

Record of Default

The Insolvency and Bankruptcy Code (Code) provides that Financial Creditors, which include banks and NBFCs, shall submit financial information and information relating to assets in relation to which any security interest has been created. The financial information includes records, if any, of instances of default by the person against any debt.

2. The Code also provides that the Financial Creditor shall, along with the application for initiation of corporate insolvency resolution process, furnish Record of the Default (RoD) available with the Information Utility and that the Adjudicating Authority (AA) shall ascertain the existence of default from the records of an Information Utility or on the basis of other evidence furnished by the Financial Creditor. The Hon'ble Supreme Court in its judgement in the case of Swiss Ribbons has stated that the information in the IU is *"to be treated as prima facie evidence of the transaction for the purpose of IBC proceedings. This assists in improving the timelines for the resolution process."*

3. The IBBI IU Regulations provide that the information regarding default shall be submitted to the IU within seven days of the occurrence of default. On receipt of the information of default from the creditors, NeSL authenticates the information in the manner as provided in the IBBI IU Regulations and generates the Record of Default (ROD). The ROD provides, among other particulars, the details of the debt and the default. Financial Creditors can download the ROD and enclose this with the application to the AA for initiation of corporate insolvency resolution process. Please refer to NeSL communique no. NeSL/FC/2019/0006 dated July 03, 2019, regarding the process to download the RoD from which is available under the link- <https://nesl.co.in/wp-content/uploads/2020/05/Communique-6-03June2019.pdf>

4. All Financial Creditors including banks and NBFCs are therefore requested to download the RoD from the portal of NeSL in the manner provided above and enclose it with the application to NCLT. This will facilitate the admission of the application for initiation of corporate insolvency resolution process.

5. Creditors' Role

It is requested that the operating functionaries be instructed to-

- Submit financial information of all corporate debtors with up-dation on a monthly basis as provided in the IBBI IU Regulations.
- Submit information of default within seven days as provided in the IBBI IU Regulations.
- Ensure that details like PAN, email ID of the corporate Debtor, address and the mobile number of the corporate debtor are provided in the Form C for submission of information to the IU.
- Download RoD as provided in the communique No.6 for which the link has been provided earlier in this document and enclose it with the applications filed with various benches of NCLT for initiation of corporate insolvency resolution process.

6. NeSL team can arrange for webinars to create awareness about RoD and the process of downloading the same from the portal of NeSL, for the benefit of the officers of the concerned departments/branches.

7. For any clarification in the matter, the concerned Relationship Manager may be contacted, details are available on website: **NeSL- National E-Governance Services Ltd » Contact us.** NeSL can also be contacted at Email helpdesk@nesl.co.in