petition presented against the corporate debtor after the application is filed, if such applicant becomes aware of it.
- (3) The application shall be filed on payment of the fee, as mentioned in the Table contained in Schedule II.
- (4) The fee payable under sub-rule (3) shall be paid in accordance with the relevant rules of procedure of the Adjudicating Authority.

### **12. Additional documentation**

All applications made by a financial creditor, an operational creditor or a corporate applicant in accordance with the Rules may include any additional documentation as required under the Regulations, in accordance with section 7(3)(c); section 9(3)(d) and section 10(3)(a) of the Code respectively.

### **13. Service of application to the corporate debtor**

- (1) If an application made by a financial creditor or operational creditor for initiating a corporate insolvency resolution process in respect of the corporate debtor is admitted by the Adjudicating Authority, a copy of the application shall be served on the corporate debtor in accordance with this Rule.
- (2) The service of application shall be effected by the financial creditor or the operational creditor, as the case may be within two days of the insolvency commencement date.
- (3) Service shall be effected by delivering a copy of the application to the registered office and principal office (if any) of the corporate debtor by registered post, speed post or by courier;

*Provided* that if delivery to the corporate debtor under sub-rule (1) is not practicable, service may be effected by delivery to its last known principal place of business.

**SCHEDULE I****FORM A**APPLICATION BY SOLE FINANCIAL CREDITOR TO INITIATE CORPORATE INSOLVENCY  
RESOLUTION PROCESS UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016*(Under Rule 3 of the Insolvency and Bankruptcy (Application to Adjudicating Authority)  
Rules, 2016)*

[Date]

To,

The National Company Law Tribunal  
[Address]

From,

*[Name and address of the registered office or principal office of the financial creditor]*In the matter of *[name of the corporate debtor]*Subject: Application to initiate corporate insolvency resolution process in respect of *[name of the corporate debtor]* under the Insolvency and Bankruptcy Code, 2016

Madam/Sir,

*[Name of the financial creditor]*, hereby submits this application to initiate a corporate insolvency resolution process in the case of *[name of corporate debtor]*. The details for the purpose of this application are set out below:

I. GENERAL PARTICULARS		
1.	NAME OF FINANCIAL CREDITOR	
2.	IDENTIFICATION NUMBER OF FINANCIAL CREDITOR	
3.	ADDRESS OF THE REGISTERED OFFICE OR PRINCIPAL OFFICE OF THE FINANCIAL CREDITOR	
4.	NAME OF THE CORPORATE DEBTOR	



I. GENERAL PARTICULARS		
5.	IDENTIFICATION NUMBER OF CORPORATE DEBTOR	
6.	DATE OF INCORPORATION OF CORPORATE DEBTOR	
7.	NOMINAL SHARE CAPITAL AND THE PAID-UP SHARE CAPITAL OF THE CORPORATE DEBTOR (IF APPLICABLE)	
8.	ADDRESS OF THE REGISTERED OFFICE OR PRINCIPAL OFFICE OF THE CORPORATE DEBTOR	
9.	NAME AND ADDRESS OF PERSON(S) RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON BEHALF OF THE FINANCIAL CREDITOR	
10.	NAME, ADDRESS, EMAIL ADDRESS, TELEPHONE NUMBER AND THE REGISTRATION NUMBER OF THE INSOLVENCY PROFESSIONAL PROPOSED AS INTERIM RESOLUTION PROFESSIONAL	

II. PARTICULARS OF FINANCIAL DEBT		
1.	TOTAL AMOUNT CLAIMED TO BE IN DEFAULT	
2.	DATE WHEN THE FINANCIAL DEBT WAS INCURRED	
3.	PARTICULARS OF ANY SECURITY HELD, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR AND (IF THE CORPORATE DEBTOR IS A COMPANY) A CERTIFIED COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF	

II. PARTICULARS OF FINANCIAL DEBT		
	COMPANIES	
4.	PARTICULARS OF AN ORDER BY A COURT OR TRIBUNAL OF A SUIT OR ARBITRATION PROCEEDING IN RELATION TO THE DEFAULT	
5.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY	
6.	DETAILS OF SUCCESSION CERTIFICATE, OR PROBATE OF A WILL, OR WILL, OR LETTER OF ADMINISTRATION, OR COURT DECREE (AS MAY BE APPLICABLE), UNDER THE INDIAN SUCCESSION ACT, 1925	
7.	LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF FINANCIAL DEBT AND THE AMOUNT IN DEFAULT  (ONLY IF THERE IS NO RECORD OF DEFAULT WITH THE INFORMATION UTILITY)	

I, hereby certify that, to the best of my knowledge, [*name of proposed insolvency professional*], is fully qualified and permitted to act as an insolvency professional in accordance with the Insolvency and Bankruptcy Code, 2016 and the associated rules and regulations.

[*Name of the financial creditor*] has paid the requisite fee for this application through [*state means of payment*] on [*date*].

Yours sincerely,

Signature of person authorised to act on behalf of the financial creditor
Name in BLOCK LETTERS
Position with or in relation to the financial creditor
Address of person signing

---

**INSTRUCTIONS -**

Please attach the following to this application:

- Annex I      Record of default obtained through the information utility or all documents listed in paragraph II(7) of this application.
- Annex II     A written submission from [*name of proposed insolvency professional*] in the form as provided in this application.
- Annex III    Proof that the specified application fee has been paid.

ANNEX I

*[Record of default obtained through the information utility or all documents listed in paragraph II (7) of this application]*

## ANNEX II

[Date]

To,

The National Company Law Tribunal  
[Address]

From,

[Name and address of the registered office or principal office of the proposed interim resolution professional]

In the matter of [name of the corporate debtor]

Subject: Written submission in connection with an application to initiate corporate insolvency resolution process in respect of [name of the corporate debtor]

Madam/Sir,

I, [name of proposed interim resolution professional], an insolvency professional registered with [name of insolvency professional agency] having registration number [registration number] have been proposed as the interim resolution professional by [name of applicant financial creditor] in connection with the proposed corporate insolvency resolution process of [name of the corporate debtor].

In accordance with Rule 3 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, I hereby:

- (i) agree to accept appointment as the interim resolution professional if an order admitting the present application is passed;
- (ii) state that the registration number allotted to me by the Board is [insert registration number] and that I am currently qualified to practise as an insolvency professional;
- (iii) disclose that I am currently serving as an interim resolution professional / resolution professional / liquidator in [insert number of proceedings] proceedings;
- (iv) certify that there are no disciplinary proceedings pending against me with the Board or [name of the insolvency professional agency he is a member of];
- (v) disclose the following situations which may result in a conflict of interest in respect of my appointment::

[Relevant disclosures to be inserted in accordance with Rule 3.]

(vi) [*DELETE IF NOT REQUIRED*] certify that the facts averred by the applicant in the present application are true, accurate and complete [and a default has occurred] in respect of the relevant corporate debtor.

In order to reach the conclusion specified in paragraph (vi) above, I have relied on the expert opinion of the following accountants / lawyers / and other professionals registered as insolvency professionals.

Sr. No.	Insolvency Professional	Registration Number
1.	Name and address of the insolvency professional	
2.	[ <i>INSERT MORE AS APPLICABLE</i> ]	

Please find attached certified copies of the opinions abovementioned.

ANNEX III

*[Proof of specified application fee being paid]*

**SCHEDULE I****FORM B****JOINT APPLICATION BY FINANCIAL CREDITORS TO INITIATE CORPORATE INSOLVENCY  
RESOLUTION PROCESS UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016**

*(Under Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority)  
Rules, 2016)*

[Date]

To,

The National Company Law Tribunal  
[Address]

From,

1. [Name and address of the registered office or principal office of the financial creditor]
2. [Name and address of the registered office or principal office of the financial creditor]
3. [TO BE INSERTED AS APPLICABLE]

All applicants mentioned hereinabove shall collectively be referred to hereinafter as “**Joint Applicants**”.

In the matter of [name of the corporate debtor]

Subject: Joint Application to initiate corporate insolvency resolution process in respect of [name of the corporate debtor] under the Insolvency and Bankruptcy Code, 2016

Madam/Sir,

We, the Joint Applicants, being financial creditors of [name of corporate debtor], hereby jointly submit this application to initiate corporate insolvency resolution process in the case of [name of corporate debtor].

We hereby nominate [name of nominee financial creditor] among the Joint Applicants to act as our agent for the purpose of this application.

[Name of nominee financial creditor] hereby agrees:



- (i) to act as the agent for the Joint Applicants in respect of this application; and
- (ii) that it shall immediately furnish any notice or document served on it in its capacity as an agent of the Joint Applicants to the Joint Applicants.

The details for the purpose of this application are set out below:

I. GENERAL PARTICULARS		
1.	NAME OF THE CORPORATE DEBTOR	
2.	IDENTIFICATION NUMBER OF CORPORATE DEBTOR	
3.	DATE OF INCORPORATION OF CORPORATE DEBTOR	
4.	NOMINAL SHARE CAPITAL AND THE PAID-UP SHARE CAPITAL OF THE CORPORATE DEBTOR (IF APPLICABLE)	
5.	ADDRESS OF THE REGISTERED OFFICE OR PRINCIPAL OFFICE OF THE CORPORATE DEBTOR	
6.	NAME, ADDRESS, EMAIL ADDRESS, TELEPHONE NUMBER AND THE REGISTRATION NUMBER OF THE INSOLVENCY PROFESSIONAL PROPOSED AS INTERIM RESOLUTION PROFESSIONAL	

II. PARTICULARS OF [NAME OF RELEVANT FINANCIAL CREDITOR]		
1.	NAME OF THE FINANCIAL CREDITOR	
2.	IDENTIFICATION NUMBER OF FINANCIAL CREDITOR	
3.	ADDRESS OF THE REGISTERED OFFICE OR PRINCIPAL OFFICE OF THE FINANCIAL	

II. PARTICULARS OF [NAME OF RELEVANT FINANCIAL CREDITOR]		
	CREDITOR	
4.	NAME AND ADDRESS OF PERSON(S) RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON BEHALF OF THE FINANCIAL CREDITOR	
5.	TOTAL AMOUNT CLAIMED TO BE IN DEFAULT	
6.	DATE WHEN THE FINANCIAL DEBT WAS INCURRED	
7.	PARTICULARS OF ANY SECURITY HELD, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR AND (IF THE CORPORATE DEBTOR IS A COMPANY) A CERTIFIED COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES	
8.	PARTICULARS OF AN ORDER BY A COURT OR TRIBUNAL OF A SUIT OR ARBITRATION PROCEEDING IN RELATION TO THE DEFAULT	
9.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY	
10.	DETAILS OF SUCCESSION CERTIFICATE, OR PROBATE OF A WILL, OR WILL, OR LETTER OF ADMINISTRATION, OR COURT DECREE (AS MAY BE APPLICABLE), UNDER THE INDIAN SUCCESSION ACT, 1925	
11.	LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF FINANCIAL DEBT AND THE AMOUNT IN DEFAULT  (ONLY IF THERE IS NO RECORD OF DEFAULT WITH THE INFORMATION UTILITY)	

II. PARTICULARS OF [NAME OF RELEVANT FINANCIAL CREDITOR]		

III. PARTICULARS OF [NAME OF RELEVANT FINANCIAL CREDITOR]		
1.	NAME OF THE FINANCIAL CREDITOR	
2.	IDENTIFICATION NUMBER OF FINANCIAL CREDITOR	
3.	ADDRESS OF THE REGISTERED OFFICE OR PRINCIPAL OFFICE OF THE FINANCIAL CREDITOR	
4.	NAME AND ADDRESS OF PERSON(S) RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON BEHALF OF THE FINANCIAL CREDITOR.	
5.	TOTAL AMOUNT CLAIMED TO BE IN DEFAULT	
6.	DATE WHEN THE FINANCIAL DEBT WAS INCURRED	
7.	PARTICULARS OF ANY SECURITY HELD, THE DATE OF ITS CREATION, ITS ESTIMATED	

III. PARTICULARS OF [NAME OF RELEVANT FINANCIAL CREDITOR]		
	VALUE AS PER THE CREDITOR AND (IF THE CORPORATE DEBTOR IS A COMPANY) A CERTIFIED COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES	
8.	PARTICULARS OF AN ORDER BY A COURT OR TRIBUNAL OF A SUIT OR ARBITRATION PROCEEDING IN RELATION TO THE DEFAULT	
9.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY	
10.	DETAILS OF SUCCESSION CERTIFICATE, OR PROBATE OF A WILL, OR WILL, OR LETTER OF ADMINISTRATION, OR COURT DECREE (AS MAY BE APPLICABLE), UNDER THE INDIAN SUCCESSION ACT, 1925	
11.	<p>LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF FINANCIAL DEBT AND THE AMOUNT IN DEFAULT</p> <p>(ONLY IF THERE IS NO RECORD OF DEFAULT WITH THE INFORMATION UTILITY)</p>	

[TO BE INSERTED AS APPLICABLE]

IV. PARTICULARS OF [NAME OF RELEVANT FINANCIAL CREDITOR]		
1.	NAME OF THE FINANCIAL CREDITOR	

<u>[TO BE INSERTED AS APPLICABLE]</u>		
IV. PARTICULARS OF <i>[NAME OF RELEVANT FINANCIAL CREDITOR]</i>		
2.	IDENTIFICATION NUMBER OF FINANCIAL CREDITOR	
3.	ADDRESS OF THE REGISTERED OFFICE OR PRINCIPAL OFFICE OF THE FINANCIAL CREDITOR	
4.	NAME AND ADDRESS OF PERSON(S) RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON BEHALF OF THE FINANCIAL CREDITOR.	
5.	TOTAL AMOUNT CLAIMED TO BE IN DEFAULT	
6.	DATE WHEN THE FINANCIAL DEBT WAS INCURRED	
7.	PARTICULARS OF ANY SECURITY HELD, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR AND (IF THE CORPORATE DEBTOR IS A COMPANY) A CERTIFIED COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES	
8.	PARTICULARS OF AN ORDER BY A COURT OR TRIBUNAL OF A SUIT OR ARBITRATION PROCEEDING IN RELATION TO THE DEFAULT	
9.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY	
10.	DETAILS OF SUCCESSION CERTIFICATE, OR PROBATE OF A WILL, OR WILL, OR LETTER OF ADMINISTRATION, OR COURT DECREE (AS MAY BE APPLICABLE), UNDER THE	

<u>[TO BE INSERTED AS APPLICABLE]</u>		
IV. PARTICULARS OF <i>[NAME OF RELEVANT FINANCIAL CREDITOR]</i>		
	INDIAN SUCCESSION ACT, 1925	
11.	<p>LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF FINANCIAL DEBT AND THE AMOUNT IN DEFAULT</p> <p>(ONLY IF THERE IS NO RECORD OF DEFAULT WITH THE INFORMATION UTILITY)</p>	

The persons authorised to act on behalf of each of the Joint Applicants hereby certify that, to the best of their respective knowledge, *[name of proposed insolvency professional]*, is fully qualified and permitted to act as an insolvency professional in accordance with the Insolvency and Bankruptcy Code, 2016 and the associated rules and regulations.

The Joint Applicants have paid the requisite fee for this application through *[state means of payment]* on *[date]*.

Yours sincerely,

Signature of person authorised to act on behalf of the financial creditor
Name in BLOCK LETTERS
Position with or in relation to the financial creditor
Address of person signing

Signature of person authorised to act on behalf of the financial creditor
Name in BLOCK LETTERS
Position with or in relation to the financial creditor
Address of person signing

<u>[TO BE INSERTED AS APPLICABLE]</u>
Signature of person authorised to act on behalf of the financial creditor
Name in BLOCK LETTERS
Position with or in relation to the financial creditor
Address of person signing

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## INSTRUCTIONS -

Please attach the following to this application:

Annex I In relation to each Joint Applicant, a record of default obtained through the information utility or all documents listed in paragraph 11 of the relevant particulars of such Joint Applicant.

Annex IIA written submission from [*name of proposed insolvency professional*] in the form as provided in this application.

Annex III Application fee payment receipt/record.

ANNEX I

*[Record of default obtained through the information utility or all documents listed in paragraph 11 of the relevant particulars of such Joint Applicant]*



## ANNEX II

[Date]

To,

The National Company Law Tribunal  
[Address]

From,

[Name and address of the registered office or principal office of the proposed interim resolution professional]

In the matter of [name of the corporate debtor]

Subject: Written submission in connection with an application to initiate corporate insolvency resolution process in respect of [name of the corporate debtor]

Madam/Sir,

I, [name of proposed interim resolution professional], an insolvency professional registered with [name of insolvency professional agency] having registration number [registration number] have been proposed as the interim resolution professional in connection with the proposed corporate insolvency resolution process of [name of the corporate debtor] by the Joint Applicants.

In accordance with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, I hereby:

- (i) agree to accept appointment as the interim resolution professional if an order admitting the present application is passed;
- (ii) state that the registration number allotted to me by the Board is [insert registration number] and that I am currently qualified to practise as an insolvency professional;
- (iii) disclose that I am currently serving as an interim resolution professional / resolution professional / liquidator in [insert number of proceedings] proceedings;
- (iv) certify that there are no disciplinary proceedings pending against me with the Board or [name of the insolvency professional agency he is a member of];
- (v) disclose the following situations which may result in a conflict of interest in respect of my appointment:

*[Relevant disclosures to be inserted in accordance with Rule 4.]*

- (vi) *[DELETE IF NOT REQUIRED]* certify that the facts averred by the Joint Applicants in the present application are true, accurate and complete [and a default has occurred] in respect of the relevant corporate debtor.

In order to reach the conclusion specified in paragraph (vi) above, I have relied on the expert opinion of the following accountants / lawyers / and other professionals registered as insolvency professionals.

Sr. No.	Insolvency Professional	Registration Number
1.	Name and address of the insolvency professional	
2.	<i>[Insert more as applicable]</i>	

Please find attached certified copies of the abovementioned opinions.

ANNEX III

*[Proof of specified application fee being paid]*

**SCHEDULE I**

**FORM C**

FORM OF DEMAND NOTICE / INVOICE DEMANDING PAYMENT UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016

*(Under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)*

[Date]

To,

*[Name and address of the registered office or principal office of the corporate debtor]*

From,

*[Name and address of the registered office or principal office of the operational creditor]*

Subject: Demand notice/invoice demanding payment in respect of unpaid operational debt due from *[corporate debtor]* under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

1. This letter is a demand notice/invoice demanding payment of an unpaid operational debt due from *[name of corporate debtor]*.
2. Please find particulars of the unpaid operational debt below:

I. PARTICULARS OF OPERATIONAL DEBT		
1.	TOTAL AMOUNT CLAIMED TO BE IN DEFAULT	
2.	INTEREST CHARGED (IF ANY) DUE TO DELAY IN PAYMENT AND INTEREST RATE CHARGED	

I. PARTICULARS OF OPERATIONAL DEBT		
3.	DATE WHEN THE OPERATIONAL DEBT WAS INCURRED	
4.	PARTICULARS OF ANY SECURITY HELD, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR AND (IF THE CORPORATE DEBTOR IS A COMPANY) A CERTIFIED COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES	
5.	DETAILS OF RESERVATION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS	
6.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY	
7.	LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF OPERATIONAL DEBT AND THE AMOUNT IN DEFAULT  (ONLY IF THERE IS NO RECORD OF DEFAULT WITH THE INFORMATION UTILITY)	

3. If you dispute the existence or amount of unpaid operational debt please notify us within 10 (ten) days of the receipt of this letter of the pendency of the suit or arbitration proceedings in relation to such dispute, filed before the receipt of this letter.

4. If you believe that the unpaid operational debt has been repaid before the receipt of this letter, please demonstrate such repayment by sending to us, within ten days of receipt of this letter, the following:

(i) an attested copy of the record of electronic transfer of the unpaid amount from the bank account of the corporate debtor; or

(ii)an attested copy of any record that [*name of the operational creditor*] has encashed a cheque issued by the corporate debtor.

5. [*DELETE IF NOT APPLICABLE*] We hereby attach a certificate from an information utility confirming that no record of a dispute raised in relation to the relevant operational debt has been filed by any person at any information utility.
6. We request you to unconditionally repay the unpaid operational debt in full within ten days from the receipt of this letter failing which we shall initiate a corporate insolvency resolution process in respect of [*name of corporate debtor*].

Yours sincerely,

Signature of person authorised to act on behalf of the operational creditor
Name in BLOCK LETTERS
Position with or in relation to the operational creditor
Address of person signing

**INSTRUCTIONS -**

1. Please serve a copy of this form on the corporate debtor, ten days in advance of filing an application under section 9 of the Insolvency and Bankruptcy Code, 2016.
2. Please append a copy of such served notice to the application made by the operational creditor to the Adjudicating Authority.

**SCHEDULE I**

**FORM D**

**APPLICATION BY OPERATIONAL CREDITOR TO INITIATE CORPORATE INSOLVENCY RESOLUTION PROCESS UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016**

*(Under Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)*

[Date]

To,

The National Company Law Tribunal  
[Address]

From,

[Name and address for correspondence of the operational creditor]

In the matter of [name of the corporate debtor]

Subject: Application to initiate corporate insolvency resolution process in respect of [name of the corporate debtor] under the Insolvency and Bankruptcy Code, 2016

Madam/Sir,

[Name of the operational creditor], hereby submits this application to initiate a corporate insolvency resolution process in the case of [name of corporate debtor]. The details for the purpose of this application are set out below:

I. GENERAL PARTICULARS		
1.	NAME OF OPERATIONAL CREDITOR	
2.	IDENTIFICATION NUMBER OF OPERATIONAL CREDITOR (IF ANY)	
3.	ADDRESS FOR CORRESPONDENCE OF THE OPERATIONAL CREDITOR	

I. GENERAL PARTICULARS		
4.	NAME OF THE CORPORATE DEBTOR	
5.	IDENTIFICATION NUMBER OF CORPORATE DEBTOR	
6.	DATE OF INCORPORATION OF CORPORATE DEBTOR	
7.	NOMINAL SHARE CAPITAL AND THE PAID-UP SHARE CAPITAL OF THE CORPORATE DEBTOR (IF APPLICABLE)	
8.	ADDRESS OF THE REGISTERED OFFICE OR PRINCIPAL OFFICE OF THE CORPORATE DEBTOR	
9.	NAME AND ADDRESS OF PERSON(S) RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON BEHALF OF THE OPERATIONAL CREDITOR.	
10.	NAME, ADDRESS, EMAIL ADDRESS, TELEPHONE NUMBER AND THE REGISTRATION NUMBER OF THE INSOLVENCY PROFESSIONAL PROPOSED AS INTERIM RESOLUTION PROFESSIONAL (IF ANY)	

II. PARTICULARS OF OPERATIONAL DEBT		
1.	TOTAL AMOUNT CLAIMED TO BE IN DEFAULT	
2.	DATE WHEN THE OPERATIONAL DEBT WAS INCURRED	
3.	PARTICULARS OF ANY SECURITY HELD, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR AND (IF THE CORPORATE DEBTOR IS A COMPANY) A CERTIFIED COPY OF A CERTIFICATE OF REGISTRATION OF	



II. PARTICULARS OF OPERATIONAL DEBT	
	CHARGE ISSUED BY THE REGISTRAR OF COMPANIES
4.	DETAILS OF RESERVATION / RETENTION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS
5.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY
6.	LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF OPERATIONAL DEBT AND THE AMOUNT IN DEFAULT  (ONLY IF THERE IS NO RECORD OF DEFAULT WITH THE INFORMATION UTILITY)

[TO BE DELETED IF INSOLVENCY PROFESSIONAL NOT PROPOSED] I, [Name of the operational creditor / person authorised to act on behalf of the operational creditor] hereby certifies that, to the best of his knowledge, [name of proposed insolvency professional], is fully qualified and permitted to act as an insolvency professional in accordance with the Insolvency and Bankruptcy Code, 2016 and the associated rules and regulations.

[Name of the operational creditor] has paid the requisite fee for this application through [state means of payment] on [date].

Yours sincerely,

Signature of person authorised to act on behalf of the operational creditor
Name in BLOCK LETTERS
Position with or in relation to the operational creditor
Address of person signing

### INSTRUCTIONS -

Please attach the following to this application:

- Annex I Certified copy of the invoice / demand notice as in Form C of Schedule I of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 served on the corporate debtor.
- Annex II Record of default obtained through the information utility or all documents listed in paragraph II(6) of this application.
- Annex III Certified copy of the relevant accounts from the financial institutions maintaining accounts of the operational creditor confirming that there is no payment of the relevant unpaid operational debt by the operational debtor.
- Annex IV Certified copy of a shareholders' agreement, articles of association, limited liability partnership agreement, other constitutional documents or any other document of similar nature that records that the corporate applicant is authorised to make such an application under the Code.
- Annex V Affidavit in support of the application in accordance with the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
- Annex VI [TO BE DELETED IF INSOLVENCY PROFESSIONAL NOT PROPOSED] A written submission from [*name of proposed insolvency professional*] in the form as provided in this application.
- Annex VII Proof that the specified application fee has been paid.

ANNEX I

*[Certified copy of the invoice / demand notice as in Form C of Schedule I of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 served on the corporate debtor]*

ANNEX II

*[Record of default obtained through the information utility or all documents listed in paragraph II(6) of this application]*

ANNEX III

*[Certified copy of the relevant accounts from the financial institutions maintaining accounts of the operational creditor confirming that there is no payment of the relevant unpaid operational debt by the operational debtor]*

## ANNEX IV

*[Certified copy of a shareholders' agreement, articles of association, limited liability partnership agreement, other constitutional documents or any other document of a similar nature that records that such corporate applicant is authorised to make such an application under the Code]*

ANNEX V

*[Affidavit in accordance with the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016]*

## ANNEX VI

[Date]

To,

The National Company Law Tribunal  
[Address]

From,

[Name and address of the registered office or principal office of the proposed interim resolution professional]

In the matter of [name of the corporate debtor]

Subject: Written submission in connection with an application to initiate corporate insolvency resolution process in respect of [name of the corporate debtor]

Madam/Sir,

I, [name of proposed interim resolution professional], an insolvency professional registered with [name of insolvency professional agency] having registration number [registration number] have been proposed as the interim resolution professional by [name of operational creditor] in connection with the proposed corporate insolvency resolution process of [name of the corporate debtor].

In accordance with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, I hereby:

- (i) agree to accept appointment as the interim resolution professional if an order admitting the present application is passed;
- (ii) state that the registration number allotted to me by the Board is [insert registration number] and that I am currently qualified to practise as an insolvency professional;
- (iii) disclose that I am currently serving as an interim resolution professional / resolution professional / liquidator in [insert number of proceedings] proceedings;
- (iv) certify that there are no disciplinary proceedings pending against me with the Board or [name of the insolvency professional agency he is a member of];
- (v) disclose the following situations which may result in a conflict of interest in respect of my appointment:



*[Relevant disclosures to be inserted in accordance with Rule 6.]*

- (vi) *[DELETE IF NOT REQUIRED]* certify that the facts averred by the applicant in the present application are true, accurate and complete [and a default has occurred] in respect of the relevant corporate debtor.

In order to reach the conclusion specified in paragraph (vi) above, I have relied on the expert opinion of the following accountants / lawyers / and other professionals registered as insolvency professionals.

Sr. No.	Insolvency Professional	Registration Number
1.	Name and address of the insolvency professional	
2.	<i>[INSERT MORE AS APPLICABLE]</i>	

Please find attached certified copies of the abovementioned opinions.

ANNEX VII

*[Proof of specified application fee being paid]*

**SCHEDULE I**

**FORM E**

APPLICATION BY CORPORATE APPLICANT TO INITIATE CORPORATE INSOLVENCY RESOLUTION  
PROCESS UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016

*(Under Rule 8 of the Insolvency and Bankruptcy (Application to Adjudicating Authority)  
Rules, 2016)*

[Date]

To,

The National Company Law Tribunal  
[Address]

From,

[Name and address for correspondence of the corporate applicant]

In the matter of [name of the corporate debtor]

**Subject:** Application to initiate corporate insolvency resolution process in respect of [name of the corporate debtor] under the Insolvency and Bankruptcy Code, 2016

Madam/Sir,

We, hereby submit this application to initiate a corporate insolvency resolution process in respect of [name of corporate debtor]. The details for the purpose of this application are set out below:

I. GENERAL PARTICULARS		
1.	NAME ADDRESS, EMAIL ADDRESS, TELEPHONE NUMBER, IDENTIFICATION NUMBER AND ADDRESS OF THE REGISTERED OFFICE AND PRINCIPAL OFFICE (IF ANY) OF CORPORATE APPLICANT	
2.	NAME OF THE CORPORATE DEBTOR	
3.	IDENTIFICATION NUMBER OF CORPORATE DEBTOR	

I. GENERAL PARTICULARS		
4.	DATE OF INCORPORATION OF CORPORATE DEBTOR	
5.	NOMINAL SHARE CAPITAL AND THE PAID-UP SHARE CAPITAL OF THE CORPORATE DEBTOR (IF APPLICABLE)	
6.	ADDRESS OF THE REGISTERED OFFICE OR PRINCIPAL OFFICE OF THE CORPORATE DEBTOR	
7.	NAME AND ADDRESS OF PERSON(S) RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON BEHALF OF THE CORPORATE APPLICANT	
8.	NAME, ADDRESS, EMAIL ADDRESS, TELEPHONE NUMBER AND THE REGISTRATION NUMBER OF THE INSOLVENCY PROFESSIONAL PROPOSED AS INTERIM RESOLUTION PROFESSIONAL	
9.	DOCUMENTATION TO SHOW THAT THE CORPORATE APPLICANT IS AUTHORISED TO INITIATE THE CORPORATE INSOLVENCY RESOLUTION PROCESS	

II. PARTICULARS OF FINANCIAL / OPERATIONAL DEBT		
1.	NAME OF FINANCIAL / OPERATIONAL CREDITOR	
2.	ADDRESS OF CORRESPONDENCE OF THE FINANCIAL / OPERATIONAL CREDITOR	
3.	TOTAL AMOUNT IN DEFAULT	
4.	DATE WHEN THE FINANCIAL / OPERATIONAL DEBT WAS INCURRED	
5.	PARTICULARS OF ANY SECURITY HELD, THE DATE OF ITS CREATION, ITS	

II. PARTICULARS OF FINANCIAL / OPERATIONAL DEBT		
	ESTIMATED VALUE AS PER THE CREDITOR AND (IF THE CORPORATE DEBTOR IS A COMPANY) A CERTIFIED COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES	
6.	DETAILS OF RESERVATION / RETENTION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS	
7.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY	
8.	LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF FINANCIAL / OPERATIONAL DEBT AND THE AMOUNT IN DEFAULT  (ONLY IF THERE IS NO RECORD OF DEFAULT WITH THE INFORMATION UTILITY)	

I, certify that, to the best of my knowledge, [*name of proposed insolvency professional*], is fully qualified and permitted to act as an insolvency professional in accordance with the Insolvency and Bankruptcy Code, 2016 and the associated rules and regulations.

[*Name of the corporate applicant*] has paid the requisite fee for this application through [*state means of payment*] on [*date*].

Yours sincerely,

Signature of person authorised to act on behalf of the corporate applicant
Name in BLOCK LETTERS
Position with or in relation to the corporate applicant
Address of person signing

## INSTRUCTIONS -

Please attach the following to this application:

- Annex I     [TO BE DELETED IF NO FINANCIAL DEBT] In case of financial debt, record of default obtained through the information utility or all documents listed in paragraph II(8) of this application.
- Annex II     [TO BE DELETED IF NO OPERATIONAL DEBT] In case of operational debt, (i) certified copy of invoice / demand notice served by an operational creditor on the corporate debtor and (ii) record of default obtained through the information utility or all documents listed in paragraph II(8) of this application.
- Annex III    A written submission from [*name of proposed insolvency professional*] in the form as provided in this application.
- Annex IV     Certified copy of the books of accounts of the corporate debtor in accordance with Rule 8 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
- Annex V     Statement of affairs in accordance with Rule 8 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
- Annex VI     Affidavit in support of the application in accordance with the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
- Annex VII    Documents to show that the corporate applicant is authorised to initiate the corporate insolvency resolution process.
- Annex VIII   Proof that the specified application fee has been paid.

ANNEX I

*[In case of financial debt, record of default obtained through the information utility or all documents listed in paragraph II(8) of this application]*

ANNEX II

*[In case of operational debt, (i) certified copy of demand notice served by an operational creditor on the corporate debtor and (ii) record of default obtained through the information utility or all documents listed in paragraph II(8) of this application]*



## ANNEX III

[Date]

To,

The National Company Law Tribunal  
[Address]

From,

[Name and address of the registered office or principal office of the proposed interim resolution professional]

In the matter of [name of the corporate debtor]

**Subject:** Written submission in connection with an application to initiate corporate insolvency resolution process in respect of [name of the corporate debtor]

Madam/Sir,

I, [name of proposed interim resolution professional], an insolvency professional registered with [name of insolvency professional agency] having registration number [registration number] have been proposed as the interim resolution professional by [name of corporate applicant] connection with the proposed corporate insolvency resolution process of [name of the corporate debtor].

In accordance with Rule 8 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, I hereby:

- (i) agree to accept appointment as the interim resolution professional if an order admitting the present application is passed;
- (ii) state that the registration number allotted to me by the Board is [insert registration number] and that I am currently qualified to practise as an insolvency professional;
- (iii) disclose that I am currently serving as an interim resolution professional / resolution professional / liquidator in [insert number of proceedings] proceedings;
- (iv) certify that there are no disciplinary proceedings pending against me with the Board or [name of the insolvency professional agency he is a member of];
- (v) disclose the following situations which may result in a conflict of interest in respect of my appointment:

[Relevant disclosures to be inserted in accordance with Rule 8.]

- (vi) [*DELETE IF NOT REQUIRED*] certify that the facts averred by the corporate applicant in the present application are true, accurate and complete [and a default has occurred] in respect of the relevant corporate debtor.

In order to reach the conclusion specified in paragraph (vi) above, I have relied on the expert opinion of the following accountants / lawyers / and other professionals registered as insolvency professionals.

Sr. No.	Insolvency Professional	Registration Number
1.	Name and address of the insolvency professional	
2.	[ <i>INSERT AS APPLICABLE</i> ]	

Please find attached certified copies of the abovementioned opinions.

ANNEX IV

*[Certified copy of the books of accounts of the corporate debtor in accordance with Rule 8 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016]*

ANNEX V

*[Statement of affairs in accordance with Rule 8 of the Insolvency and Bankruptcy  
(Application to Adjudicating Authority) Rules, 2016]*

ANNEX VI

*[Affidavit in support of the application in accordance with the Insolvency and Bankruptcy  
(Application to Adjudicating Authority) Rules, 2016]*

ANNEX VII

*[Documents to show that the corporate applicant is authorised to initiate the corporate insolvency resolution process]*

ANNEX VIII

*[Proof of specified application fee being paid]*

**SCHEDULE II**  
**APPLICATION FEES**

<b>Sr. No.</b>	<b>Applicant</b>	<b>Fee payable (in INR)</b>
1.	Application by Financial Creditor (whether solely or jointly)	
2.	Application by Operational Creditor	
3.	Application by Corporate Debtor	

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