

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 9th April, 2021

G.S.R. 256(E).—In exercise of the powers conferred by sub-section (1) and clause (fd) of sub-section (2) of section 239 read with sub-section (2) of section 54C of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), as amended by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021 (3 of 2021), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement. - (1) These rules may be called the Insolvency and Bankruptcy (pre-packaged insolvency resolution process) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Application. - These rules shall apply to the matters relating to the pre-packaged insolvency resolution process.

3. Definitions. - (1) In these rules, unless the context otherwise requires, -

(a) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

(b) “pre-packaged insolvency resolution process” means the insolvency resolution process for corporate persons under Chapter III-A of Part II of the Code;

(c) “Form” means a Form appended to these rules; and

(d) “identification number” means the limited liability partnership identification number or the corporate identity number, as the case may be, of the corporate person.

(2) Unless the context otherwise requires, words and expressions used and not defined herein, shall have the same meaning respectively assigned to them in the Code.

4. Filing of application. - (1) A corporate applicant, shall make an application for initiating pre-packaged insolvency resolution process under sub-section (1) of section 54C of the Code in Form 1, accompanied with affidavit, documents or records as referred in Annexures therein, in electronic form, along with a fee of rupees fifteen thousand:

Provided that in case, electronic facility is not available for filing such application, the application and the accompanying documents may be filed in physical form, and wherever the accompanying documents are bulky, the same may be submitted in scanned portable document format in a data storage device such as a compact disc or a USB flash drive acceptable to the Adjudicating Authority.

(2) The corporate applicant under sub-rule (1) shall serve a copy of the application to the Board by registered post or speed post or by hand or by electronic means, before filing it with the Adjudicating Authority.

(3) The application shall be filed before the Adjudicating Authority in accordance with rules 20, 21, 22, 23, 24 and 26 of the National Company Law Tribunal Rules, 2016.

(4) A corporate applicant shall inform the Adjudicating Authority about the filing of any winding up petition against the corporate debtor after becoming aware about such filing.

Form-1

[See sub-rule (1) of rule 4]

**APPLICATION BY CORPORATE APPLICANT TO INITIATE PRE-PACKAGED INSOLVENCY
RESOLUTION PROCESS UNDER CHAPTER III-A OF THE CODE**

*[Under section 54C of the Insolvency and Bankruptcy Code, 2016 read with rule 4 of the Insolvency and
Bankruptcy (Pre-Packaged Insolvency Resolution Process) Rules, 2021]*

[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 pre-packaged 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 pre-packaged insolvency resolution process in respect of [name of corporate debtor]. The details for the purpose of this application are set out below:

Part-I

PARTICULARS OF THE CORPORATE APPLICANT AND CORPORATE DEBTOR		
1.	NAME, ADDRESS, EMAIL ADDRESS, IDENTIFICATION NUMBER AND ADDRESS FOR COMMUNICATION OF THE CORPORATE APPLICANT	
2.	NAME, ADDRESS, EMAIL ADDRESS, IDENTIFICATION NUMBER AND ADDRESS OF THE REGISTERED OFFICE OF CORPORATE DEBTOR	
3.	NAMES AND ADDRESSES OF ALL DIRECTORS, PROMOTERS, DESIGNATED PARTNERS OF THE CORPORATE DEBTOR (AS APPLICABLE)	
4.	DATE OF INCORPORATION OF CORPORATE DEBTOR	
5.	NOMINAL SHARE CAPITAL AND THE PAID-UP SHARE CAPITAL OF THE CORPORATE DEBTOR AND/OR DETAILS OF GUARANTEE CLAUSE AS PER MEMORANDUM OF ASSOCIATION (AS APPLICABLE)	
6.	NAME, ADDRESS AND AUTHORITY OF PERSON SUBMITTING APPLICATION ON BEHALF OF CORPORATE APPLICANT (ENCLOSE AUTHORISATION)	

7.	NAME AND ADDRESS OF PERSON RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON BEHALF OF CORPORATE APPLICANT (ENCLOSE AUTHORISATION)	
8.	DETAILS OF CORPORATE DEBTOR FOR THE PURPOSES OF SECTION 54A(1) OF THE CODE — (i) UDYAM REGISTRATION NUMBER, AS PER NOTIFICATION NO. 2119(E) DATED 26.06.2020 OF MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES (ATTACH A COPY OF THE LATEST AND UPDATED UDYAM REGISTRATION CERTIFICATE) OR (ii) INVESTMENT IN PLANT AND MACHINERY OR EQUIPMENT AND TURNOVER CALCULATED AS PER NOTIFICATION NO. 2119(E) DATED 26.06.2020 OF MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES (ATTACH PROOF THEREOF)	
9.	DOCUMENTATION TO SHOW THAT THE CORPORATE APPLICANT IS AUTHORISED TO INITIATE THE PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS	

Part-II

PARTICULARS OF PROPOSED RESOLUTION PROFESSIONAL		
1.	NAME, ADDRESS, EMAIL ADDRESS AND THE REGISTRATION NUMBER OF THE PROPOSED RESOLUTION PROFESSIONAL	
2.	NAMES OF THE CREDITORS, WHO HAVE APPROVED THE PROPOSAL FOR APPOINTMENT OF THE INSOLVENCY PROFESSIONAL AS THE RESOLUTION PROFESSIONAL UNDER SECTION 54A(2)(e) OF THE CODE AND VALUE OF THEIR DEBT IN PER CENT. OF DEBT OWED TO CREDITORS REQUIRED TO APPROVE SUCH PROPOSAL UNDER THAT SECTION	

Part-III

PARTICULARS OF FINANCIAL/OPERATIONAL DEBT [CREDITOR WISE, AS APPLICABLE]		
1.	NAME(S) OF FINANCIAL/OPERATIONAL CREDITOR(S)	

2.	ADDRESS OF CORRESPONDENCE OF THE FINANCIAL/OPERATIONAL CREDITOR(S)	
3.	TOTAL DEBT RAISED AND AMOUNT IN DEFAULT	
4.	DATE WHEN THE FINANCIAL/OPERATIONAL DEBT WAS INCURRED	
5.	PARTICULARS OF SECURITY HELD, IF ANY, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR. ATTACH A COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES (IF THE CORPORATE DEBTOR IS A COMPANY)	
6.	DETAILS OF RETENTION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS	
7.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY, IF ANY	
8.	LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF FINANCIAL/OPERATIONAL DEBT AND THE AMOUNT IN DEFAULT	

Part-IV

PARTICULARS OF FINANCIAL CREDITORS, NOT BEING RELATED PARTIES OF THE CORPORATE DEBTOR		
1.	NAMES OF THE FINANCIAL CREDITORS, NOT BEING RELATED PARTIES OF THE CORPORATE DEBTOR	
2.	TOTAL DEBT DUE TO THE FINANCIAL CREDITORS, NOT BEING RELATED PARTIES OF THE CORPORATE DEBTOR	
3.	NAMES OF THE CREDITORS, WHO HAVE APPROVED THE FILING OF APPLICATION FOR INITIATION OF PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS UNDER SECTION 54A(3) OF THE CODE AND VALUE OF THEIR DEBT IN PER CENT. OF DEBT OWED TO CREDITORS UNDER THAT SECTION	

[Name of the corporate applicant] has paid the requisite fee for this application through [state means of payment] on [date] and a copy of this application has been served by registered post/speed post/by hand/electronic means to the Board.

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

AFFIDAVIT

I, [insert full name, address and occupation of deponent] do solemnly affirm and state as follows:--

- [Name of the corporate debtor] is eligible for a pre-packaged insolvency resolution process in accordance with section 54A of the Insolvency and Bankruptcy Code, 2016 (Code) and the associated rules and regulations.
- [Name of proposed resolution professional], is fully qualified and permitted to act as a resolution professional for the pre-packaged insolvency resolution process of the corporate debtor, in accordance with the Code and the associated rules and regulations.
- This application is being filed within the time period stipulated for the filing of this application in the declaration of the majority of directors or partners of the [name of the corporate debtor] as referred to in section 54A(2)(f)(i) of the Code.
- In respect of this application for pre-packaged insolvency resolution process, I have relied on the documents specified below: [Please list the documents relied on].
- The contents of this application along with the said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.

Solemnly, affirmed at _____ on _____ day, the _____ day of _____ 20__.

Before me,

Notary/Oath Commissioner

Deponent's Signature

VERIFICATION

I, the Deponent hereinabove, do hereby verify and affirm that the contents of para ___ to ___ of this affidavit are true and correct to my knowledge and belief. Nothing is false and nothing material has been concealed therefrom.

Verified at _____ on this _____ day of _____ 20__

Deponent's signature

Instructions

Please attach the following to this application:

- Annex I In case of financial debt, record of default obtained through the information utility or all documents listed in serial number 8 of part-III of this application.
- Annex II In case of operational debt, (i) 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 serial number 8 of part-III of this application.
- Annex III Approval of creditors under section 54A(2)(e) of the Code for appointment of the proposed resolution professional, as set out in Form P3 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.
- Annex IV Written consent by the proposed resolution professional as set out in Form P1 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.
- Annex V Declaration of the majority of the directors or partners of the corporate debtor, as the case may be, as referred to in section 54A(2)(f) of the Code as set out in Form P6 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.
- Annex VI Copy of the special resolution or resolution of the members or partners of the corporate debtor, as the case may be, as referred to in section 54A(2)(g) of the Code.
- Annex VII Approval of creditors under section 54A(3) of the Code for filing application for initiating pre-packaged insolvency resolution process, as set out in Form P4 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.
- Annex VIII Report of the insolvency professional proposed to be appointed as the resolution professional as referred to in section 54B(1)(a) of the Code, as set out in Form P8 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.
- Annex IX Declaration regarding the existence of any transactions of the corporate debtor, as referred to in section 54C(3)(c) of the Code, as set out in Form P7 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.
- Annex X Affidavit stating that the corporate debtor is eligible under section 29A of the Code to submit resolution plan in the pre-packaged insolvency resolution process of the corporate debtor.
- Annex XI Copy of the relevant books of accounts of the corporate debtor evidencing the default to creditors.
- Annex XII Copies of audited financial statements of the corporate debtor for the last two financial years and the provisional financial statements for the current financial year made up to a date not earlier than fourteen days from the date of the application.
- Annex XIII A statement of affairs made up to a date not earlier than fourteen days from the date of application including the following document, namely:—
- (a) a list of the corporate debtor's assets and liabilities, divided into such categories as are appropriate for easy identification, with estimated values assigned to each category;
 - (b) 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;
 - (c) the names and addresses of the financial creditors and operational creditors of the corporate debtor, with the amounts due to each of them;
 - (d) particulars of any debts owed by or to the corporate debtor to or by persons connected with it;
 - (e) 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; and
 - (f) the names and addresses of the members or partners of the corporate debtor, as the case may be, with details of their respective shareholdings.
- Annex XIV A copy of:

- (a) relevant extract of 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
- (b) relevant extract of an employment agreement, constitutional document or filings 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.

Annex XV Proof that the specified application fee has been paid.

Annex XVI Proof that a copy of the application has been served to the Board.

[F. No. 30/20/2020-Insolvency Section]

GYANESHWAR KUMAR SINGH Jt. Secy.