

GOPALA POLYPLAST LIMITED
MANDATORY CRITERIA OF RESOLUTION APPLICANTS

GENERAL:

In this document, the Code shall mean the Insolvency and Bankruptcy Code, 2016 and the Regulation shall mean the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, as amended up to date.

Section 25 (2) (h) of the Code:

For the purpose of sub-section (1) the resolution professional shall undertake the following actions, namely:- Invite prospective resolution applicants, who fulfill 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.

Section 29 (A) of the Code:

A person shall not be eligible to submit a resolution plan if such person acting jointly or in concert with such person-

- (a) is an undischarged insolvent;
- (b) is a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949);
- (c) at the time of submission of the resolution plan 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 (10 of 1949) or the guidelines of a financial sector regulator issued under any other law for the time being in force, and at 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;

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Provided further that nothing in this clause shall apply to a resolution applicant where such applicant is a financial entity and is not a related party to the corporate debtor.

Explanation I. For the purposes of this proviso, the expression “related party” shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.

Explanation II.-For the purposes of this clause, where a resolution applicant 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 and such account was acquired pursuant to a prior resolution plan approved under this code, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this code.”

(d) has been convicted for any offence punishable with imprisonment-

- (i) For two years or more under any Act specified under the Twelfth Schedule; or
- (ii) For seven years or more under any other law for the time being in force.

Provided that this clause shall not apply to a person after the expiry of a period of two years from the date of his release from imprisonment:

Provided further that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I.

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

Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I.

(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;

Provided that this clause shall not apply if a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place

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prior to the acquisition of the corporate debtor by the resolution applicant pursuant to a resolution plan approved under this code or pursuant to a scheme or plan approved by a financial sector regulator or a court, and such resolution applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transactions.

- (h) has executed a 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; and such guarantee has been invoked by the creditor and remains unpaid in full or part.
- (i) is 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).

Explanation I, - 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 the 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 explanation 1 shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of the Corporate Debtor.

Provided further that the expression related party shall not include a financial entity regulated by financial sector regulator if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.

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Explanation II.

For the purpose of this section financial entity shall mean the following entities which meet such criteria or conditions as the Central Government may in consultation with the financial sector regulator notify in this behalf, namely;

- a. a schedule bank
- b. any entity regulated by a foreign central bank or a security market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the financial action task force standards and is a signatory to the International organization of a securities commission multilateral memorandum of understanding
- c. any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor where the terms shall have the meaning assigned to them in regulation 2 of the foreign exchange management (transfer or issue of security by a person resident outside India) regulations 2017 made under FEMA, 1999.
- d. an asset reconstruction company registered with RBI u/s 3 of SARFAESI, 2002.
- e. an alternate investment fund registered with SEBI.
- f. such categories of person as may be notified by Central Government.

Vikash Gautamchand Jain

Resolution Professional

Gopala Polyplast Limited

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