

Government of India
Ministry of Corporate Affairs
File No. 30/21/2018- Insolvency Section

Dated: 8th May, 2019

**Invitation of Public Comments on the draft Insolvency and Bankruptcy
(Application to Adjudicating Authority for Bankruptcy Process for Personal
Guarantors to Corporate Debtors), Rules, 2019.**

The Insolvency and Bankruptcy Code, 2016 (Code) envisages reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximisation of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all stakeholders. In the two years since the enactment of the Code, the provisions relating to corporate insolvency resolution, including fast track resolution, corporate liquidation and voluntary liquidation of corporate debtors (CDs) have been operationalised.

2. Implementation of the individual insolvency and bankruptcy is intended in phased manner and accordingly at present the provisions of Part III of the Code for personal guarantors to CDs are proposed to be notified in the first phase.

3. Suggestions/comments are invited from stakeholders for the draft Rules annexed as **Annexure 'A'**. Comments/suggestions along with brief justification may be sent by e-mail in the format prescribed below at comments_rules@mca.gov.in till 31st May, 2019 :-

S. No.	Name of Stakeholder	Designation	Organization	Rule No.	Suggestion along with justification


(Rakesh Tyagi)
Director

**MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION**

New Delhi, the [...][...], 2019

G.S.R. [...].— In exercise of the powers conferred by sub-section (1) of section 239 and clauses (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (za), (zb) and (zc) of sub-section (2) of section 239 read with clause (e) of section 2 and sub-section (2) and (3) of section 60 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 for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019.

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

2. Application.

These rules shall apply to matters relating to bankruptcy of personal guarantors to corporate debtors under chapter IV and chapter V of Part III of the Code.

3. Definitions. —

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

(a) "Adjudicating Authority" means-

(i) for the purpose of section 60, the National Company Law Tribunal constituted under section 408 of the Companies Act, 2013 (18 of 2013); or

(ii) in cases other than (i), the Debt Recovery Tribunal constituted under sub-section (1A) of section 3 of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993);

(b) "bankrupt" means a debtor under clause (a) of sub-section (3) of section 79;

(c) "Code" means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

(d) "debtor" means a personal guarantor to a corporate debtor, in respect of whom guarantee has been invoked by the creditor and remains

(e) unpaid in full or part;

(f) "electronic form" shall have the meaning assigned to it in clause (r) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(g) "electronic means" means an authorized and secured computer programme which is capable of producing confirmation of sending communication to the participant entitled to receive such communication at the last electronic mail address provided by such participant and keeping record of such communication;

- (h) "form" means a form appended to these rules;
- (i) "schedule" means a schedule appended to these rules;
- (j) "section" means a section of the Code;
- (k) "serve" means sending any communication by any means, including registered post, speed post, courier or electronic form, which is capable of producing or generating an acknowledgement of receipt of such communication:

Provided that where a document cannot be served in any of the modes, it shall be affixed at the outer door or some other conspicuous part of the house or building in which the addressee ordinarily resides or carries on business or personally works for gain.

- (2) Unless context otherwise requires, words and expressions used and not defined in these rules, but defined under the Code, shall have the meaning assigned to them in the Code.

4. Relatives.

For the purposes of explanation (ii) of clause (b) of sub-section (2) of section 79, the manner of relationship shall mean the manner listed in clause (a) and (b) of explanation to sub-section (24A) of section 5.

5. Excluded assets.

- (1) For the purpose of clause (c) of sub-section (14) of section 79, value of personal ornaments shall not exceed five lakh rupees.
- (2) For the purpose of clause (e) of sub-section (14) of section 79, value of dwelling unit shall not exceed the threshold amount.

Explanation- The threshold amount shall be computed in accordance with the methodology provided in the Schedule.

- (3) The Adjudicating Authority may, depending on the facts and the circumstances, exclude assets that have a value higher than the value allowed in sub-rule (1) or (2), as the case may be.
- (4) In the event the value of the personal ornament or dwelling unit is higher than the threshold value referred to in clause (e) of sub-section (14) of section 79 is higher than the threshold values under sub-rule (1) or (2) –
 - (i) the debtor shall be entitled to an amount equivalent to the threshold value, in the event the personal ornament or dwelling unit is disposed of; or
 - (ii) the debtor may retain the personal ornament or dwelling unit on payment of the amount in excess of the threshold value, for the benefit of the creditors.

6. Application by debtor.

- (1) A debtor shall apply for bankruptcy under section 122, in Form A, along with an application fee of five thousand rupees only.
- (2) The debtor shall forthwith serve a copy of the application under sub-rule (1) to the last known address of the creditor(s) and the corporate debtor for whom the debtor is a personal guarantor.

7. Application by creditor.

- (1) A creditor shall apply for bankruptcy of the debtor under section 123, in Form B, with an application fee of five thousand rupees only.
- (2) The creditor shall forthwith serve a copy of the application under sub-rule (1) to the last known address of the creditor(s) and the corporate debtor for whom the debtor is a personal guarantor.
- (3) In case of a joint application, the creditors may nominate one amongst themselves to act on behalf of all the creditors.

8. Public notice.

The Adjudicating Authority shall issue a public notice inviting claims from all creditors of the bankrupt, under clause (b) of sub-section (1) of section 130, in Form C.

9. Notice to creditors.

The Adjudicating Authority shall send a notice to the creditors as per clause (a) of sub-section (1) of section 130, in Form D.

10. Statement of financial position.

The statement of financial position shall be filed by the bankrupt under sub-section (2) of section 129, in Form E.

11. Claim with proof.

- (1) A creditor shall submit a claim with proof to the bankruptcy trustee on or before the last date mentioned in the public notice, in Form F.
- (2) Form F shall be submitted by the creditor through electronic means or by registered post or speed post or courier.
- (3) A creditor who fails to submit claim with proof as per sub-rule (1) within the time stipulated in the public announcement, may submit such proof to the bankruptcy trustee till the date specified in the notice issued under sub-section (2) of section 176.
- (4) The creditor shall bear the costs relating to the proof of claim.

12. Notice of dividend.

- (1) The notice of dividend as per clause (a) of sub-section (1) of section 176 shall contain the following particulars -
 - (a) the date on which the dividend is proposed to be distributed;
 - (b) the list of creditors who shall be entitled to a dividend;
 - (c) the amount of dividend for each creditor under (b);
 - (d) request for any details required from the creditors for the distribution of dividend, and the last date for receipt of such information;
 - (e) the last date by which the creditors must establish their claim against the estate with the bankruptcy trustee; and
 - (f) a statement confirming that no further dividends shall be declared.
- (2) The notice under clause (b) of sub-section (1) of section 176 shall provide the reasons for not declaring dividend.
- (3) The notice of dividend under section 176(1) shall be sent thirty days prior to the date specified for the distribution of dividend.

13. Copy of application.

On the appointment of the bankruptcy trustee nominated by the Board under sub-section (5) of section 125 by the Adjudicating Authority, a copy of the application as filed, if not provided earlier, shall be provided to such bankruptcy trustee by the Adjudicating Authority within two days of the appointment.

14. Restriction on bankrupt.

The restriction on the bankrupt under clause (d) of sub-section (1) of section 141 shall be applicable for any financial or commercial transaction of one lakh rupees.

15. Filing of the application and documents.

- (1) Till such time the rules of procedure for conduct of proceedings under the code are notified, the applications under rule 6 or 7 shall be filed before the National Company Law Tribunal in accordance with rules 20, 21, 22, 23, 24 and 26 of part III of the National Company Law Tribunal Rules, 2016 issued under section 469 of the Companies Act, 2013, , and before the Debt Recovery Tribunal in accordance with rule 3 of Debt Recovery Tribunal (Rules), 1993 issued under section 36 of the Recovery of Debts and Bankruptcy Act, 1993 and regulation 3, 4, 5 and 11 of the Debt Recovery Tribunal Regulations, 2015 issued under section 22 of the Recovery of Debts and Bankruptcy Act, 1993, as applicable.
- (2) The application, accompanying documents and reports in the bankruptcy process shall also be filed in electronic form, as and when such facility is made available and as may be prescribed by the Adjudicating Authority:

Provided that till the time such facility is made available, the applicant may submit the application, accompanying documents and reports in scanned, legible portable document format in a data storage device such as a compact disc or a USB flash drive acceptable to the Adjudicating Authority.

FORM A

(See sub-rule (1) of rule 6)

APPLICATION BY DEBTOR TO INITIATE BANKRUPTCY PROCESS.

(Under rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019)

[Date]

To,

The Adjudicating Authority

[Address]

From,

[Name and address of the debtor]

In the matter of [name of the debtor]

Subject: Application to initiate bankruptcy process in respect of [name of the debtor].

Madam/Sir,

I/ We hereby submit this application to initiate a bankruptcy process in respect of [name of debtor]. The details for the purpose of this application are set out below-

Part I

PARTICULARS OF THE DEBTOR			
1.	Title and full name		
2.	Date of birth and e-mail address		
3.	Any other name by which the debtor is or has been known (as applicable)		
4.	Address	Present	Permanent
			Business
5.	Occupation/ Business/ Profession		
6.	Annual income		
7.	List of associates of the debtor who	Name	Age
			Address

	may be creditors			
8.	Bank account details (Joint and Several)	Account number	IFSC code	Name of Branch and Branch address
9.	Identification numbers	Aadhaar number	Passport number	PAN
				GSTIN
10.	Contact number(s)	Home	Mobile	Business
11.	List of assets of debtor and immediate family as on the application date.	Immovable	Description	Estimated value
	Note: this will include all assets of debtor, irrespective of them being excluded assets. Please mention which assets are the excluded assets.	Movable	Description	Estimated value
				Excluded asset or not
		Vehicles		
		Shares in listed companies		
		Shares in other companies		
		Life insurance policy		
		Jewelry		
		Pension policy		

	Investment in mutual funds			
	Investment in other funds			
	Investment in partnerships and other business concerns,			
	Any other movable property			
12.	Number of directorships held in the last three years (along with name of company in which directorship is held and Directors Identification Number)			
13.	Marital status (single, married, divorced, widowed, co-habiting, separated, or specify any other)			
14.	Details regarding guarantee given by debtor (in addition to information in point 1-13 of this part)			
	Name of corporate debtor for which guarantee is given			
	Any current or past position held in the corporate debtor			

	Whether corporate debtor is an associate as per section 79(2) of the Code (state how)	
	Any securities held in corporate debtor for whom guarantee is given	
15.	Name and address of person resident in India authorised to accept the service of process on debtor's behalf	

Part – II

Please complete this Part if you have been self-employed, or a partner in a firm. If not, go to Part III.

BUSINESS PARTICULARS OF DEBTOR		
1.	Name of business and form of business	
2.	Details of any registration	
3.	Description of business	
4.	Business address	
5.	Annual income of debtor	
6.	If business organization is a firm, details mentioned below:	
(i)	Date of joining firm	

(ii)	Capital subscription as per latest balance sheet	
(iii)	Profit sharing as per latest balance sheet)	
(iv)	Name, address and authority of person submitting application on behalf of the firm)	
7.	Commencement date of business and date of close of operations (if applicable)	
8.	Address where books of accounts / accounting records are kept (including soft copy records)	
9.	Whether employees to whom debt owed (state yes or no, and if yes, details to be mentioned in Part III)	

Part - III

PARTICULARS OF DEBT [CREDITOR WISE, AS APPLICABLE]				
1.	Name(s) of creditor(s)			
2.	Address	Present	Permanent	Business
3.	Total outstanding debt (including any interest or penalties)			
4.	Amount of debt in default			

5.	Reason for the default in payment of debt	
6.	Date when the debt was due	
7.	Date when the default occurred	
8.	Nature of the debt	
9.	Secured debt including particulars of security held, the date of its creation, estimated value of security as per the creditor	
10.	Unsecured debt	
11.	Details of retention of title arrangements (if any) in respect of goods to which the debt refers	
12.	Record of default with the information utility, if any	
13.	List of documents attached to this application in order to prove the existence of debt and the amount in default	

14.	Statement by debtor in respect of excluded debts	<p>I [<i>debtor</i>] hereby state that the debt(s) for which the bankruptcy process application is filed does not include any-</p> <ul style="list-style-type: none"> (i) liability to pay fine imposed by a court or tribunal; (ii) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation; (iii) liability to pay maintenance to any person under any law for the time being in force; (iv) liability in relation to a student loan; (v) any other debt prescribed under Section 79(15)(e) of the code.
-----	--	---

Part-IV

In the event the application has been filed through an insolvency professional, please complete serial number 1-6 in respect of such insolvency professional. If the application has been filed personally, please provide details of the proposed insolvency professional in serial number 1-5.

PARTICULARS OF & DECLARATION BY INSOLVENCY PROFESSIONAL			
1.	Title and full name		
2.	In case associated with an Insolvency Professional Entity (IPE), details of the IPE and nature of association.		
3.	Address	Present	Permanent
			Business
4.	E-mail address(es)		
5.	Contact number	Home	Mobile
			Business

6.	Declaration by insolvency professional	<p>I, <i>[name of insolvency professional]</i>, an insolvency professional registered with <i>[name of insolvency professional agency]</i> having registration number <i>[registration number]</i> have been proposed as the insolvency professional by <i>[name of applicant debtor]</i> in connection with the proposed bankruptcy process of <i>[name of the debtor]</i>.</p> <p>I hereby:</p> <ul style="list-style-type: none"> (i) agree to accept appointment as the insolvency professional if an order of appointment is passed by the Adjudicating Authority; (ii) state that the registration number allotted to me by the Board is <i>[insert registration number]</i> and that I am currently qualified to practice as an insolvency professional; (iii) disclose that I am currently serving as an insolvency professional / resolution professional / liquidator/ bankruptcy trustee in <i>[insert number and details of the proceedings]</i>; (iv) certify that there are no disciplinary proceedings pending against me with the Board or <i>[name of the insolvency professional agency he is a member of]</i>; (v) affirm that I am eligible to be appointed as an insolvency professional in respect of the debtor in accordance with Regulation 3 of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019; (vi) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 <i>[insert disclosures, if any]</i>. <p>(Signature of the insolvency professional)</p>
----	--	--

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

Yours sincerely,

Signature of debtor / person authorized to act on behalf of the debtor [Please enclose the authorization document if this application is being submitted on behalf of the debtor]

Name in block letters

Address of person signing

DECLARATION

I, [Name of applicant], currently residing at [insert address], hereby declare and state as follows:

1. In respect of my application for bankruptcy, I have relied on the documents specified below: [Please list the documents relied on].
2. The contents of the said 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.

Date:

Place:

(Signature of the applicant)

VERIFICATION

I, [name of applicant], do hereby verify that the contents of this application 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__

Applicant's signature.

ATTACHMENTS: List of documents to be appended to the application:

1. All records of the insolvency resolution process in respect of the debtor, including the following-
 - (i) Application for the insolvency resolution process;
 - (ii) Order(s) of the Adjudicating Authority-
 - (a) accepting / rejecting the application under serial number (i) above, as the case may be;

- (b) approving / rejecting the repayment plan, as the case may be;
 - (c) entitling the debtor to apply for bankruptcy;
 - (d) any other order that may have been passed by the Adjudicating Authority in relation to the insolvency resolution process.
2. All documents mentioned in serial number 13 of Part III of this form.
 3. Copy of the income tax returns with detailed computation of the income of the debtor, or the firm, as the case may be, for the previous three years.
 4. Copy of the personal guarantee contract.
 5. Copies of entries in a bankers book in accordance with the Bankers Books Evidence Act, 1891 (18 of 1891)
 6. The latest and complete copy of the financial contract reflecting all amendments and waivers to date.
 7. Relevant ownership and title documents for all assets.
 8. Copy of the authorization, wherever required under this form.
 9. Proof that the application fee has been paid.
 10. Documentary evidence of all information sought in each entry for each part of the form.
 11. A statement of affairs of the debtor made up to a date not earlier than two days from the date of the application including the following information and supporting documents, namely-
 - (i) debtor's assets (inclusive of excluded assets) and liabilities for the previous three years;
 - (ii) secured and unsecured debts (inclusive of excluded debts mentioned in serial number 14 of Part III of the form) with names of the creditors, and all requisite details for the previous three years;
 - (iii) particulars of debt owed by debtor to associates of the debtor for the previous three years;
 - (iv) guarantees given in relation to any of the debts of the debtor, and if any of the guarantors is an associate of the debtor;
 - (v) financial statements with all annexures and schedules for the business owned by the debtor, or of the firm in which the debtor is a partner, as the case may be, for the previous three years, if applicable;
 - (vi) wealth tax statements filed by the debtor, if any, for the previous five years.
 - (vii) Income statement of the debtor, for the previous three years.

FORM B

(See sub-rule (1) of rule 7)

APPLICATION BY CREDITOR TO INITIATE BANKRUPTCY PROCESS

(Under rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019)

[Date]...

.....

To,

The Adjudicating
Authority
[Address]

From,

[Name and address of the creditor]

In the matter of [name of the debtor]

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

Madam/Sir,

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

Part - I

PARTICULARS OF APPLICANT				
1.	Title and full name			
2.	Date of birth and e-mail address			
3.	Contact number(s)	Home	Mobile	Business
4.	Identification number of creditor	Aadhaar number	CIN	PAN
5.	Address	Present	Permanent	Business

Part – II

PARTICULARS OF THE DEBTOR				
1.	Title and full name			
2.	Date of birth and e-mail address (to the extent known)			
3.	Any other name by which the debtor is or has been known (as applicable) (to the extent known)			
4.	Address	Present	Permanent	Business
5.	Occupation/ Business/ Profession			
6.	Annual income (to the extent known)			
7.	List of associates of the debtor, including relatives, who may be creditors (to the extent known)	Name	Age	Address
8.	Bank account details (Joint and Several)	Account number	IFSC code	Name of the Bank and Branch address
9.	Identification numbers	Aadhaar number	Passport number	PAN GSTIN
10.	Contact number(s)	Home	Mobile	Business
11.	List of assets of debtor as on the application date (to the extent known)	Immovable	Description	Estimated value
	Note: this will include all assets			

	of debtor, irrespective of them being excluded assets.	Movable	Description	Estimated value	Excluded asset or not
		Vehicles			
		Shares in listed companies			
		Shares in other companies			
		Life insurance policy			
		Jewelry			
		Pension policy			
		Investment in mutual funds			
		Investment in other funds			
		Investment in partnerships and other business concerns,			
		Any other movable property			
12.	Number of directorships held in the last three years (along with name of company in which directorship is held and Director Identification Number)				

13.	Marital status (single, married, divorced, widowed, co-habiting, separated, or specify any other) (to the extent known)	
14.	Details regarding guarantee given by debtor (in addition to information in points 1-13 of this part)-	
	Name of corporate debtor for which guarantee is given	
	Any current or past position held in the corporate debtor (to the extent known)	
	Identification number	
	Whether corporate debtor is an associate (to the extent known)	
	Any securities held in corporate debtor for whom guarantee is given	
15.	Name and address of person resident in India authorised to accept the service of process on debtor's behalf	

Part-III

PARTICULARS OF DEBT		
1.	Total debt (including any interest or penalties)	
2.	Amount in default	
3.	Date on which debt was due	
4.	Date on which default occurred	
5.	Nature of the debt	
6.	Secured debt including particulars of security held, the date of its creation, its estimated value as per the creditor (as applicable)	
7.	Unsecured debt (as applicable)	
8.	Details of retention of title arrangements (if any) in respect of goods to which the debt refers (attach a copy)	
9.	Particulars of an order of a court, tribunal or arbitral panel adjudicating on the default, if any (attach a copy of the order)	
10.	Record of default with the information utility, if any (attach a copy)	

11.	Details of succession certificate, or probate of a will, or letter of administration, or court decree (as may be applicable), under the Indian Succession Act, 1925 (10 of 1925) (attach a copy)	
12.	Provision of law, contract or other document under which debt has become due (attach a copy)	
13.	A statement of bank account where deposits are made or credits received normally by the creditor in respect of the debt of the debtor (attach a copy)	
14.	List of documents attached to this notice in order to prove the existence of debt and the amount in default	
15.	Statement by the secured creditor under Section 123(2) of the code	<p>Tick whichever is applicable-</p> <p><input type="checkbox"/> In the event a bankruptcy order accepting the application is passed by the Adjudicating Authority, I shall relinquish my security mentioned in serial number 6 for the benefit of all the creditors of the debtor.</p> <p><input type="checkbox"/> The application is only in respect of unsecured debt as per the details mentioned in serial number 7.</p>

16.	Statement by creditor in respect of excluded debts	<p>I [debtor] hereby state that the debt(s) for which the bankruptcy process application is filed does not include any-</p> <p>(i) liability to pay fine imposed by a court or tribunal;</p> <p>(ii) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation;</p> <p>(iii) liability to pay maintenance to any person under any law for the time being in force;</p> <p>(iv) liability in relation to a student loan;</p> <p>(v) any other debt prescribed under Section 79(15)(e) of the code.</p>
-----	--	---

Part-IV

In the event the application has been filed through an insolvency professional, please complete serial number 1-6 in respect of such insolvency professional. If the application has been filed personally, please provide details of the proposed insolvency professional in serial number 1-5.

PARTICULARS OF & DECLARATION BY INSOLVENCY PROFESSIONAL			
1.	Title and full name		
2.	In case associated with an Insolvency Professional Entity (IPE), details of the IPE and nature of association.		
3.	Address	Present	Permanent
4.	E-mail address(es)		
5.	Contact number	Home	Mobile

<p>6. Declaration by insolvency professional</p>	<p>I, <i>[name of insolvency professional]</i>, an insolvency professional registered with <i>[name of insolvency professional agency]</i> having registration number <i>[registration number]</i> have been proposed as the insolvency professional by <i>[name of applicant debtor]</i> in connection with the proposed bankruptcy process of <i>[name of the debtor]</i>.</p> <p>I hereby:</p> <ul style="list-style-type: none"> (vii) agree to accept appointment as the insolvency professional if an order of appointment is passed by the Adjudicating Authority; (viii) state that the registration number allotted to me by the Board is <i>[insert registration number]</i> and that I am currently qualified to practice as an insolvency professional; (ix) disclose that I am currently serving as an insolvency professional / resolution professional / liquidator/ bankruptcy trustee in <i>[insert number and details of the proceedings]</i>; (x) certify that there are no disciplinary proceedings pending against me with the Board or <i>[name of the insolvency professional agency he is a member of]</i>; (xi) affirm that I am eligible to be appointed as an insolvency professional in respect of the debtor in accordance with Regulation 3 of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019; (xii) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 <i>[insert disclosures, if any]</i>. <p>(Signature of the insolvency professional)</p>
--	--

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

Yours sincerely,

Signature of creditor/ person authorised to act on behalf of the creditor [Please enclose the authorization document if this application is being submitted on behalf of the creditor]
--

Name in block letters

Address of person signing

List of documents to be attached to the application:

1. All records of the insolvency resolution process in respect of the debtor, including the following-
 - (i) Application for the insolvency resolution process;
 - (ii) Order(s) of the Adjudicating Authority-
 - (a) accepting / rejecting the application under serial number (i) above, as the case may be;
 - (b) approving / rejecting the repayment plan, as the case may be;
 - (c) entitling the creditor to apply for bankruptcy;
 - (iii) any other order that may have been passed by the Adjudicating Authority in relation to the insolvency resolution process.
2. All documents mentioned in serial number 14 of Part III of this form.
3. Copy of the demand notice served on the debtor in Form B of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019.
4. Copy of the income tax returns with detailed computation of the income of the debtor, or the firm, as the case may be, for the previous three years, if available.
5. Copy of the personal guarantee contract.
6. Copy of the authorization, wherever required under this form.
7. Proof that the application fee has been paid.
8. Documents evidencing the debt and the default in relation to the debt, as may have been provided by the debtor at any point in time, if available.
9. Documents evidencing the assets, liabilities, income and any other relevant information as may have been provided by the debtor at any point in time, if available.
10. Documentary evidence of all information sought in each entry for each part of the form.

Form C
Public Notice

*(Under Rule 8 of the Insolvency and Bankruptcy (Application to Adjudicating
Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors)
Rules, 2019)*

**FOR THE ATTENTION OF THE CREDITORS OF [Full Name and title of
Bankrupt]**

Notice is hereby given that the [Debt Recovery Tribunal/National Company Law Tribunal in case of bankrupt under Section 60 of the code] has ordered the commencement of a bankruptcy process against the [name of bankrupt] residing at [last known address of the bankrupt] on [bankruptcy commencement date].

The creditors of [name of the bankrupt], are hereby called upon to submit their claims with proof on or before [insert the date falling seven days from date of issue of public notice] to the bankruptcy trustee at [address].

The last date for submission of claims of creditors shall be [date]. The creditors may submit their claims through electronic means, or by hand or registered post or speed post or courier.

Additional details of the bankruptcy trustee: [Name, last known address, e-mail address, phone number and the registration number of the bankruptcy trustee]

Note: Submission of false or misleading claims with proof shall attract penalties.
Date and Place:

FORM D
NOTICE TO CREDITOR

(Under Rule 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019)

To
[Name and address of creditor]

From
[Adjudicating Authority]

Notice is hereby given that the [Debt Recovery Tribunal/National Company Law Tribunal in case of bankrupt under Section 60 of the code] has ordered the commencement of a bankruptcy process against the [title and full name of bankrupt] residing at [last known address of the bankrupt] on [bankruptcy commencement date]. You have been mentioned as a creditor of the bankrupt as per the documents submitted in the application for the bankruptcy process. You are hereby called upon to submit a claim with proof of the debt due to you on or before [insert the date falling seven days from date of issue of public announcement] to the bankruptcy trustee at [address].

The last date for submission of claims shall be [date]. You may submit your claim through electronic means, or by hand or registered post or speed post or courier. Additional details of the bankruptcy trustee: [Name, last known address, e-mail address, phone number and the registration number of the bankruptcy trustee]

Note: Submission of false or misleading claims with proof shall attract penalties.
Date and Place:

FORM E
STATEMENT OF FINANCIAL POSITION OF BANKRUPT
(Under Rule 10 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019)

Part I

RELEVANT PARTICULARS					
1.	Full name of bankrupt				
2.	Address	Present	Permanent	Business	
3.	Bank account details (Joint and Several)	Account Number	IFSC Code	Name of Bank and Bank Branch	
4.	List of assets of bankrupt and immediate family as on the application date for the previous three years. Note: this will include all assets of bankrupt, irrespective of them being excluded assets. Please mention the assets which may be excluded assets.	Immovable property	Description	Estimated value	Excluded asset or not
		Movable property	Description	Estimated value	Excluded asset or not
		Vehicles			
		Shares in listed companies			
		Shares in other companies			

		Life insurance policy			
		Jewelry			
		Pension policy			
		Investment in mutual funds			
		Investment in other funds			
		Investment in partnerships and other business concerns			
		Any other property not covered above			
5.	The following information is required in relation to the guarantee given by the debtor:				
i.	Name of corporate debtor for which guarantee is given				
ii.	Any current or past position held in the corporate debtor				
iii.	Whether corporate debtor is an associate				
iv.	Any securities held in corporate debtor for whom guarantee is given				
6.	Name and address of person resident in India authorised to accept the service of process on bankrupt's behalf (if applicable)				

Part II

FINANCIAL INFORMATION		
1.	Statement of assets and liabilities for the previous three years	
2.	Secured and unsecured debts, with details of the creditors, the total amount due, amount in default and details of the security, for the previous three years	
3.	Details of the debts owed to associates of the bankrupt, for the previous three years	
4.	Details of guarantees given in relation to any of the debts of the debtor, and if any of the guarantors is an associate of the debtor	
5.	Details of the business owned by the bankrupt, or of the firm in which the bankrupt is a partner, as the case may be, for the previous three years, if applicable	
6.	Details of the wealth tax statements filed by the bankrupt, if any, for the previous five years.	
7.	Details of trusts held by bankrupt and immediate family of bankrupt	
8.	Any other relevant information	

FORM F
CLAIM WITH PROOF BY A CREDITOR

(Under Rule 11 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019)

[Date]

To

The Bankruptcy Trustee

[Name of the Bankruptcy Trustee]

[Address as set out in public notice]

From

[Name and address of the creditor]

Subject: Submission of claims with proof.

Madam/Sir,

[Name of the creditor], hereby submits this proof of claim in respect of the bankruptcy process in the case of [name of bankrupt]. The details for the same are set out below:

S. No.	Particulars				
1.	Title and full name of creditor				
2.	Identification number of creditor	Aadhar	PAN	CIN	GSTIN
3.	Address	Present	Permanent	Business	
4.	Total amount of claim (Including any interest as at the bankruptcy commencement date)				
5.	Details of documents by reference to which the debt can be substantiated.				
6.	Details of any dispute as well as the record of such dispute.				
7.	Details of how debt was incurred and the				

	date when debt incurred	
8.	Details of any mutual credit, mutual debts, or other mutual dealings between the bankrupt and the creditor which may be set-off against the claim	
9.	Details of any retention of title arrangements in respect of goods or properties to which the claim refers	
10.	Details of the bank account to which the amount of the claim or any part thereof can be transferred pursuant to a repayment plan	
11.	Details of any security held (including value and date when it was given)	
12.	For secured creditors only	
	Tick whichever is applicable – <input type="checkbox"/> security interest is being enforced	

	<input type="checkbox"/> Security interest is being relinquished.	
	If security is being relinquished, please complete the statement of relinquishment of security interest in the column on the right.	<p>I, <i>[name of secured creditor]</i>, hereby release and relinquish my security interest and any claim, right, lien or interest in any property based on such security interest, other than the right to receive dividends as per the Code, in <i>[insert description of the subject and nature of security interest]</i>, which was created by <i>[name of bankrupt]</i>, on <i>[insert date of creation of security interest]</i> on account of <i>[insert description of circumstances leading to creation of security interest]</i>.</p> <p><i>Signature of the secured creditor, or the authorised signatory.</i></p>
	If security is being realised, provide details of any action that has been taken to enforce / realise the security.	
	If security is being realised, specify balance amount of debt which is being claimed.	
13.	List of documents attached to this proof of claim in order to prove the existence and non-payment of claim due to the creditor	
14.	Details of bank account to which the share of creditor's proceeds from	

	bankruptcy can be deposited.	
Signature of creditor or person authorised to act on his behalf <i>[Please enclose the authority if this is being submitted on behalf of a creditor]</i>		
Name in block letters		
Address of person signing		

DECLARATION

I, *[name of claimant]*, currently residing at *[insert address]*, declare and state as follows:

1. *[Name of bankrupt]*, the debtor was, at the bankruptcy commencement date, being the _____ day of _____ 20__, justly and truly indebted to me to the sum of INR *[insert amount of claim]*.
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below:
[Please list the documents relied on as evidence of claim]
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief.
4. In respect of the said sum or any part thereof, I have not, nor has any person by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:
[Please state details of any mutual credit, mutual debts, or other mutual dealings between the bankrupt and the creditor which may be set-off against the claim.]

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, *[Name]*, the claimant hereinabove, do hereby verify that the contents of this claim with proof are true and correct to my knowledge and belief and no material facts have been concealed therefrom.

Verified at _____ on this _____ day of _____ 201__

(Claimant's signature)

SCHEDULE
METHODOLOGY FOR CALCULATING THE THRESHOLD AND ACTUAL VALUE OF
AN UNENCUMBERED SINGLE DWELLING UNIT
(Under sub-rule (2) of Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019)

1. Calculation of threshold value of a dwelling unit

Threshold value of dwelling unit = Adjusted threshold area of dwelling unit (as per Table A) × circle rate of the lowest residential category of that zone notified by the relevant authority, adjusted by the quarterly RESIDEX HPI@Assessment Prices released by the National Housing Bank.

Explanation:

(a) Table A: Adjusted threshold area of dwelling unit

Urban and Rural

Number of persons in dwelling unit	Adjusted threshold area of dwelling unit (in square feet)
1	400
2	400
3	400
4	400
5	475
6	550
7	625
8	700
9	775
10	850
11	925
12+	1000

2. Calculation of actual value of a dwelling unit

- (1) The following methods in the given order of priority shall be followed for the calculation of the actual value of the dwelling unit –
- (i) Rent capitalisation method;
 - (ii) Comparable method;
 - (iii) Land and building method.

(2) Rent capitalisation method

Fair market value of the dwelling unit = (Annual rent + interest on security deposit – outgoings)/Rent yield

Explanation:

- (a) *For the purpose of determining the annual rent of the dwelling unit, the following shall be taken into account, in the order of priority-*
 - (i) *Comparable rent of an asset of the same size in the same building;*
 - (ii) *Comparable rent of an asset of the same size in the adjacent building;*
 - (iii) *Comparable rent of an asset of the same size in the neighborhood or locality;*
 - (iv) *Rents fixed by the rent control boards of the respective states.*
- (b) *The interest on security deposit shall be calculated for a period of 3 months @ 1 year government securities rates on the amount of the security deposit.*
- (c) *The outgoings from the property shall be an aggregate of the following -*
 - (i) *Municipal taxes;*
 - (ii) *Repairs and maintenance charges; and*
 - (iii) *Insurance premium.*
- (d) *Rent yield is fixed at 2% and shall be subject to revision every three years.*

(3) Comparable Method

The fair market value of the dwelling unit shall be calculated taking into account a unit similar to the dwelling unit in the following respects -

- (i) Size;
- (ii) Locality;
- (iii) Age; and
- (iv) Use.

(4) Land and building method

Fair market value of the dwelling unit = Value of the land (A) + Value of the building i.e. the dwelling unit (E)

Explanation-

- (a) *Value of the land (A) shall be calculated in the following order of priority -*
 - (i) *Sale value of the adjacent land;*
 - (ii) *Sale value of the land in the same locality;*
 - (iii) *Sale value of the land in the neighborhood or adjoining localities;*
 - (iv) *Guideline/circle rates issued by local authorities for land & construction.*

(b) *Value of the Building (E) shall be calculated in the following manner –*

<i>Reproduction cost based on plinth area rate issued by state PWDs</i>	<i>(B)</i>
<i>Amount of depreciation</i>	<i>(C)</i>
<i>Builders' effort @3% of (B)</i>	<i>(D)</i>
<i>Value of building (B-C+D)</i>	<i>(E)</i>

(c) *Amount of Depreciation = (Cost of reconstruction - salvage value)/Estimated useful life of the building*

For the purposes of (c), the salvage value is as follows -

- (i) Up to 3 Year Old Building: 80%*
- (ii) 3 – 5 Year Old Building: 50%*
- (iii) 5 – 10 Year Old Building: 25%*
- (iv) 10 Years or older buildings: 10%*