Communiqué to ALL IU Users (#56)

Circular No.: NeSL/FC/2022/0056 Date: -4th July 2022

Submission of Information of Default with Information Utility by Creditors as provided in Regulation 20 (1A) of the IBBI (IU) Regulations, 2017

IBBI notified the IBBI (Information Utilities) (Amendment) (Regulations) , 2022 on 14th June 2022. The amendment inter alia inserted a new sub regulation (1A) in Regulation 20 which provides as under: -

"(1A) Before filing an application to initiate corporate insolvency resolution process under section 7 or 9, as the case may be, the creditor shall file the information of default, with the information utility and the information utility shall process the information for the purpose of issuing record of default in accordance with regulation 21."

2. The procedure for submission of financial information to Information Utility by Creditors and usage of record of default of the Information Utility are incorporated in- Sections 215, 7 & 9 of Insolvency & Bankruptcy Code, 2016, Regulation 20 of IBBI (IU) Regulations, 2017 and in the IBBI (Application to Adjudicating Authority) Rules, 2016.

3. The Information Utility under IBC, 2016, has been established to support the IBC eco-system with evidence of debt and default, to meet the timelines in insolvency resolution process provided in the Code. The IU records can expedite the process of proving default and thus avoid delays in admission of applications for initiating CIRP.

4. National E-Governance Services Ltd, which is registered as Information Utility under IBC and regulated by IBBI, is operational since November 2017. It has already issued about 70,000 Records of Defaults in Default Reported Corporate Loans to support the IBC eco-system.

5. National Company Law Appellate Tribunal (NCLAT), in M/s Vipul vs Teco Industries Ltd and others (Appeal No.470 of 2022, NCLAT, New Delhi - Dated 18th May 2022) held that in case the record of IU shows that there is a debt, which is in default, the Adjudicating Authority or Appellate Authority are not required to further examine the record maintained by the IU, more so, when the record of the IU is deemed to be authenticated and no dispute or refution of said record has been done by the Corporate Debtor earlier.

6. In view of the above mandate to place reliance on Information Utilities for establishment of default and similar jurisprudence ,it is requested that all Creditors (especially Banks and Financial Institutions) submit the information of default with the Information Utility, before filing an application to initiate corporate insolvency resolution process under Section 7 or 9 of IBC, as the case may be and to make use of the Record of default issued by NeSL-IU as evidence of default.

7. In case of need for any further guidance or assistance in viewing or downloading the above, the Registered Users may contact our Help Desk on Toll Free Number 1800 599 2345 or reach us on e-mail id: helpdesk@nesl.co.in.

8.Your feedback is important to us, and we welcome any suggestions to improve our services. Please write to us at suggestions@nesl.co.in.

Sd/
Team NeSL

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