INSTITUTE OF INSOLVENCY PROFESSIONALS
(Subsidiary of ICSI and Insolvency Professional Agency of IBBI)

IBC UPDATE-1/2026
(17/08/2026)

"IBBI Discussion Paper on Guidance to IPs for Identifying Fraudulent or Malicious Initiation of CIRP – Stakeholder Comments Invited."

Dear Professional Member,

Greetings from **ICSI Institute of Insolvency Professionals (ICSI IIP)**!

We wish to inform you that the **Insolvency and Bankruptcy Board of India (IBBI)** has issued a **Discussion Paper dated 14 August 2026** titled:

"Guidance to Insolvency Professionals for Due Diligence to Identify Fraudulent or Malicious Initiation of Corporate Insolvency Resolution Process, and Recourse under Sections 60(5) and 65 of the Insolvency and Bankruptcy Code, 2016."

The discussion paper has been released with the objective of strengthening the integrity of the Corporate Insolvency Resolution Process (CIRP) and addressing concerns relating to the misuse of insolvency proceedings through fraudulent or malicious initiation.

Key Highlights

- IBBI has observed instances where CIRP may have been initiated for purposes other than genuine insolvency resolution, such as avoidance of regulatory scrutiny, mitigation of liabilities, settlement of debts outside the normal recovery framework, or protection of assets.
- The proposed draft Circular reiterates the responsibility of Insolvency Professionals (IPs) to exercise due diligence in identifying indicators of fraudulent or malicious initiation of CIRP.
- It provides an illustrative list of red flags, including:
    - Dormant companies with minimal operations or assets;
    - Significant related-party transactions lacking commercial rationale;
    - Adverse audit observations;
    - Links with ongoing regulatory or enforcement proceedings;
    - CIRPs dominated by a single creditor or a common set of stakeholders;
    - Limited competition in the resolution process; and

  - Disproportionately low recoveries unsupported by valuation evidence.
- The draft Circular clarifies that where an IP forms an opinion that CIRP has been initiated fraudulently or with malicious intent, the IP should approach the Adjudicating Authority under **Sections 60(5) and 65 of the Code**, in addition to pursuing any appropriate avoidance transaction applications.

The proposed Circular is intended to promote consistency in the discharge of duties by IPs and does not seek to create any new substantive obligations beyond the existing provisions of the Code and regulations.

Invitation for comments

- IBBI has invited comments from stakeholders on the draft Circular.
- Last date for submission of comments: 24 August 2026
- Professionals may submit their comments through the IBBI website at www.ibbi.gov.in under the ‘Public Comments’ section.
- Members are encouraged to review the discussion paper and provide their valuable feedback to the Board.
- For your ready reference, the Discussion Paper is available on the IBBI website.

Link of the Discussion Paper:
https://ibbi.gov.in/uploads/whatsnew/64e3b5bc6d53160f1919f952ceecd7c1.pdf

We hope the above update is useful in your professional endeavours.

With regards,
Team ICSI IIP

This communication is being circulated for information and awareness of insolvency professionals and other stakeholders.