

FREQUENTLY ASKED QUESTIONS (FAQ)

DISCLAIMER:

The following questions and answers are intended to be provided for general information in relation to the Corporate Insolvency Resolution Process of **Intellicity Business Park Private Limited** (“Company”/“Intellicity”) only and may be updated from time to time. These may not be completely accurate in every circumstance, do not constitute or purport to constitute legal advice, and are not intended to be binding, in any manner, on any stakeholder, including the Interim Resolution Professional (“IRP”)/ Resolution Professional (“RP”).

RP is neither making any representation through answers to these FAQs, nor taking any responsibility with respect to their correctness or reliability. Any concern in relation to these FAQs, or otherwise relating to the provisions of Insolvency and Bankruptcy Code, 2016 along with rules & regulations framed there under (“Code”) and/ or your legal rights and obligations should be addressed to a lawyer and independent decision on the course of action, as may be appropriate, should be taken in consultation with your legal advisor.

1. What is the Corporate Insolvency Resolution Process?

Answer: Corporate Insolvency Resolution Process (CIRP) as the name suggests is a process towards insolvency resolution of the Company. This situation generally arises where a corporate person is unable to pay the debt due to its creditors. CIRP may be initiated by the financial creditor, operational creditor or the corporate person itself when a Company makes default in payment of debt as per the Code.

2. How is CIRP initiated?

Answer: Any of the financial creditor, operational creditor or the Company itself may make an application to the Adjudicating Authority (AA) i.e. the National Company Law Tribunal in accordance with the provisions of the Code. AA by an Order accepts or rejects the Application. When AA accepts the application, it appoints an Interim Resolution Professional (IRP), declare moratorium and directs public announcement of CIRP to be made for submission of claims.

3. What is the duration of CIRP Period?

Answer: CIRP commences and the date of the Order of AA is usually considered as CIRP commencement date. CIRP process is carried out in a strict time frame. Duration of a CIRP process is 180 days from CIRP commencement date which can further be extended by AA. However, in many cases litigation period may be excluded from CIRP period. However, in any case CIRP Period cannot go beyond 330 days. At the end of CIRP period, either there would be a resolution plan or else the Company would undergo liquidation.

4. What is commencement date CIRP in case of Intellicity?

Answer: AA passed order for commencement of CIRP of Intellicity on 27-05-2019. However, intimation of appointment to the IRP was received on 13-06-2019. Accordingly, CIRP commencement date here is taken as 13-06-2019.

5. What is the status of management of Company after the appointment of IRP?

Answer: From the date of appointment of IRP, the management of affairs of the Company shall vest with IRP, the powers of the board of directors stand suspended and be exercised by IRP. All personnel of the Company, its promoters and persons associated with the management of the Company shall extend all assistance and cooperation to the IRP, as may be required by him; and officers and managers of the Company shall report to the IRP. The IRP will endeavor to manage the operations of the Company as a going concern.

6. What does suspension of powers of board of directors mean and what is the role of the officers and managers of the Company?

Answer: Suspension of powers of the board of directors does not mean that the board of directors is dissolved. The directors do not cease to be the directors. All directors, managers, Key Managerial Personnel, and all other personnel of the Company are required to extend all assistance and cooperation to the IRP as may be required by him in managing the affairs of the Company. In other words, their powers are suspended but not the duties and liabilities. All officers and managers of the Company are dutybound to report to and extend their support and co-operation to IRP.

7. What is the status of subsidiary Company?

Answer: Subsidiary Company being a separate legal entity does not come under CIRP merely by reason of its holding company undergoing CIRP. Holding Company under CIRP shall continue to its exercise its rights as member of the subsidiary.

8. Are Home Buyers financial creditors?

Answer: Yes. Amount raised from allottees under a real estate project within the meaning of RERA is considered as financial debt and accordingly, Home Buyers are financial creditors. However, when number of such allottees is more than 10, they are treated as financial creditors in a class. As per the Code, in a class of financial creditors they are represented in CoC through their authorized representative who is an Insolvency Professional not related to IRP/RP and choice of the highest number of the Class.

9. In what Form the Claimants should file their claims?

Answer: There are different forms for different classes of creditors. Financial Creditors have to file their claims in Form C where Financial creditors in a Class like Home Buyers should file the same in Form CA. Likewise operational creditors have to file claim in Form B. These forms can be downloaded from the IBBI Website at www.ibbi.gov.in.

10. What are the supporting documents of proof needed to be attached with the claim form?

Answer: Documents that are needed to support the claim such as Builder Buyer Agreement/ Memorandum of Understanding, allotment letter, receipts, Calculation Sheet, Bank Statements etc. other communication/material in support of claim.

11. What will be the rate of interest?

Answer: The voting share of a creditor in a class shall be in proportion to the financial debt which includes an interest at the rate of 8% p.a. unless a different rate has been agreed to between the parties.

12. Can claim be filed on the basis of cash payment and credit notes?

Answer: Subject to liabilities of the parties under income tax and other laws regarding cash payment, RP needs to confirm the same from books of accounts of the Company. Similarly, in respect of credit notes RP needs to confirm from the Book of Accounts of the Company as to the consideration or payments against which the credit notes were given. Till such confirmation such claims are put into abeyance.

13. Whether the joint holders need to file separate forms? Whether the signature of both the holders are required?

Answer: No, they need to submit a single claim form and signed duly by both the holders or a holder can authorize other person to authorize on his/her behalf.

14. How should the Form be sent to RP?

Answer: All claimants can file their claims electronically at the email id intellicitycirp@gmail.com or send by post to Mr. Sarvesh Kashyap, 101, Nipun Plaza, Sector-1, (Near Max Hospital), Vaishali, Ghaziabad-201010. There is no requirement to come in person.

15. Do the Claimants notarization of affidavit in support of Form?

Answer: There is no requirement of affidavit or notarization as the forms are in declaration format. However, Claimants should take care to furnish only true and correct particulars.

16. What if I submit a wrong claim or inflate the claim amount, or write wrong particulars?

The submission of a claim is supported by your declaration and verification that the particulars are true and correct. Please evaluate the serious implications of doing so. Your claim forms the basis of the RP computing the liquidation value of the assets and liabilities of the Corporate Debtor, preparation of resolution plan etc. Therefore, you must ensure that the particulars submitted by you are true and correct.

17. Can CoC meeting be attended in Person by Financial Creditors in a Class like Home Buyers who had filed Form CA?

Answer: Only the Authorised Representative of the Financial Creditor in a Class (who had filed claims in Form CA) shall attend the meeting of COC on behalf of the Financial Creditor in a Class. Individual Financial Creditor in a Class shall not attend meeting in person. However, the Financial Creditor in a Class has a right to vote on all agenda items requiring voting by electronic voting system in accordance with the Code.

18. What are the major duties of IRP /Resolution Professional (“RP”) during the Insolvency Resolution Process Period?

Answer: The major duties of IRP/RP are as under:

- a) to collect all information relating to the assets, finances and operations of the Company for determining the financial position of the Company and take control and custody of assets of the Company as per the Code.
- b) to receive, collate and verify claims submitted by creditors, pursuant to public announcement
- c) to prepare list of creditors and constitute CoC
- d) to convene and hold meetings of CoC
- e) to prepare an information memorandum
- f) to invite prospective lenders, investors, and any other persons, through publication of Expressions of Interest / Notice of Invitation or otherwise, to submit resolution plans (if any).

19. What is insolvency resolution process cost?

Answer: Insolvency resolution process costs” means –

- (a) the amount of any interim finance and the costs incurred in raising such finance;
- (b) the fees payable to any person acting as a resolution professional;
- (c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern;
- (d) any costs incurred at the expense of the Government to facilitate the insolvency resolution process; and
- (e) any other costs as may be specified by the Board;

20. How is insolvency resolution process cost paid?

Answer: CoC may approve the insolvency resolution process cost and initially make contribution towards the same in proportion of their voting rights. Resolution Plan provides for payment of insolvency resolution process cost. If the Company goes into liquidation it has priority over other payments and due.

21. What about court cases, if any, filed by flat buyers/ allottees?

Answer: AA in its order for commencement of CIRP has declared moratorium prohibiting the institution of suits or continuation of pending suits or proceedings against the Company, including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority. In view of the same, all suits and proceedings pending against the Company shall be stayed. Please refer to Section 14 of the Code.

22. When will the project start and will complete the project?

Answer: Since as of now, there is standstill, as far as the project work is concerned. So anything pertaining to construction and completion of the project would be taken care of in the Resolution Plan.

23. What is a resolution plan?

Answer: A resolution plan is a plan which is submitted by a resolution applicant for possible revival of the company through restructuring or otherwise, after taking into consideration, among other things, the present financial situation of the company including but not limited to admitted claims of the creditors.

24. Who is the final sanctioning/ approving authority of a resolution plan?

Answer: The resolution professional shall present all resolutions plans received, that meet the mandatory requirements of the Code, to the CoC for its consideration. The CoC may approve any such resolution plan with such modifications as it deems fit. The resolution plan approved by CoC will be submitted for final approval to NCLT by RP as per the provisions of the Code and implemented once approved. The final approving authority is accordingly NCLT. Once approved, the resolution plan will be binding on the Company and its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan.

25. What will happen if no resolution plan is received or if received does not get approved?

Answer: In such case, the Company would undergo into liquidation.