

Handbook on Claims under The Insolvency and Bankruptcy Code, 2016



Committee on Insolvency & Bankruptcy Code
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

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under
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Foreword

Before the enactment of The Insolvency and Bankruptcy Code, 2016 (the Code) in India there was no single window resolution available and the jurisdiction was with multiple agencies with overlapping powers leading to delays and complications in the process. To overcome these challenges the Code was implemented as a singular platform for insolvency resolution process. The Code provides a low time resolution and defines fixed time frames with the intention to strike the right balance of interest of all stakeholders.

The insolvency resolution process under the Code begins with submission of Claims. The process then continues for resolution of claims and finally culminates into settlement of claims. The claims of creditors get settled through Resolution Process or Liquidation Process as the case may be. Therefore, the aspect of Claims acts as a common thread in the entire resolution process.

I compliment the Committee on Insolvency & Bankruptcy Code of ICAI in taking this important initiative of bringing out the publication - **Handbook on Claims under The Insolvency and Bankruptcy Code, 2016** to help in understanding the different provisions relating to Claims under the Code and also to understand about the practical aspects based on case laws.

I extend my sincere appreciation to the entire Committee and particularly commend the efforts put in by CA. Durgesh Kumar Kabra, Chairman, Committee on Insolvency & Bankruptcy Code and CA. Prakash Sharma, Vice- Chairman, Committee on Insolvency & Bankruptcy Code in bringing out this publication on such an important subject.

I am sure that this publication would be of great help to the members and other stakeholders.

CA. Nihar N. Jambusaria
President ICAI

Date: 27th June, 2021

Place: New Delhi

Preface

It is five years now since the enactment of The Insolvency and Bankruptcy Code, 2016 and both the Financial Creditors and Operational Creditors have taken recourse under the Code for insolvency resolution. As per IBBI data, as of March 2021, with regard to realizations under resolutions, the recovery for all classes of creditors, as compared to their claims, is around 37% and the realization by financial creditors in comparison to claims is around 39%.

The Code enables all categories of Creditors to submit their claims. Be it any process under the Code – the Corporate Insolvency Resolution Process, Liquidation Process, Voluntary Liquidation Process, Insolvency Resolution and Bankruptcy of Personal Guarantors, Pre-packaged Insolvency Resolution Process; admission, substantiation and verification of Claims is an integral part of it and the Insolvency Professionals have been entrusted for taking care of these activities.

Considering the importance of Claims in the entire insolvency resolution framework, the Committee on Insolvency & Bankruptcy Code of ICAI has taken the initiative to bring out this publication - **Handbook on Claims under The Insolvency and Bankruptcy Code, 2016** so as to facilitate in understanding of the various provisions related to Claims under the Code.

The publication covers the various aspects related to Claims, Model Timelines, different Forms, Frequently Asked Questions and Case Laws on the same.

We would like to sincerely thank the President of ICAI, CA. Nihar N. Jambusaria and Vice President of ICAI, CA. (Dr) Debashis Mitra for their support and encouragement in bringing out this publication.

We would like to thank all the Committee Members for their help and guidance in bringing out this publication.

We would like to sincerely appreciate and thank the Group of Insolvency Professionals- CA. Dilip Kumar Jagad, CA. Alok K Saxena, CA. Atul Jain, and CA. Javadsha Vasa who prepared the Draft of the publication under the Convenorship and guidance of CA. Pramod Kumar Boob, Central Council Member, ICAI.

The technical contribution by team of ICAI Officers in the Committee/Directorate; namely Shri Rakesh Sehgal, Director, Directorate of Corporate and Economic Laws, ICAI, Ms. S. Rita, Secretary, Committee on Insolvency & Bankruptcy Code, ICAI, CA. Sarika Singhal, Deputy Secretary, ICAI assisted by the Committee Secretariat comprising of CA. Himanshu Gulati and CA. Abhishek Tarun for providing administrative support in bringing this publication is also acknowledged.

We sincerely believe that the members of the profession, industries and other stakeholders will find the publication immensely helpful.

CA. Durgesh Kumar Kabra
Chairman
Committee on Insolvency &
Bankruptcy Code, ICAI

CA. Prakash Sharma
Vice- Chairman
Committee on Insolvency &
Bankruptcy Code, ICAI

Date: 23rd June, 2021

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Abbreviations

AA	Adjudicating Authority
AR	Authorized Representative
CD	Corporate Debtor
CIRP	Corporate Insolvency Resolution Process
CoC	Committee of Creditors
DRAT	Debt Recovery Appellate Tribunal
EOI	Expression of Interest
FC	Financial Creditor
Fast Track	Fast Track Insolvency Resolution Process
IBBI	Insolvency and Bankruptcy Board of India
IBC	Insolvency and Bankruptcy Code, 2016
ICD	Insolvency Commencement Date
IM	Information Memorandum
IP	Insolvency Professional
IPA	Insolvency Professional Agency
IPE	Insolvency Professional Entity
IRP	Interim Resolution Professional
LCD	Liquidation Commencement Date
LLP	Limited Liability Partnership
MSMEs	Micro, Small, And Medium Enterprises
NCLAT	National Company Law Appellate Tribunal
NCLT	National Company Law Tribunal
OC	Operational Creditor
PG	Personal Guarantor
PPIRP	Pre Packaged Insolvency Resolution Process

PRA	Prospective Resolution Applicant
RA	Resolution Applicant
RBI	Reserve Bank of India
RFRP	Request for Resolution Plans
RP	Resolution Professional
SARFAESI	Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
SCC	Stakeholders' Consultation Committee
VLP	Voluntary Liquidation Process

Chapter 1

Introduction

Before the introduction of the Insolvency and Bankruptcy Code in 2016 (IBC), several legal frameworks were available for helping companies in financial stress. Also, the resolution and jurisdiction were with multiple fora leading to delays in the process. This prompted introduction of a new comprehensive law to provide mechanism for insolvency resolution, in a time bound manner, to enable maximisation of the value of assets, with a view to promote entrepreneurship, availability of credit and balance the interest of all the stakeholders. IBC also changed the concept and “in case of default, the debtor in possession changes to creditor in control regime” for Corporate Insolvency Resolution Process (CIRP) under IBC which is a paradigm shift from the existing remedies under various laws.

Claim is considered to be the starting point of any insolvency and bankruptcy process under The Insolvency and Bankruptcy Code, 2016 (IBC).

“Claim” as defined under section 3(6) of IBC means-

- (a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured;
- (b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured or unsecured;

To understand what is claim, one needs to look into the definitions under IBC for corporate debtor, creditor, debt and default.

- Section 3(8) provides that “corporate debtor” means a corporate person who owes a debt to any person;
- Section 3(10) provides that “creditor” means any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor, an unsecured creditor and a decree-holder;
- Section 3(11) provides that “debt” means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;

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- Section 3(12) provides that “default” means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be;

So claim is the basic ingredient of debt which is due to the creditor from the corporate debtor and it is the entry point of the matter under the provisions of IBC. Claim gives rise to a debt only when it becomes due to the creditor and in case the debt is not paid by debtor as and when it becomes due, a default is occurred. When a default is committed by corporate debtor, an application under IBC can be filed by the financial creditor or operational creditor or the corporate debtor as the case maybe. Financial creditor, operational creditor, workmen, employees, home buyers or any other creditor can submit their claims under the IBC.

However, if the debt is adulterated with a pre-existing dispute or the debt is settled, no remedy is available under IBC. (Hon’ble Supreme Court - In the matter of Mobilox Innovations Private Limited Vs. Kirusa Software Private Limited Civil Appeal No. 9405-2017).

Claim is therefore the nucleus of IBC, as the Insolvency and Bankruptcy proceeding starts with “claim”, hovers around resolution of “claim” and ends with satisfaction of “claim” in terms of section 53 whether through approval of resolution plan under section 31, in entirety or with a haircut, or through liquidation mechanism under section 33 ultimately ending with dissolution of corporate debtor under section 54. The same is true for Fast Track insolvency resolution process (Fast Track), Pre-Packaged Insolvency Resolution Process (PPIRP), Insolvency and Bankruptcy of Personal Guarantors and Voluntary Liquidation Process (VLP) where the thrust is on claim of creditors.

Claim also gives right to a person (usually Financial Creditor) to participate in the CIRP under IBC. Claim in IBC and the process thereunder has different perceptions to different stake holders for settlement of claim.

“Claim” as defined under IBC and the claimants perform various functions and roles and is based on the status or classification of the claimant - whether the person is a corporate debtor, creditor - financial creditor or operational creditor, resolution professional, resolution applicant. The timelines be it for CIRP, Liquidation, Fast Track, PPIRP, Voluntary

Liquidation, Insolvency and Bankruptcy of Personal Guarantor are prescribed in respective Regulations.

Creditors – The process starts with submission of claim by the creditors and ends with settlement of claim either under Resolution process or Liquidation process. And that is how in IBC, in case of default by Corporate Debtor, it is “Creditor in Control” instead of “Debtor in Control” of the Corporate Debtor.

Corporate Debtor – When the corporate debtor is not in a position to pay its debt and commits default of claimed amount, CIRP is initiated against corporate debtor under IBC for reorganisation and insolvency resolution so that the Corporate Debtor is brought back on its feet.

Resolution Applicant – Resolution Applicant (RA) is the “white knight” or “angel” in the whole process. RA submits resolution plan for insolvency resolution of the Corporate Debtor, thereby it helps in maximizing the value of assets of the corporate debtor, promoting entrepreneurship, availability of credit and balancing the interests of all stakeholders.

Resolution professional (RP) - Responsibility is cast upon RP under IBC to receive, collate and verify the claims from all the creditors. He makes best estimate of the amount of claim based on the information available with him where such claimed amount is not precise due to any contingency or other reason.

In PPIRP, the role differs to the extent that the Resolution Professional confirms the list of claims submitted by the Corporate Debtor.

In CIRP, claim of creditors is to be accepted by Resolution Professional till the time Resolution Plan is approved by the CoC (as judicially decided), and Resolution Professional can periodically update the list of creditors based on claims received.

Hon'ble Supreme Court in its judgement in Essar Steel case held that all claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. Thus, the successful resolution applicant (RA) starts on a fresh slate.

Liquidator – In case of liquidation process, the creditor (stakeholder) will have to submit the claim in prescribed “time period” of 30 days and the liquidator has to collect, verify, accept or reject, and determine quantum of claim within the prescribed “time period”. He has to prepare list of

stakeholders and submit the same to the Adjudicating Authority (AA) within the prescribed period. The submission of claim after prescribed time period by creditor (stakeholder) in the liquidation process is not permitted. Post finalisation of the list of stakeholders, liquidator cannot modify the list without the permission of the Adjudicating Authority. A creditor may appeal to the AA against the decision of the liquidator, accepting or rejecting the claims under section 42 of IBC.

Over a period, various judicial pronouncements made by NCLT, NCLAT, High Courts and Supreme Court have provided guidance with respect to issues related to claim under IBC. Further amendments have also been brought out in Regulations with respect to Claims.

Some of the decisions on claim are discussed below for understanding the concept of claim more lucidly.

1. Claim – Settlement of corporate debtor with creditor once corporate debtor admitted to Corporate Insolvency Resolution Process

When the IBC was introduced, the premise was that the CIRP was no longer a proceeding between the creditor and the corporate debtor and it was a collective process involving all creditors in insolvency resolution of the corporate debtor

In the case of Lokhandwala Kataria Construction Pvt Ltd, NCLT - Mumbai Bench, accepted the corporate debtor under CIRP. The corporate debtor preferred an appeal to the NCLAT for withdrawal of CIRP as settlement was reached with the creditor for its claim, with a request to exercise inherent power under Rule 11. However, NCLAT did not exercise that power under Rule 11. On appeal the Hon'ble SC using its power under Article 142 of the Constitution of India, accepted the petition for settlement between creditor and corporate debtor during CIRP.

In the matter of Uttara Foods and Feeds Private Ltd Vs Mona Pharmachem CIVIL APPEAL NO. 18520 OF 2017 (Arising out of SLP(C) No. 26824 of 2017) the Supreme Court held that “We are of the view that instead of all such orders coming to the Supreme Court as only the Supreme Court may utilize its powers under Article 142 of the Constitution of India, the relevant Rules be amended by the competent authority to include such inherent powers. This will obviate unnecessary appeals being filed before this Court in matters where such agreement has been reached. “

Accordingly, Insolvency Law Committee recommended amendment of Rule 8 of the CIRP Rules to allow withdrawal after the admission of CIRP.

Subsequently, an amendment Ordinance was promulgated on 06.06.2018 which granted the power for withdrawal of an application to the Adjudicating Authority, when the application is made by the applicant which is approved by 90% of voting share of CoC. New section 12A (for withdrawal of application) and Regulation 30A were introduced in IBC.

2. Claims of Homebuyers

In the matter of Chitra Sharma Vs Union of India Others, (Jaypee Infratech Limited) [WP No. 744/2017], SC observed that homebuyers are vital stakeholders and considered home buyers as financial creditors.

Meanwhile, amendment was brought out in IBC and home buyers became part of financial creditors, and also a concept of creditor in a class was introduced. These creditors are represented in the CoC through Authorised Representatives.

3. Statutory Dues: Government authorities are considered as operational creditors

As held by various judgments including Hyderabad High Court in the matter of Leo Edibles & Fats Oils Ltd, Supreme Court in the matter of Monnet Ispat and Energy Limited, NCLAT in the matter of Synergies Dooray Automotive Limited and Rajasthan High Court in the matter of Ultratech Nathdwara Cement Limited (Binani Cements Limited) held that for statutory dues, Government Authorities are to be considered as “Operational Creditors”.

Recently, Hon'ble Supreme Court in the matter of Ghanashyam Mishra and Sons Pvt. Ltd. through Authorised Signatory Vs. Edelweiss Asset Reconstruction Company Ltd (Civil Appeal No. 8129 of 2019) dated 13 April 2021 held that once Resolution plan is approved, the claims which are not part of the Resolution Plan shall stand extinguished. This also includes the claim of Government Authorities and statutory dues.

The scope of this handbook has tried to travel the entire journey of insolvency resolution since claim touches all the stakeholders and is like a thread in the CIRP which integrates other parts of IBC right from the initiation of insolvency resolution process to resolution or dissolution of the corporate debtor.

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In this handbook, effort is made to simplify the subject “claim” and relate it with practical aspects of the functions of IRP/ RP/ liquidator and other stakeholders to cover the relevant sections of the IBC and regulations with respect to “claim” whether in chapters of Corporate Insolvency Resolution Process, Liquidation Process, Pre- Packaged Insolvency Resolution Process, Fast Track Insolvency Resolution Process, Voluntary Liquidation Process, and Insolvency and Bankruptcy of Personal Guarantors.

Chapter 2

Provisions related to Claims under The Insolvency and Bankruptcy Code, 2016 (IBC)

Various Provisions related to claim under Part – I: Preliminary, Part – II: Insolvency Resolution and Liquidation for Corporate Persons and Part – III: Insolvency Resolution and Bankruptcy for Individuals and Partnership Firms of IBC, 2016 have been provided hereunder.

PART – I : PRELIMINARY		
Section	Particulars	Explanation
3(6)	“claim” means – (a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured, or unsecured; (b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured or unsecured	“claim” has been defined under section 3(6).
3(10)	“creditor” means any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor, an unsecured creditor and a decree holder;	“creditor” has been defined under section 3(10).
3(11)	“debt” means a liability or obligation in respect of a claim which is due from any person and includes a	“debt” has been defined under section 3(11) whereas “financial debt”

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	financial debt and operational debt;	and “operational debt” have been defined under section 5(8) and 5(21) respectively.
3(12)	“ default ” means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be;	“default” has been defined under section 3(12).
PART – II : INSOLVENCY RESOLUTION AND LIQUIDATION FOR CORPORATE PERSONS		
CHAPTER - II : COPRORATE INSOLVENCY RESOLUTION PROCESS		
15	Public announcement of corporate insolvency resolution process. – (1) The public announcement of the corporate insolvency resolution process under the order referred to in section 13 shall contain the following information, namely: – (a) (c) the last date for submission of claims, as may be specified; (d) details of the interim resolution professional who shall be vested with the management of the corporate debtor and be responsible for receiving claims; (e) penalties for false or misleading claims; and	• Public announcement is for invitation of claims from creditors. • Public announcement shall be made within 3 days of ICD [Regulation 6(1)] of Insolvency and Bankruptcy Board of India (Insolvency Process for Corporate Personals) Regulations, 2016 • Public announcement gives guidance as to how, to whom and to when the claims are to be submitted. It also provides penalty for false claim. • Timeline – submission of proofs of claim within 14 days from

Provisions Related to Claims under IBC

		the date of Public announcement. [Regulation 6(2)(c)].
18	Duties of interim resolution professional. – The interim resolution professional shall perform the following duties, namely: - (a) (b) receive and collate all the claims submitted by creditors to him, pursuant to the public announcement made under sections 13 and 15.	Section 18 of the IBC casts duties to be performed by the IRP and one of the duties of the IRP is to collate and verify the claims before admitting and determining the amount of claims.
21	Committee of Creditors. – (1) The interim resolution professional shall after collation of all claims received against the corporate debtor and determination of the financial position of the corporate debtor, constitute a Committee of Creditors. (CoC)	IRP to constitute CoC based on the claims received pursuant to public announcement.
25	Duties of resolution professional. – 1) 2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions, namely: - (a) (e) maintain an updated list of claims;	• The IRP/RP has to prepare list of creditors. RP also has to update list of creditors periodically based on the claims received over a period of CIRP. • The interim resolution professional or the resolution professional requires to file the list of creditors on the electronic platform of

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		IBBI for dissemination on its website. (Regulation 13(2)(ca) of CIRP Regulations, 2016) (Refer IBBI Circular No. IBBI/CIRP/36/2020 dated 27.11. 2020).
CHAPTER - III : LIQUIDATION PROCESS		
35	Powers and duties of liquidator. – (1) Subject to the directions of the Adjudicating Authority, the liquidator shall have the following powers and duties, namely: - (a) to verify claims of all the creditors; (b) ... (j) to invite and settle claims of creditors and claimants and distribute proceeds in accordance with the provisions of this Code	• One of the duties of the liquidator is to collate and verify the claims submitted within 30 days from the last date for receipt of claim Regulation 30 of IBBI (Liquidation Process) Regulations, 2016 before admitting and determining the quantum of claims. Liquidator is also responsible for distribution of liquidation proceeds to stakeholders. • The liquidator shall file the list of stakeholders on the electronic platform of IBBI for dissemination on its website. (Regulation 31(5)(d) of IBBI (Liquidation Process) Regulations, 2016 (Refer IBBI Circular No. IBBI/CIRP/ 40/ 2021 dated 04.03.2021).

Provisions Related to Claims under IBC

37	Powers of liquidator to access information. (1) Notwithstanding anything contained in any other law for the time being in force, the liquidator shall have the power to access any information systems for the purpose of admission and proof of claims and identification of the liquidation estate assets relating to the corporate debtor from the following sources, namely	Liquidator has the power to access any information system for admission and proof of claims.
38	Consolidation of claims (1) The liquidator shall receive or collect the claims of creditors within a period of thirty days from the date of the commencement of the liquidation process. (2) A financial creditor may submit a claim to the liquidator by providing a record of such claim with an information utility. <i>Provided</i> that where the information relating to the claim is not recorded in the information utility, the financial creditor may submit the claim in the same manner provided for the submission of claims for the operational creditor under sub-section (3). (3) An operational creditor may submit a claim to the liquidator in such form and in such manner and along with such supporting documents required to prove the	• In case of Liquidation, stakeholder has to submit the claims in the prescribed period of 30 days. Stakeholders do not enjoy freedom to submit claim anytime during liquidation process as available in CIRP. • It gives guidance how the financial creditors and operational creditors may submit their poof of claims, • A Creditor cannot withdraw its claim after 14 days of its submission to liquidator.

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	claim as may be specified by the Board. (4) A creditor who is partly a financial creditor and partly an operational creditor shall submit claims to the liquidator to the extent of his financial debt in the manner as provided in sub-section (2) and to the extent of his operational debt under sub-section (3). (5) A creditor may withdraw or vary his claim under this section within fourteen days of its submission.	
39	Verification of claims (1) The liquidator shall verify the claims submitted under section 38 within such time as specified by the Board. (2) The liquidator may require any creditor or the corporate debtor or any other person to produce any other document or evidence which he thinks necessary for the purpose of verifying the whole or any part of the claim.	The time period prescribed for liquidator to verify the claims is 30 days from the last date of receipt of such claims under Regulation 30 of IBBI (Liquidation Process), 2016.
40	Admission or rejection of claims. – (1) The liquidator may, after verification of claims under section 39, either admit or reject the claim, in whole or in part, as the case may be: <i>Provided</i> that where the liquidator rejects a claim, he shall record in writing the reasons for such	Liquidator can admit or reject the claims and if the claim is rejected, he shall record in writing the reasons for such rejection. Time limit for informing creditor about admission or rejection of claims is 7

Provisions Related to Claims under IBC

	rejection. (2) The liquidator shall communicate his decision of admission or rejection of claims to the creditor and corporate debtor within seven days of such admission or rejection of claims.	days.
41	Determination of valuation of claims. The liquidator shall determine the value of claims admitted under section 40 in such manner as may be specified by the Board.	When no precise information is available, liquidator as per Regulation 25 of IBBI (Liquidation Process) Regulations, 2016 determines the amount of claim on the basis of best estimate of the amount of the claim based on the information available with him.
42	Appeal against the decision of liquidator. - A creditor may appeal to the Adjudicating Authority against the decision of the liquidator accepting or rejecting the claims within fourteen days of the receipt of such decision.	In case of rejection of a claim, a creditor may appeal to AA under section 42.
CHAPTER - IIIA : PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS		
54F	Duties and powers of resolution professional during pre-packaged insolvency resolution process. (1)..... (2) The resolution professional shall perform the following duties, namely:—	Resolution Professional has to “confirm the list of claims submitted by the corporate debtor,” in contrast to consolidate, verify,

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	(a) confirm the list of claims submitted by the corporate debtor under section 54G, in such manner as may be specified; (b) inform creditors regarding their claims as confirmed under clause (a), in such manner as may be specified; (c) maintain an updated list of claims, in such manner as may be specified	admit and determine the value of claims as applicable under CIRP, Liquidation and other processes of resolutions. • RP to inform creditors regarding their claims • RP to maintain and update list of creditors.
54G	List of claims and preliminary information memorandum. (1) The corporate debtor shall, within two days of the pre-packaged insolvency commencement date, submit to the resolution professional the following information, updated as on that date, in such form and manner as may be specified, namely:— (a) a list of claims, along with details of the respective creditors, their security interests and (2) Where any person has sustained any loss or damage as a consequence of the omission of any material information or inclusion of any misleading information in the list of claims or the preliminary information memorandum submitted by the corporate debtor, every person who - (a) is a promoter or director or partner of the corporate debtor, as the case may be, at the time of submission of the list of	• Corporate Debtor to submit the list of claims along with details of creditors and their security interest within 2 days of the pre-packaged insolvency commencement date. • Where any person suffers any loss or damage due to any omission of material information or inclusion of misleading information, he shall be entitled to get compensated for such loss or damage. • No person shall be liable if such damage or loss caused without his knowledge or consent.

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	claims or the preliminary Information Memorandum by the corporate debtor; or (b) has authorised the submission of the list of claims or the preliminary Information Memorandum by the corporate debtor, shall, without prejudice to section 77A, be liable to pay compensation to every person who has sustained such loss or damage. (3) No person shall be liable under sub-section (2), if the list of claims or the preliminary Information Memorandum was submitted by the corporate debtor without his knowledge or consent.	
54I.	Committee of Creditors (1) The resolution professional shall, within seven days of the pre-packaged insolvency commencement date, constitute a CoC, based on the list of claims confirmed under clause (a) of sub-section (2) of section 54F: Provided that the composition of the CoC shall be altered on the basis of the updated list of claims, in such manner as may be specified, and any such alteration shall not affect the validity of any past decision of the CoC.	RP to constitute CoC within 7 days of Pre-packaged Commencement date.
54K	Consideration and approval of resolution plan. (1).... (4) The CoC may approve the base	• Base resolution plan is approved if there is no haircut of operational creditors.

resolution plan for submission to the Adjudicating Authority if it does not impair any claims owed by the corporate debtor to the operational creditors. (5) Where — (a) the CoC does not approve the base resolution plan under sub-section (4); or (b) the base resolution plan impairs any claims owed by the corporate debtor to the operational creditors, the resolution professional shall invite prospective resolution applicants to submit a resolution plan or plans, to compete with the base resolution plan, in such manner as may be specified. (14) While considering the feasibility and viability of a resolution plan, where the resolution plan submitted by the corporate debtor provides for impairment of any claims owed by the corporate debtor, the CoC may require the promoters of the corporate debtor to dilute their shareholding or voting or control rights in the corporate debtor: Explanation II.—For the purposes of subsections (14), claims shall be considered to be impaired where the resolution plan does not provide for the full payment of the confirmed claims as per the updated list of claims maintained by the resolution professional.	• Where there is haircut for operational creditors in the base resolution plan, the RP shall invite resolution plan(s). • CoC may ask for dilution of shareholding or voting right of the promoter of the corporate debtor in case any resolution plan submitted provides for haircut of claim owed by the CD.
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CHAPTER - IV : FAST TRACK CORPORATE INSOLVENCY RESOLUTIONPROCESS		
55	(2) An application for fast track corporate insolvency resolution process may be made in respect of the following corporate debtors, namely: - (a) a corporate debtor with assets and income below a level as may be notified by the Central Government; or (b) a corporate debtor with such class of creditors or such amount of debt as may be notified by the Central Government; or (c) such other category of corporate persons as may be notified by the Central Government.	Fast Track Insolvency Resolution Process is applicable to Corporate Debtors if it is (a) a small company as defined under clause (85) of section 2 of Companies Act, 2013 (18 of 2013); or (b) a Start-up (other than the partnership firm) as defined in the notification of the Government of India in the Ministry of Commerce and Industry number G.S.R. 501(e), dated the 23.05. 2017 (c) an unlisted company with total assets, as reported in the financial statement of the immediately preceding financial year, not exceeding rupees one crore.
56	Time period for completion of fast-track corporate insolvency resolution process.	Time period- 90days from the ICD. Beyond 90 days with the 75% approval of CoC, for additional 45 days. So total time period 135 days. Suggestive model timeline for Fast Track

		Process are given under chapter – 10 of this book.
CHAPTER – V : VOLUNTARY LIQUIDATION OF CORPORATE PERSONS		
59	Voluntary liquidation of corporate persons. (1) A corporate person who intends to liquidate itself voluntarily and has not committed any default may initiate voluntary liquidation proceedings under the provisions of this Chapter,,, (2) (3) Subject to approval of the creditors under sub-section (3), the voluntary liquidation proceedings in respect of a company shall be deemed to have commenced from the date of passing of the resolution under sub-clause (c) of sub-section (3).	Voluntary Liquidation proceedings shall be deemed to be commenced from date of passing of special resolution by the members. Suggestive model timeline for Voluntary Liquidation Process are given under chapter - 10 of this book.
CHAPTER – VI : ADJUDICATING AUTHORITY FOR CORPORATE PERSONS		
60	Adjudicating Authority for corporate persons (5) Notwithstanding anything to the contrary contained in any other law for the time being in force, the National Company Law Tribunal shall have jurisdiction to entertain or dispose of (a) (b) any claim made by or against the corporate debtor or corporate person, including claims by or against any of its subsidiaries situated in India; and (c) ...	IBC has defined Adjudicating Authority for Corporate Persons. Under section 60(5)(b) for any adjudication with respect to claims, the aggrieved person can approach NCLT.

Provisions Related to Claims under IBC

77A	Punishment for offences related to pre-packaged insolvency resolution process (1) Where – (a) ... (b) a corporate debtor provides any information in the list of claims or the preliminary Information Memorandum submitted under sub-section (1) of section 54G which is false in material particulars, knowing it to be false or omits any material fact, knowing it to be material; or (c) ... such corporate debtor or person, as the case may be, shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to five years or with fine which shall not be less than one lakh rupees, but which may extend to one crore rupees, or with both.	Punishment for submitting false or omission of material fact are provided under section 77A.
PART – III : INSOLVENCY RESOLUTION AND BANKRUPTCY FOR INDIVIDUALS AND PARTNERSHIP FIRMS		
CHAPTER – III : INSOLVENCY RESOLUTION PROCESS		
99	Submission of report by resolution professional. (1) The resolution professional shall examine the application referred to in section 94 or section 95, as the case may be, within ten days of his appointment, and submit a report to the Adjudicating	RP to examine the application and submit report within 10 days of his appointment recommending for acceptance or rejection of application.

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	Authority recommending for approval or rejection of the application. (2) Where the application has been filed under section 95, the resolution professional may require the debtor to prove repayment of the debt claimed as unpaid by the creditor by furnishing - (a) evidence of electronic transfer of the unpaid amount from the bank account of the debtor; (b) evidence of encashment of a cheque issued by the debtor; or (c) a signed acknowledgment by the creditor accepting receipt of dues.	RP has to verify the debt claimed as "unpaid"
102	Public notice and claims from Creditors. (1) The Adjudicating Authority shall issue a public notice within seven days of passing the order under section 100 inviting claims from all creditors within twenty- one days of such issue. (2) The notice under sub-section (1) shall include– (a) details of the order admitting the application; (b) particulars of the resolution professional with whom the claims are to be registered; and (c) the last date for submission of claims.	• AA shall issue public notice within 7 days of passing of the order u/s 100. • Claim from creditors are to be submitted within 21 days from the date of issue of notice.

Provisions Related to Claims under IBC

103	Registering of claims by creditors.- (1) The creditors shall register claims with the resolution professional by sending details of the claims by way of electronic communications or through courier, speed post or registered letter. (2) In addition to the claims referred to in sub-section (1), the creditor shall provide to the resolution professional, personal information and such particulars as may be prescribed.	Claims are to be submitted in electronics form along with the other required details. [Refer Regulation - 7 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 [submission & verification of claim]
104	Preparation of list of creditors. – (1) The resolution professional shall prepare a list of creditors on the basis of – (a) the information disclosed in the application filed by the debtor under section 94 or 95, as the case may be; (b) claims received by the resolution professional under section 102. (2) The resolution professional shall prepare the list mentioned in sub-section (1) within thirty days from the date of the notice	RP shall prepare a “List of Creditors” within 30 days on the basis of claims received. [Refer Regulation 9 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 [List of Creditors]
106	Report of resolution professional on repayment plan. – The resolution professional shall submit the repayment plan under section 105 along with his report on such plan to the Adjudicating Authority	Repayment plan prepared by debtor in consultation with RP. RP to prepare report and submit to AA within 21 days from the last day of

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	within a period of twenty-one days from the last date of submission of claims under section 102.	submission of claims.
118	Repayment plan coming to end prematurely. – (2) Where a repayment plan comes to an end prematurely under this section, the resolution professional shall submit a report to the Adjudicating Authority which shall state- (a) the receipts and payments made in pursuance of the repayment plan; (b) the reasons for premature end of the repayment plan; and (c) the details of the creditors whose claims have not been fully satisfied. (3) The Adjudicating Authority shall pass an order on the basis of the report submitted under sub-section (2) by the resolution professional that the repayment plan has not been completely implemented. (4) The debtor or the creditor, whose claims under repayment plan have not been fully satisfied, shall be entitled to apply for a bankruptcy order under Chapter IV.	• In case repayment plan comes to an end prematurely, the RP shall give details of such creditors whose claims have not been fully satisfied. • The debtors or creditors, whose claims under repayment plan have not been fully satisfied, are entitled to file bankruptcy application under chapter IV.

CHAPTER - IV : BANKRUPTCY ORDER FOR INDIVIDUALS AND PARTNERSHIP FIRMS

130	Public notice inviting claims from creditors. (1) The Adjudicating Authority shall– (a) send notices within ten days of the bankruptcy commencement date, to the creditors mentioned in – (i) the statement of affairs submitted by the bankrupt under section 129; or (ii) the application for bankruptcy submitted by the bankrupt under section 122. (b) issue a public notice inviting claims from creditors. (2) The public notice under clause (b) of sub-section (1) shall include the last date up to which the claims shall be submitted and such others matters and details as may be prescribed and shall be – (a) published in leading newspapers, one in English and another in vernacular having sufficient circulation where the bankrupt resides; (b) affixed on the premises of the Adjudicating Authority; and (c) placed on the website of the Adjudicating Authority.	• Within 10 days from the bankruptcy commencement date, notices to be sent to creditors mentioned in the statement of affairs • AA shall also issue a public notice inviting claims from the creditors.
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131	Registration of claims. – (1) The creditors shall register claims with the bankruptcy trustee within seven days of the publication of the public notice, by sending details of the claims to the bankruptcy trustee in such manner as may be prescribed. (2) The creditor, in addition to the details of his claims, shall provide such other information and in such manner as may be prescribed.	Creditors to register claim with bankruptcy trustee within 7 days of the publication of notices.
132	Preparation of list of creditors. – The bankruptcy trustee shall, within fourteen days from the bankruptcy commencement date, prepare a list of creditors of the bankrupt on the basis of - (a) the information disclosed by the bankrupt in the application for bankruptcy filed by the bankrupt under section 118 and the statement of affairs filed under section 125; and (b) claims received by the bankruptcy trustee under sub-section (2) of section 130.	Bankruptcy trustee shall prepare list of creditors within 14 days from the bankruptcy commencement date on the basis of claims and other information received.
CHAPTER - V : ADMINISTRATION AND DISTRIBUTION OF THE ESTATE OF THE BANKRUPT		
152	General powers of bankruptcy trustee. - The bankruptcy trustee may while	General powers of bankruptcy trustee are provided under section 152 like sell any part of

Provisions Related to Claims under IBC

	discharging his functions under this Chapter, - (a) sell any part of the estate of the bankrupt; (b) give receipts for any money received by him; (c) prove, rank, claim and draw a dividend in respect of such debts due to the bankrupt as are comprised in his estate;	estate, give receipts, etc.
153	Approval of creditors for certain acts. – The bankruptcy trustee for the purposes of this chapter may after procuring the approval of the CoC, - (h) make compromise or other arrangement as he may deem expedient with respect to any claim arising out of or incidental to the bankrupt's estate;	Approval of creditors is required in case of compromise or arrangement as he may deem expedient with respect to any claim.
CHPATER - VI : ADJUDICATING AUTHORITY FOR INDIVIDUALS AND PARTNERSHIP FIRMS		
179.	Adjudicating Authority for individuals and partnership firms. (1) Subject to the provisions of section 60, the Adjudicating Authority, in relation to insolvency matters of individuals and firms shall be the Debt Recovery Tribunal.. (2) The Debt Recovery Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain or	In case of Corporate Insolvency Process, the Adjudication Authority for Corporate Guarantor is NCLT whereas in case of Individuals & firms subject to section 60 DRT shall entertain or dispose of such claim.

	dispose of – (a) ... (b) any claim made by or against the individual debtor;	
CHAPTER - VII : OFFENCES AND PENALTIES		
184.	Punishment for false information etc. by creditor in insolvency resolution process. – (1) If a debtor or creditor provides information which is false in any material particulars to the resolution professional, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both. (2) If a creditor promises to vote in favour of the repayment plan dishonestly by accepting any money, property or security from the debtor, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to three times the amount or its equivalent of such money, property or security accepted by such creditor, as the case may be, or with both: <i>Provided that where such amount is not quantifiable, the total amount of fine shall not exceed five lakh rupees.</i>	Punishment for creditor for furnishing wrong claim or promise to vote dishonestly in favour of a repayment plan is provided under section 184.

Chapter 3

Provisions with respect to Claims under Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

Relevant Provisions of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 with respect to claim are provided hereunder.

Regulation	Particulars	Explanation
6	Public announcement. (1) An insolvency professional shall make a public announcement immediately on his appointment as an interim resolution professional. Explanation: 'Immediately' means not later than three days from the date of his appointment. (2) The public announcement referred to in sub-regulation (1) shall: (a) (ba) state where claim forms can be downloaded or obtained	• Public announcement to be made by IRP within 3 days of appointment. • Source of availability of Claim forms https://www.ibbi.gov.in • The claim to be submitted within 14 days from the date of appointment of IRP.

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	from, as the case may be; (c) provide the last date for submission of proofs of claim, which shall be fourteen days from the date of appointment of the interim resolution professional.	
7	Claims by operational creditors. (1) A person claiming to be an operational creditor, other than workman or employee of the corporate debtor, shall submit claim with proof to the interim resolution professional in person, by post or by electronic means in Form B of the Schedule: <i>Provided</i> that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.	Operational creditors shall submit their claim in person, by post (i.e. physical copy) or by electronic means. Form -B is prescribed for operational creditor (not workman or employee).
8	Claims by financial creditors. (1) A person claiming to be a financial creditor, other than a financial	Financial creditors (other than a financial creditor belonging to a class of creditors) shall submit their claim in electronic form.

Provisions w.r.t claims under CIRP Regulation

	creditor belonging to a class of creditors, shall submit claim with proof to the interim resolution professional in electronic form in Form C of the Schedule: <i>Provided</i> that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.	Form-C is prescribed for financial creditors (other than a financial creditor belonging to a class of creditors).
8A.	Claims by creditors in a class (1) A person claiming to be a creditor in a class shall submit claim with proof to the interim resolution professional in electronic form in Form CA of the Schedule.	Financial creditors in a class shall submit their claim in electronic form. Form -CA is prescribed for financial creditors in a class .
9	Claims by workmen and employees. (1) A person claiming to be a workman or an employee of the corporate debtor shall submit claim with proof to the interim resolution professional in person, by post or by electronic means in Form D of the Schedule: <i>Provided</i> that such	Workmen or employee shall submit their claims in person, by post (i.e. physical copy) or by electronic means. Form -D is prescribed for workmen or employee. Form -E is prescribed where there are numerous employees or workmen. An authorised representative may submit one claim with

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	person may submit supplementary documents or clarifications in support of the claim, on his own or if required by the interim resolution professional, before the constitution of the committee. (2) Where there are dues to numerous workmen or employees of the corporate debtor, an authorised representative may submit one claim with proof for all such dues on their behalf in Form E of the Schedule.	proof for all such dues on their behalf.
9A	Claims by other creditors. (1) A person claiming to be a creditor, other than those covered under regulations 7, 8, or 9, shall submit its claim with proof to the interim resolution professional or resolution professional in person, by post or by electronic means in Form F of the Schedule. (2) The existence of the claim of the creditor referred to in sub-section (1) may be proved on the basis of –	Other creditors (i.e. creditors not covered above) in a class shall submit their claim in person, by post (i.e. physical copy) or by electronic means. Form -F is prescribed for other creditors. Existence of claim can be proved on the basis of records available ,documentary evidence, order of court, etc.

Provisions w.r.t claims under CIRP Regulation

	(a) the records available in an information utility, if any, or (b) other relevant documents sufficient to establish the claim, including any or all of the following: - (i) documentary evidence demanding satisfaction of the claim; (ii) bank statements of the creditor showing non-satisfaction of claim; (iii) an order of court or tribunal that has adjudicated upon non-satisfaction of claim, if any.	
10.	Substantiation of claims. The interim resolution professional or the resolution professional, as the case may be, may call for such other evidence or clarification as he deems fit from a creditor for substantiating the whole or part of its claim	IRP/ RP may ask for such other documents from the creditor to substantiate their claim.
12	Submission of proof of	As per regulation 12(2), a

	claims. (1) Subject to sub-regulation (2), a creditor shall submit claim with proof on or before the last date mentioned in the public announcement. (2) A creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit the claim with proof to the interim resolution professional or the resolution professional, as the case may be, on or before the ninetieth day of the insolvency commencement date. (3) Where the creditor in sub-regulation (2) is a <i>financial creditor under regulation 8</i>, it shall be included in the committee from the date of admission of such claim:	creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit the claim with proof to the interim resolution professional or the resolution professional, as the case may be, on or before the ninetieth day of the insolvency commencement date. However, the period of 90 days is not mandatory but directory. The IRP/RP can accept claim of a creditor beyond 90 days till approval of resolution plan by CoC (as judicially decided). The financial creditor will be included in CoC from the date of admission of its claim.
12A	Updation of claim. A creditor shall update its claim as and when the claim is satisfied, partly or fully, from any source in any manner, after the insolvency commencement date.	During the CIRP Period, if the claim of any creditor is satisfied in any manner, creditor shall update its claim.

Provisions w.r.t claims under CIRP Regulation

13.	Verification of claims. (1) The interim resolution professional or the resolution professional, as the case may be, shall verify every claim, as on the fast track commencement date, within seven days from the last date of the receipt of the claims, and thereupon maintain a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it. (2) The list of creditors shall be – (a) available for inspection by the persons who submitted proofs of claim; (b).....	IRP/RP to verify every claim within 7 days from the last date of receipt of claim, and maintain updated list of creditors. Now it is mandatory for IRP/ RP to upload the list of creditors on IBBI website for all ongoing matters. (Refer IBBI Circular No. IBBI/CIRP/ 36/ 2020 dated 27.11.2020.) List of creditors shall be filed with AA.
14.	Determination of amount of claim. (1) Where the amount claimed by a creditor is not precise due to any contingency or other reason, the interim resolution professional or the resolution	When the amount claimed by the creditor is not precise, the IRP/ RP shall make best estimate of the amount of claim on the basis of information available, and shall revise the claim including estimates of claim as and when the additional

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	professional, as the case may be, shall make the best estimate of the amount of the claim based on the information available with him. (2) The interim resolution professional or the resolution professional, as the case may be, shall revise the amounts of claims admitted, including the estimates of claims made under sub-regulation (1), as soon as may be practicable, when he comes across additional information warranting such revision.	information is available.
15.	Debt in foreign currency. The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as on the insolvency commencement date.	Claim in foreign currency shall be converted in Indian currency at the official exchange rate as on the ICD. “Official exchange rate” is the reference rate published by the Reserve Bank of India.
16A	Authorised representative (1) The interim resolution professional shall select the insolvency professional, who is the choice of the highest number of financial creditors in the class in	When IRP/ RP receives claim from different class of financial creditors in Form CA, which includes appointment of authorised representatives, IRP/ RP to make application to Adjudicating Authority for

Provisions w.r.t claims under CIRP Regulation

	Form CA received under sub-regulation (1) of regulation 12, to act as the authorised representative of the creditors of the respective class: Provided that the choice for an insolvency professional to act as authorised representative in Form CA received under sub-regulation (2) of regulation 12 shall not be considered. (2) The interim resolution professional shall apply to the Adjudicating Authority for appointment of the authorised representatives selected under sub-regulation (1) within two days of the verification of claims received under sub-regulation (1) of regulation 12 (3) ... (5) The interim resolution professional or the resolution professional, as the case may be, shall provide an updated list of creditors in each class to the	appointment of the authorised representatives selected under sub-regulation (1) within two days of the verification of claims received. IRP/ RP to provide updated list of creditors in each class to the respective authorised representatives.
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	respective authorised representative as and when the list is updated. Clarification: The authorised representative shall have no role in receipt or verification of claims of creditors of the class he represents	
17	Constitution of committee. (1) The interim resolution professional shall file a report certifying constitution of the committee to the Adjudicating Authority within two days of the verification of claims received under sub-regulation (1) of regulation 12.	IRP has to file a report certifying constitution of the CoC within 2 days of verification of claims.
29	Sale of assets outside the ordinary course of business. (1) The resolution professional may sell unencumbered asset(s) of the corporate debtor, other than in the ordinary course of business, if he is of the opinion that such a sale is necessary for a better realisation of value under the facts and circumstances of the case: <i>Provided that the book value of all assets sold during corporate insolvency resolution process period in</i>	Though it is not relevant for the adjudication of claim, but important that during CIRP, the IRP/ RP can sale assets not exceeding 10 % of the total claims admitted by the IRP. Sale of asset to be approved by 2/3rd majority of CoC. <u>For Example</u> Total Asset = Rs. 50 Total Claim admitted =Rs. 20 Maximum value of asset that can be sold is 10% of claims admitted i.e. Rs. 2

Provisions w.r.t claims under CIRP Regulation

	aggregate under this sub-regulation shall not exceed ten percent of the total claims admitted by the interim resolution professional.	
36	Information memorandum. (1)..... (2) The Information Memorandum shall contain the following details of the corporate debtor- (d) a list of creditors containing the names of creditors, the amounts claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims;	List of creditors shall form part of information memorandum.
37	Resolution plan. A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximization of value of its assets, including but not limited to the following: - (h)..... (i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;	Resolution plan describes various measures for viable and feasible settlement of debt including but not limited to issuance of securities in exchange for claims, etc.

Chapter 4

Provisions with respect to Claims under Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016

Relevant Provisions of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 with respect to claim are provided hereunder.

Regulation	Particulars	Explanation
6	Registers and books of account. (1) Where the books of account of the corporate debtor are incomplete on the liquidation commencement date, the liquidator shall have them completed and brought up-to-date, with all convenient speed, as soon as the order for liquidation is passed. (2) The liquidator shall maintain the following registers and books, as may be applicable, in relation to the liquidation of the corporate debtor, and shall preserve them for a period of eight years after the dissolution of the corporate debtor-	• Liquidator has to update the books of accounts of CD upto the date of LCD. • The liquidator shall maintain the books including register of claims and dividend, etc. and preserve them for 8 years after the dissolution of CD.

Provisions w.r.t claims under Liquidation Process Regulation

	(j) Register of Claims and Dividends;	
12	Public announcement by liquidator. (1) The liquidator shall make a public announcement in Form B of Schedule II within five days from his appointment. (2) The public announcement shall- (a) call upon stakeholders to submit their claims or update their claims submitted during the corporate insolvency resolution process, as on the liquidation commencement date; and (b) provide the last date for submission or updation of claims, which shall be thirty days from the liquidation commencement date.	• Liquidator to make public announcement within 5 Days of his appointment. • Last date for submission of claims is 30 days from the LCD. • Public announcement shall call upon stakeholders to - Submit Claims or, - Update claims submitted during CIRP to LCD.
16.	Submission of claim. (1) A person, who claims to be a stakeholder, shall submit its claim, or update its claim submitted during the	Stakeholder to submit its claim or update its claim submitted during CIRP process, on or before last date mentioned in public announcement and has to

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	corporate insolvency resolution process, including interest, if any, on or before the last date mentioned in the public announcement. (2) A person shall prove its claim for debt or dues to him, including interest, if any, as on the liquidation commencement date.	prove its claim as on the LCD.
17.	Claims by operational creditors. (1) A person claiming to be an operational creditor of the corporate debtor, other than a workman or employee, shall submit proof of claim to the liquidator in person, by post or by electronic means in Form C of Schedule II.	Forms to be submitted are as per Schedule – II. Form -C for operational creditor. The claim to be supported by contract, invoices, order of court, financial accounts, etc.
18.	Claims by financial creditors. (1) A person claiming to be a financial creditor of the corporate debtor shall submit proof of claim to the liquidator in electronic means in Form D of Schedule II.	Form -D for financial creditor. The claim to be supported by financial contract, amount drawn under facility, order of court, financial statement, etc.
19.	Claims by workmen and employees. (1) A person claiming to be a workman or an employee of	Form -E for Individual Workman or employee. Form – F (one proof of claim) to be filed by representative

Provisions w.r.t claims under Liquidation Process Regulation

	the corporate debtor shall submit proof of claim to the liquidator in person, by post or by electronic means in Form E of Schedule II. (2) Where there are dues to numerous workmen or employees of the corporate debtor, an authorized representative may submit one proof of claim for all such dues on their behalf in Form F of Schedule II. (3).... (4) The liquidator may admit the claims of a workman or an employee on the basis of the books of account of the corporate debtor if such workman or employee has not made a claim.	on behalf of numerous workmen or employees. Liquidator may admit claim of workmen and employees on the basis of books of account if no claim is made by such workmen or employee.
20.	Claims by other stakeholders (1) A person, claiming to be a stakeholder other than those under Regulations 17(1), 18(1), or 19(1), shall submit proof of claim to the liquidator in person, by post or by electronic means in Form G of Schedule II. (2) The existence of the claim of the stakeholder may be proved on the basis of – (a) (b) other relevant documents which	Form - G for other stakeholders. Documents required- notice of demand, bank statement, order of court, tribunal or other authority.

	adequately establish the claim, including any or all of the following- (i) documentary evidence of notice demanding payment of unpaid amount or bank statements of the claimant showing that the claim has not been paid and an affidavit that the documentary evidence and bank statements are true, valid and genuine; (ii) documentary or electronic evidence of his shareholding; and (iii) an order of a court, tribunal or other authority that has adjudicated upon the non-payment of a claim, if any	
21	Proving security interest. The existence of a security interest may be proved by a secured creditor on the basis of - (a) the records available in an information utility, if any; (b) certificate of registration of charge issued by the Registrar of Companies; or	Security interest can be proved by a secured creditor on the basis of records available, etc.

Provisions w.r.t claims under Liquidation Process Regulation

	(c) proof of registration of charge with the Central Registry of Securitisation Asset Reconstruction and Security Interest of India.	
21A.	Presumption of security interest. (1) A secured creditor shall inform the liquidator of its decision to relinquish its security interest to the liquidation estate or realise its security interest, as the case may be, in Form C or Form D of Schedule II: Provided that, where a secured creditor does not intimate its decision within thirty days from the liquidation commencement date, the assets covered under the security interest shall be presumed to be part of the liquidation estate. (2) Where a secured creditor proceeds to realise its security interest, it shall pay - (a) as much towards the amount payable under clause (a) and sub-clause (i) of clause (b) of sub-section (1) of section 53, as it would have shared in case it had relinquished the security interest, to	• Relinquishment of security interest. At the time of submitting of its claim in Form-C or Form-D, secured creditor must mention its decision to relinquish its security interest to the liquidation estate or realise its security interest, if not then asset covered under security interest form part of liquidation estate. • [30 days time for stakeholder – whether to realise or relinquish the security interest] If secured creditor proceeds to realise its security interest, then he must pay liquidator his share of the CIRP costs and the liquidation costs as defined under Section 53(1)(a) and pay under section 53(1)(b)(i) from the amount realised by secured creditor within 90days. And excess realised by secured creditor to be paid within 180 days. • If the excess amount is not

	the liquidator within ninety days from the liquidation commencement date; and (b) the excess of the realised value of the asset, which is subject to security interest, over the amount of his claims admitted, to the liquidator within one hundred and eighty days from the liquidation commencement date: <i>Provided</i> that where the amount payable under this sub-regulation is not certain by the date the amount is payable under this sub-regulation, the secured creditor shall pay the amount, as estimated by the liquidator: <i>Provided</i> further that any difference between the amount payable under this sub regulation and the amount paid under the first proviso shall be made good by the secured creditor or the liquidator, as the case may be, as soon as the amount payable under this sub-regulation is certain and so informed by the liquidator. (3) Where a secured creditor fails to comply with sub-	ascertainable, then secured creditor shall pay the amount as estimated by liquidator. Secured creditor or liquidator has to make the amount good as soon as the amount is ascertained. • In case of default by secured creditor, the asset which is subject to security interest will form part of liquidation estate.
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Provisions w.r.t claims under Liquidation Process Regulation

	regulation (2), the asset, which is subject to security interest, shall become part of the liquidation estate.	
22	Production of bills of exchange and promissory notes. Where a person seeks to prove a debt in respect of a bill of exchange, promissory note or other negotiable instrument or security of a like nature for which the corporate debtor is liable, such bill of exchange, note, instrument or security, as the case may be, shall be produced before the liquidator before the claim is admitted.	Bills of exchange and promissory notes to be produced for substantiation of claim.
23	Substantiation of claims. The liquidator may call for such other evidence or clarification as he deems fit from a claimant for substantiating the whole or part of its claim.	Claimant shall produce such other documents to substantiate the claim called by liquidator.
24.	Cost of proof. (1) A claimant shall bear the cost of proving its claim. (2) Costs incurred by the liquidator for verification and determination of a claim shall form part of liquidation cost: Provided that if a claim or part of the claim is found to be false, the liquidator shall	Cost of claim to be borne by the claimant. Cost incurred for verification and determination of claim forms part of Liquidation cost. For false claim, liquidator shall recover cost from creditor and also provide

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	endeavor to recover the costs incurred for verification and determination of claim from such claimant, and shall provide the details of the claimant to the Board.	details of claimant to IBBI.
25.	Determination of quantum of claim. Where amount claimed by a claimant is not precise due to contingency or any other reason, the liquidator shall make the best estimate of the amount of the claim based on the information available with him.	When the amount of claim is not precise, then the liquidator shall make best estimate of the amount of claim based on the information available.
26.	Debt in foreign currency. The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as on the liquidation commencement date.	Claim in foreign currency shall be converted in Indian currency at the official exchange rate as on the LCD. "Official exchange rate" is the reference rate published by the Reserve Bank of India.
27	Periodical payments. In the case of rent, interest and such other payments of a periodical nature, a person may claim only for any amounts due and unpaid up to the liquidation commencement date.	Rent, interest etc are payable only upto the LCD.
28	Debt payable at future time. (1) A person may prove for a claim whose payment was not yet due on the liquidation commencement date and is	If a claim was not due on LCD, but admitted by the liquidator, then the claimant is entitled to distribution of such admitted claim in a manner

Provisions w.r.t claims under Liquidation Process Regulation

	entitled to distribution in the same manner as any other stakeholder. (2) Subject to any contract to the contrary, where a stakeholder has proved for a claim under sub-regulation (1), and the debt has not fallen due before distribution, he is entitled to distribution of the admitted claim reduced as follows- $X / (1+r)^n$ where, X = Value of admitted claim r = Closing yield rate n = period beginning with the date of distribution and ending with the date on which the payment of the debt would otherwise be due, expressed in years and months in a decimalized form	prescribed under the regulation.
29.	Mutual credits and set-off. Where there are mutual dealings between the corporate debtor and another party, the sums due from one party shall be set off against the sums due from the other to arrive at the net amount payable to the corporate debtor or to the other party.	X owes Rs. 100 to the corporate debtor. The corporate debtor owes Rs. 70 to X. After set off, Rs. 30 is payable by X to the corporate debtor.
30.	Verification of claims The liquidator shall verify the claims submitted within	Time limit for verification of claim is 30 days, the liquidator may either admit or

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	thirty days from the last date for receipt of claims and may either admit or reject the claim , in whole or in part, as the case may be.	reject the claim, in whole or in part, as the case may be.
30A Introduced wef 13.11.2020	Transfer of debt due to creditors. (1) A creditor may assign or transfer the debt due to him or it to any other person during the liquidation process in accordance with the laws for the time being in force dealing with such assignment or transfer. (2) Where any creditor assigns or transfers the debt due to him or it to any other person under sub-regulation (1), both parties shall provide to the liquidator the terms of such assignment or transfer and the identity of the assignee or transferee. (3) The liquidator shall modify the list of stakeholders in accordance with the provisions of regulation 31.	• Creditor may assign the debt to any person during liquidation process. • Both parties provide the liquidator the terms of such assignment. • Liquidator shall modify the list of stakeholders in accordance with provisions of regulation of 31 (3) of Insolvency and Bankruptcy Board of India (Liquidation Process) regulations, 2016.
31.	List of stakeholders (1) The liquidator shall prepare a list of stakeholders, category-wise, on the basis of proofs of claims submitted and accepted under these Regulations, with- (a) the amounts of claim admitted, if applicable,	Liquidator has to prepare list of stakeholders within 75 days from the LCD. The list must include 1. Details of stakeholders 2. Claim amount, admitted amount in full, in part or wholly rejected, etc.

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	(b) the extent to which the debts or dues are secured or unsecured, if applicable, (c) the details of the stakeholders, and (d) the proofs admitted or rejected in part, and the proofs wholly rejected. (2) The liquidator shall file the list of stakeholders with the Adjudicating Authority within forty-five days from the last date for receipt of the claims. (3) The liquidator may apply to the Adjudicating Authority to modify an entry in the list of stakeholders filed with the Adjudicating Authority, when he comes across additional information warranting such modification, and shall modify the entry in the manner directed by the Adjudicating Authority. (4) The liquidator shall modify an entry in the list of stakeholders filed with the Adjudicating Authority, in the manner directed by the Adjudicating Authority while disposing off an appeal preferred under section 42. (5) The list of stakeholders, as modified from time to time, shall be- (a) available for inspection	The liquidator may apply to the Adjudicating Authority to modify an entry in the list of stakeholders filed with the Adjudicating Authority in case he comes across any additional information. The list of stakeholders shall be available for inspection, displayed on the website and filed with IBBI.
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	by the persons who submitted proofs of claim; (b) available for inspection by members, partners, directors and guarantors of the corporate debtor; (c) displayed on the website, if any, of the corporate debtor. (d) filed on the electronic platform of the Board for dissemination on its website:	
31A.	Stakeholders' consultation committee. (1) The liquidator shall constitute a consultation committee within sixty days from the liquidation commencement date, based on the list of stakeholders prepared under regulation 31, to advise him on the matters relating to sale under regulation 32.	Stakeholders' consultation committee consisting of Secured financial creditors, unsecured financial creditors, workmen and employees, Governments, operational creditors and shareholders with nomination based on the amount of claim in proportion to liquidation value. There can be maximum 13 persons in SCC.

31A(2) The composition of the consultation committee under sub-regulation (1) shall be as shown in the Table below

Class of Stakeholders	Description	Number of Representatives
Secured financial creditors, who have relinquished their security interests under section 52	Where claims of such creditors admitted during the liquidation process is less than 50% of liquidation value	Number of creditors in the category, subject to a maximum of 2
	Where claims of such	Number of creditors

Provisions w.r.t claims under Liquidation Process Regulation

	creditors admitted during the liquidation process is at least 50% of liquidation value	in the category, subject to a maximum of 4
Unsecured financial creditors	Where claims of such creditors admitted during the liquidation process is less than 25% of liquidation value	Number of creditors in the category, subject to a maximum of 1
	Where claims of such creditors admitted during the liquidation process is at least 25% of liquidation value	Number of creditors in the category, subject to a maximum of 2
Workmen and employees	1	1
Governments	1	1
Operational creditors other than Workmen, employees and Governments	Where claims of such creditors admitted during the liquidation process is less than 25% of liquidation value	Number of creditors in the category, subject to a maximum of 1
	Where claims of such creditors admitted during the liquidation process is at least 25% of liquidation value	Number of creditors in the category, subject to a maximum of 2
Shareholders or partners, if any		1

Chapter 5

Provisions with respect to Claims under Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021

Relevant Provisions of Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021 with respect to claim are provided hereunder.

Regulation	Particulars	Explanation
19.	Public announcement. (1) The resolution professional shall make a public announcement within two days of the commencement of the process.	Public announcement for invitation of claim to be issued within 2 days from the commencement of PPIRP
20.	List of claims (1) The corporate debtor shall submit a list of claims under sub-section (1) of section 54G in Form P10 to the resolution professional. (2).... (3) The resolution professional shall inform every creditor regarding its claims , as confirmed by him, and seek objections, if any. (4) A creditor may submit objection along with supporting documents to the resolution	• CD shall submit a list of claims along with details of the respective creditors to RP. • RP shall inform every creditor about the confirmation of their claims and seek objections from them. • Creditor may submit objection with supporting document within 7 days. • RP shall call for such other evidence as he deems fit.

Provisions w.r.t claims under PPIRP Regulation

	professional within seven days from the receipt of communication under sub-regulation (3). (5) The resolution professional may call for such other evidence or clarification as he deems fit from a creditor for substantiating the whole or part of its claim. (6) The resolution professional shall consider every objection received under sub-regulation (4) and modify the claim of the creditor, if required. (7) A creditor shall update its claim, as and when the claim is satisfied, partly or fully, from any source in any manner, after the pre-packaged insolvency commencement date. (8) The resolution professional shall maintain a list of claims in Form P10 and update it as and when required.	• RP shall consider every objection and modify claim, if required. • If claim is satisfied in full or in part, the creditor shall update his claim. • Maintain list of claims in Form P10.
21	Determination of amount of claim. (1) Where the amount of claim of a creditor is not precise due to any contingency or other reason, the resolution professional shall make the best estimate of the amount of the claim based on the information available with him. (2) The resolution professional	When no precise information is available, the RP is required to determine the amount of claim on the basis of best estimate of the amount of the claim based on the information available with him. RP shall revise the amount of claims confirmed, as and when he comes across

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	shall revise the amount of claims confirmed, including the estimates of claims made under sub-regulation (1), as soon as may be practicable, when he comes across additional information warranting such revision.	additional information warranting such revision.
22.	Debt in foreign currency. The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as on the pre-packaged insolvency commencement date.	Claim in foreign currency shall be converted in Indian currency at the official exchange rate as on the pre-packaged insolvency commencement date. “Official exchange rate” is the reference rate published by the Reserve Bank of India.
23	Transfer of debt due to creditors. Where a creditor assigns or transfers the debt due to such creditor to any other person during the process period, both parties shall provide the resolution professional, the terms of such assignment or transfer and the identity of the assignee or transferee for updation under sub-regulation (8) of regulation 20.	• Creditor may assign the debt to any person during liquidation process. • Both parties provide the liquidator the terms of such assignment.
34	Committee with creditors in a class. (1) The resolution professional shall provide the list of creditors in each class to the respective authorised	PPIRP also provides for Class of creditors and authorised representative. RP shall provide the list of creditors in each class to the respective authorised

Provisions w.r.t claims under PPIRP Regulation

	representative within three days of the commencement of the process. (2) The resolution professional shall provide an updated list of creditors in each class to the respective authorised representative as and when the list is updated. Clarification- The authorised representative shall have no role in receipt or confirmation of claims of creditors of the class he represents.	representative and updated list as when it is updated. Timeline - List of creditors to respective authorised representative within 3 days.
40	Information memorandum (2) The Information memorandum shall contain the following details of the corporate debtor: - (d) a list of claims containing the names of creditors, the amounts of their claims and the security interest, if any, in respect of such claims;	The IM shall include a list of claims containing the names of creditors, their security interest, etc.

Chapter 6

Provisions with respect to Claims under Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017

Relevant Provisions of Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017 with respect to claim are provided hereunder.

Regulation	Particulars	Explanation
6	Public announcement (1) An insolvency professional shall make a public announcement immediately on his appointment as an interim resolution professional. <i>Explanation:</i> 'Immediately' means not later than three days from the date of his appointment. (2) The public announcement referred to in sub-regulation (1) shall (c) provide the last date for submission of proofs of claim, which shall be ten days from the date of appointment of the interim resolution professional.	Public announcement for submission of claim in Form A shall be made within 3 days of the appointment of IRP. The claim is to be submitted within 10 days from the date of appointment of the IRP.

Provisions w.r.t claims under Fast Track Regulation

7	Claims by operational creditors. An operational creditor, other than workman or employee of the corporate debtor, shall submit proof of his claim to the interim resolution professional in person, by post or by electronic means in Form B. Provided that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.	Operational creditors shall submit their claim in person, by post (i.e. physical copy) or by electronic means. Form -B is prescribed for operational creditor (not for workmen or employees).
8	Claims by financial creditors. A financial creditor shall submit proof of claim to the interim resolution professional in electronic form in Form C: Provided that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.	Financial creditors shall submit their claim in electronic form. Form -C is prescribed for financial creditors.
9	Claims by workmen and employees. (1) A workman or an employee of the corporate debtor shall submit proof of claim to the interim resolution professional in person, by post or by electronic	Workmen or employees shall submit their claim in person, by post (i.e. physical copy) or by electronic means. Form -D is prescribed for workmen or employees. Form -E is prescribed where there are numerous

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	means in Form D: <i>Provided</i> that such person may submit supplementary documents or clarifications in support of the claim, on his own or if required by the interim resolution professional, before the constitution of the committee. (2) Where there are dues to numerous workmen or employees of the corporate debtor, an authorised representative may submit one proof of claim for all such dues on their behalf in Form E.	employees or workmen. An authorised representative may submit one claim with proof for all such dues on their behalf.
9A.	Claims by other creditors. (1) A person claiming to be a creditor, other than those covered under regulations 7, 8, or 9, shall submit proof of its claim to the interim resolution professional or resolution professional in person, by post or by electronic means in Form F of the Schedule	Other creditors (i.e. creditors not covered above) shall submit their claim in person, by post (i.e. physical copy) or by electronic means. Form - F is prescribed for other creditors.
10	Substantiation of claims. The interim resolution professional or the resolution professional, as the case may	IRP/ RP may ask for such other document from the creditor to substantiate their claim.

Provisions w.r.t claims under Fast Track Regulation

	be, may call for such other evidence or clarification as he deems fit from a creditor for substantiating the whole or part of its claim .	
12	Submission of proof of claims. (1) Subject to sub-regulation (2), a creditor shall submit proof of his claim on or before the last date mentioned in the public announcement. (2) A creditor, who failed to submit proof of claim within the time stipulated in the public announcement, may submit the proof of claim to the interim resolution professional or the resolution professional, as the case may be, till the approval of a resolution plan by the committee. (3) Where the creditor in sub-regulation (2) is a <i>financial creditor</i>, it shall be included in the committee from the date of admission of such claim:	Creditor shall submit proof of claim before last date mentioned in the public announcement. (i.e. within 10 days). If the claim is not submitted within 10 days, then it must be submitted before approval of resolution plan. The financial creditor will be included in CoC from the date of admission of its claim.
13	Verification of claims. (1) The interim resolution professional or the resolution professional,	IRP/RP shall verify the claim within 7 days from the last date of receipt of claim, and maintain updated list.

	as the case may be, shall verify every claim, as on the fast track commencement date, within seven days from the last date of the receipt of the claims, and thereupon maintain a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it. (2) The list of creditors shall be – (a) available for inspection by the persons who submitted proofs of claim; (b)	
14.	Determination of amount of claim. (1) Where the amount claimed by a creditor is not precise due to any contingency or other reason, the interim resolution professional or the resolution professional, as the case may be, shall make the best estimate of the amount of the claim	When the amount claimed by the creditor is not precise, the IRP/ RP shall make best estimate of the amount of claim on the basis of information available, and then revise the claim when additional information is available.

Provisions w.r.t claims under Fast Track Regulation

	based on the information available with him. (2) The interim resolution professional or the resolution professional, as the case may be, shall revise the amounts of claims admitted, including the estimates of claims made under sub-regulation (1), as soon as may be practicable, when he comes across additional information warranting such revision.	
15.	Debt in foreign currency. The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as on the fast track commencement date.	Claim in foreign currency shall be converted in Indian currency at the official exchange rate as on ICD. “Official exchange rate” is the reference rate published by the Reserve Bank of India.
17	Filings by the interim resolution professional. (1) The interim resolution professional shall file a report certifying the constitution of the committee to the Adjudicating Authority on or before the expiry of twenty-one days from the date of his appointment. (2) Based on records of the corporate debtor and	IRP has to file report certifying constitution of the CoC within 21 days of his appointment. Based on the records and claims, if the company is not a small company or start-up or unlisted company having total asset not exceeding rupees one crore, then he shall file an application with AA to pass an order converting the fast track

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	claims, if the interim resolution professional is of the opinion that the fast track process is not applicable to the corporate debtor as per notifications under section 55(2), he shall file an application to the Adjudicating Authority along with the report in sub-regulation (1), to pass an order converting the fast track process to corporate insolvency resolution process under Chapter II of Part II of the Code. (3) ... (4) The interim resolution professional shall convene the first meeting of the committee within seven days of filing the report(s) under this Regulation.	process to corporate insolvency resolution process. Meeting of CoC within 7 days of filing of report of constitution of CoC.
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Chapter 7

Provisions with respect to Claims under Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017

Relevant Provisions of Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 with respect to claim are provided hereunder.

Regulation	Particulars	Explanation
10	Registers and books of account. (1) Where the books of account of the corporate person are incomplete on the liquidation commencement date, the liquidator shall have them completed and brought up-to-date, with all convenient speed, (2) The liquidator shall maintain the following registers and books, as may be applicable, in relation to the liquidation of the corporate debtor, - (j) Register of Claims and Dividends;	• Liquidator has to update the books of accounts of corporate person upto the date of LCD. • The liquidator shall maintain the books including register of claims and dividend, etc.
12	Consultation with stakeholders. (1) The stakeholders consulted under section 35(2) shall extend all	Stakeholders shall extend all assistance and cooperation to the liquidator to complete the liquidation process and liquidator shall maintain the

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	assistance and cooperation to the liquidator to complete the liquidation of the corporate person. (2) The liquidator shall maintain the particulars of any consultation with the stakeholders made under this Regulation.	particulars for any consultation with stakeholders.
14	Public announcement by liquidator. (1) The liquidator shall make a public announcement in Form A of Schedule I within five days from his appointment. (2) The public announcement shall- (a) call upon stakeholders to submit their claims as on the liquidation commencement date; and (b) provide the last date for submission of claim, which shall be thirty days from the liquidation commencement date.	Liquidator to make public announcement within 5 Days of his appointment to submit claims. Last date for submission of claim is 30 days from the LCD.
15.	Proof of Claim. A person, who claims to be a stakeholder, shall prove his claim for debt or dues to him, including interest, if any, as	Stakeholder shall prove his claim for debt due on the LCD.

Provisions w.r.t claims under Voluntary Liquidation Regulation

	on the liquidation commencement date.	
16.	Claims by operational creditors. (1) A person claiming to be an operational creditor of the corporate person, other than a workman or employee, shall submit proof of claim to the liquidator in person, by post or by electronic means in Form B of Schedule I.	Form -B for operational creditor. The claim to be supported by contract, invoices, order of court, financial accounts, etc.
17.	Claims by financial creditors. (1) A person claiming to be a financial creditor of the corporate person shall submit proof of claim to the liquidator in electronic means in Form C of Schedule I.	Form -C for financial creditor. The claim to be supported by financial contract, amount drawn under facility, order of court, financial statement, etc.
18.	Claims by workmen and employees. (1) A person claiming to be a workman or an employee of the corporate person shall submit proof of claim to the liquidator in person, by post or by electronic means in Form D of Schedule I. (2) Where there are dues to numerous workmen or employees of the corporate person, an authorized	Form -D for Individual workmen or employees. Form – E (one proof of claim) to be filed by representative on behalf of numerous workmen or employees. The claim shall be supported by contract of employment, demand notice, order of court, etc. Liquidator to admit claim of workmen and employees on the basis of books of account

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	representative may submit one proof of claim for all such dues on their behalf in Form E of Schedule I. (3).... (4) The liquidator shall admit the claims of a workman or an employee on the basis of the books of account of the corporate person if such workman or employee has not made a claim.	of corporate person if no claim is made by such workmen or employee.
19.	Claims by other stakeholders (1) A person, claiming to be a stakeholder other than those under Regulations 16, 17, or 18, shall submit proof of claim to the liquidator in person, by post or by electronic means in Form F of Schedule I. (2) The existence of the claim of the stakeholder may be proved on the basis of – (a) (b) other relevant documents which adequately establish the claim, including any or all of the following- (i) documentary evidence of notice demanding payment of unpaid amount or bank statements of the claimant showing	Form -F for other stakeholders. Documents required- notice of demand, bank statement, order of court, tribunal or other authority, documentary or electronic evidence.

Provisions w.r.t claims under Voluntary Liquidation Regulation

	that the claim has not been paid and an affidavit that the documentary evidence and bank statements are true, valid and genuine; (ii) documentary or electronic evidence of his shareholding; and (iii) an order of a court, tribunal or other authority that has adjudicated upon the non-payment of a claim, if any	
20	Proving security interest. The existence of a security interest may be proved by a secured creditor on the basis of – (a) the records available in an information utility; (b) certificate of registration of charge issued by the Registrar of Companies; (c) proof of registration of charge with the Central Registry of Securitisation Asset Reconstruction and Security Interest of India; or (d) other relevant documents which adequately establish the security interest.	Security interest can be proved by a secured creditor on the basis of records available, etc.

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21	Production of bills of exchange and promissory notes. Where a person seeks to prove a debt in respect of a bill of exchange, promissory note or other negotiable instrument or security of a like nature for which the corporate person is liable, such bill of exchange, note, instrument or security, as the case may be, shall be produced before the liquidator before the claim is admitted.	Bills of exchange and promissory notes to be produced for substantiation of claim.
22	Substantiation of claims. The liquidator may call for such other evidence or clarification as he deems fit from a claimant for substantiating the whole or part of its claim.	To produce such other documents to substantiate claim.
23.	Cost of proof. (1) A claimant shall bear the cost of proving its claim. (2) Costs incurred by the liquidator for verification and determination of a claim shall form part of liquidation cost: Provided that if a claim or part of the claim is found to be false, the liquidator shall endeavor to recover the costs incurred for verification and determination of claim from such claimant, and shall	Cost of claim to be borne by the claimant. Cost incurred for verification and determination of claim, forms part of Liquidation cost. For false claim, liquidator shall recover cost from creditor and also provide details of claimant to IBBI.

Provisions w.r.t claims under Voluntary Liquidation Regulation

	provide the details of the claimant to the Board.	
24.	Determination of amount of claim. Where the amount claimed by a claimant is not precise due to any contingency or any other reason, the liquidator shall make the best estimate of the amount of the claim based on consultation with the claimant and the corporate person and the information available with him.	When no precise information is available, the liquidator shall make the best estimate of the amount of the claim.
25.	Debt in foreign currency. The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as on the liquidation commencement date.	Claim in foreign currency shall be converted in Indian currency at the official exchange rate as on Voluntary liquidation commencement date. “Official exchange rate” is the reference rate published by the Reserve Bank of India.
26	Periodical payments. In the case of rent, interest and such other payments of a periodical nature, a person may claim only for any amounts due and unpaid up to the liquidation commencement date.	Rent, interest etc are payable only upto the LCD.
27	Debt payable at future time. (1) A person may prove for a claim whose payment was not yet due on the liquidation commencement date and is	If a claim was not due on LCD, but admitted by the liquidator, then the claimant is entitled to distribution of such admitted claim in a

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	entitled to distribution in the same manner as any other stakeholder. (2) Subject to any contract to the contrary, where a stakeholder has proved for a claim under sub-regulation (1), and the debt has not fallen due before distribution, he is entitled to distribution of the admitted claim reduced as follows- $X / (1+r)^n$ where, X = Value of admitted claim r = Closing yield rate n = period beginning with the date of distribution and ending with the date on which the payment of the debt would otherwise be due, expressed in years and months in a decimalized form.	manner prescribed under the regulation.
28.	Mutual credits and set-off. Where there are mutual dealings between the corporate person and another party, the sums due from one party shall be set off against the sums due from the other to arrive at the net amount payable to the corporate person or to the other party.	X owes Rs. 100 to the corporate person. The corporate person owes Rs. 70 to X. After set off, Rs. 30 is payable by X to the corporate person.
29.	Verification of claims (1) The liquidator shall verify the claims submitted	Liquidator shall verify the claims within 30 days from the last of receipt of claims.

Provisions w.r.t claims under Voluntary Liquidation Regulation

	within thirty days from the last date for receipt of claims and may either admit or reject the claim, in whole or in part, as the case may be, as per section 40 of the Code. (2) (2) A creditor may appeal to the Adjudicating Authority against the decision of the liquidator as per section 42 of the Code.	He may admit or reject the claim, in whole or part, as case may be. A creditor may appeal to the Adjudicating Authority against the decision of the liquidator.
30.	List of stakeholders (1) The liquidator shall prepare a list of stakeholders, category-wise, on the basis of proofs of claims submitted and accepted under these Regulations, with- (a) the amounts of claim admitted, if applicable, (b) the extent to which the debts or dues are secured or unsecured, if applicable, (c) the details of the stakeholders, and (d) the proofs admitted or rejected in part, and the proofs wholly rejected. (2) The liquidator shall	Liquidator has to prepare list of stakeholders within 75 days from the LCD. The list must include 1. Details of stakeholders 2. Claim amount, admitted amount in full, in part or wholly rejected, etc. The liquidator may apply to the Adjudicating Authority to modify an entry in the list of stakeholders filed with the Adjudicating Authority in case he comes across any additional information. The list of stakeholders shall be available for inspection, displayed on the website and filed with IBBI.

	prepare the list of stakeholders within forty-five days from the last date for receipt of claims. (3) The list of stakeholders, as modified from time to time, shall be- (a) available for inspection by the persons who submitted proofs of claim; (b) available for inspection by members, partners, directors and guarantors of the corporate person; (c) displayed on the website, if any, of the corporate person; (d) displayed on the website, if any, designated by the Board for this purpose.	
39	Corporate Voluntary Liquidation Account (7) A stakeholder, who claims to be entitled to any amount deposited into the Corporate Voluntary Liquidation Account, may apply to the Board in Form-H for an order for withdrawal of the amount: Provided that if any other	A stakeholder who has deposited any amount in Corporate Voluntary Liquidation Account may apply to IBBI in Form H for withdrawal of such amount.

Provisions w.r.t claims under Voluntary Liquidation Regulation

	person other than the stakeholder claims to be entitled to any amount deposited to the Corporate Voluntary Liquidation Account, he shall submit evidence to satisfy the Board that he is so entitled.	
41	Preservation of records. The liquidator shall preserve a physical or an electronic copy of the reports, registers and books of account referred to in Regulations 8 and 10 for at least eight years after the dissolution of the corporate person, either with himself or with an information utility.	The liquidator shall preserve a physical or an electronic copy of the records for atleast 8 years.

Chapter 8

Provisions with respect to Claims under Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019

Relevant Provisions of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 with respect to claim are provided hereunder.

Regulation	Particulars	Explanation
7	Submission and verification of claim (1) A creditor shall submit its claim along with proof to the resolution professional in Form B, on or before the last date mentioned in the public notice issued under sub-section (1) of section 102. (2) The creditor shall bear the costs relating to submission of the claim, including proof, under these regulations. (3) A creditor may prove its claim on the basis of- (a) records available in an information utility, or (b) any other documentary evidence which substantiates the existence of claim. (4) The resolution	Only one regulation with respect to claim is provided, which begins from consolidation of claim till the determination of amount of claim. Only one claim form [Form B] for all types of creditors. Claim to be submitted within 21 days from the last date mentioned in public notice issued under section 102(1). RP to prepare list of creditors within 30 days from the date of Public Notice as per section 104(2).

Provisions w.r.t claims under Insolvency process for PG to CD Regulations

	professional may call for such other evidence or clarification as he deems fit from a creditor for substantiating the whole or part of its claim. (5) The resolution professional shall verify each claim as soon as it is received and prepare a list of creditors under subsection (1) of section 104 within thirty days from the date of public notice. (6) Where the amount claimed by a creditor is not precise due to any reason, the resolution professional shall make the best estimate of the amount of the claim based on the information available with him. (7) The resolution professional shall modify the amounts of claims admitted, including the estimates of claims made under sub-regulation (6), as soon as may be practicable, after he comes across additional information warranting such revision, till the approval of a repayment plan by the creditors. (8) The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as	
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Handbook on Claims under The Insolvency and Bankruptcy Code, 2016

	on the resolution process commencement date. <i>Explanation.</i>— For the purposes of this sub-regulation, “official exchange rate” means the reference rate published by the Reserve Bank of India or derived from such reference rate.	
8	Transfer of debt due to creditors. (1) Where a creditor assigns or transfers the debt to any person during the resolution process period, both parties shall provide the resolution professional the terms of such assignment or transfer, and the identity and details of the assignee or transferee. (2) The resolution professional shall notify each creditor and the Adjudicating Authority of any resultant change in the list of creditors within two days of such change.	In assignment of debt, both the parties to provide terms of such assignment to RP. And resolution professional is required to notify AA and each creditor about the changes within 2 days of such change.
9	List of creditors. (1) The list of creditors under sub-section (1) of section 104 shall contain the names of creditors, amount claimed, amount admitted and security interest, if any, in respect of such claims.	RP is required to prepare List of creditors, make available list of creditors and submit the list of creditors to AA.

Provisions w.r.t claims under Insolvency process for PG to CD Regulations

	(2) The resolution professional shall - (a) make the list of creditors available for inspection by the persons who submitted claims with proof; (b) serve a copy of the list of creditors to the guarantor; (c) make available the list of creditors on the website, if any, of the guarantor; (d) present the list of creditors at the meeting of creditors; and (e) file a certified copy of the list of creditors with the Adjudicating Authority along with the repayment plan.	
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Chapter 9

**Provisions with respect to Claims
under Insolvency and Bankruptcy
Board of India (Bankruptcy Process
for Personal Guarantors to Corporate
Debtors) Regulations, 2019**

Relevant Provisions of Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 with respect to claim are provided hereunder.

Regulation	Particulars	Explanation
14	Future claims (1) A person, who is entitled to distribution in the same manner as any other creditor, may submit a claim , which is not due and payable on the bankruptcy commencement date, to the bankruptcy trustee. (2) Subject to any contract to the contrary, the person under sub-regulation (1) shall be entitled to the principal amount and the interest that has accrued till the bankruptcy commencement date.	If a claim was not due on bankruptcy commencement date, but admitted by the bankruptcy trustee, then the claimant is entitled to the principal amount and the interest that has accrued till the bankruptcy commencement date.
15.	Negotiable instruments. Where a person seeks to prove a claim in respect of a bill of exchange, promissory	A certified true copy of bills of exchange, promissory notes, etc. to be accompanied the claim.

Provisions w.r.t claims under Bankruptcy Process for PG to CD Regulation

	note or other negotiable instrument or security of a like nature for which the bankrupt is liable, a certified true copy of the same shall accompany the claim	
16.	Periodical payments. In the case of rent, interest and such other payments of a periodical nature, a person may claim only for any amounts due and unpaid up to the bankruptcy commencement date	Rent, interest etc are payable only upto the bankruptcy commencement date.
17.	Determination of quantum of claim. Where the amount claimed by a claimant is not precise due to any reason, the bankruptcy trustee shall make the best estimate of the amount of the claim based on the information available with him.	When the amount of claim is not precise, then the bankruptcy trustee shall make best estimate of the amount of claim based on the information available.
18	Debt in foreign currency. The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as on the bankruptcy commencement date.	Claim in foreign currency shall be converted in Indian currency at the official exchange rate as on the bankruptcy commencement date. “Official exchange rate” is the reference rate published by the Reserve Bank of India.
19.	Transfer of debt due to creditors. (1) Where a creditor assigns	• Creditor may assign the debt to any person during bankruptcy process.

Handbook on Claims under The Insolvency and Bankruptcy Code, 2016

	or transfers the debt to any person during the bankruptcy process period, both parties shall provide the bankruptcy trustee the terms of such assignment or transfer, and the identity and details of the assignee or transferee. (2) The bankruptcy trustee shall notify each creditor and the Adjudicating Authority of any resultant change in the committee within two days of such change.	• Both parties provide the bankruptcy trustee the terms of such assignment. • Bankruptcy trustee to notify each creditor and AA the change in the committee within 2 days of such change.
20.	Committee of Creditors (1) The bankruptcy trustee shall prepare a list of creditors within the timeline mentioned in section 132, containing the following details in respect of each creditor, – (a) the name; (b) the amount of claim made; (c) the amount of claim admitted; (d) security interest in respect of the claims, if any; and (e) reasons for rejection or admission of claim. (2) The bankruptcy trustee shall report the establishment of the committee to the Adjudicating Authority within three days from the meeting	• Bankruptcy trustee shall prepare a list of creditors and the list of creditors must include name, amount claimed, claim admitted, security interest and reason for rejection or admission of claim within 14 days from bankruptcy commencement date. • Bankruptcy trustee to report to AA of establishment of CoC within 3 days of meeting of the creditors u/s 134(1). • Bankruptcy trustee shall modify the list of creditors and composition of the committee on the basis of proof received under section 171. • Bankruptcy trustee shall file list of creditors and

Provisions w.r.t claims under Bankruptcy Process for PG to CD Regulation

	of the creditors under sub-section (1) of section 134. (3) The bankruptcy trustee shall modify the list of creditors and the composition of the committee, if required, on the basis of the proof received under section 171. (4) The list of creditors, and any modification to the committee, mentioned in sub-regulation (3) shall be filed with the Adjudicating Authority within fifteen days from the last date for receipt of proofs of debt, under intimation to other creditors.	any modification to the committee with AA within 15 days from the last date for receipt of proof of debt.
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Chapter 10

Model Timelines under different Regulations related to Claims under IBC

Model Timeline for corporate insolvency resolution process.

[Notification No. IBBI/2018-19/GN/REG031, dated 3rd July, 2018 (w.e.f. 04-07-2018)] introduced Regulation 40A - Model time-line for corporate insolvency resolution process.

The following Table presents a model timeline of corporate insolvency resolution process on the assumption that the interim resolution professional is appointed on the date of commencement of the process and the time available is one hundred and eighty days.

Section / Regulation	Description of Activity	Norm	Latest Timeline
Section 16(1)	Commencement of CIRP and appointment of IRP		T
Regulation 6(1)	Public announcement inviting claims	Within 3 Days of Appointment of IRP	T+3
Section 15(1)(c) / Regulations 6(2)(c) and 12 (1)	Submission of claims	Within 14 Days from Appointment of IRP	T+14
Regulation 12(2)	Submission of claims	A creditor, who fails to submit claim with proof within the time stipulated in the public	T+90

Model Timelines under different Regulations related to Claims under IBC

		announcement as per regulation 12(1) can submit their proof of claim up to 90th day from commencement of CIRP	
Regulation 13(1)	Verification claims received under of regulation 12(1)	Within 7 days from the receipt of the claim	T+21
	Verification of claims received under regulation 12 (2)	Within 7 days from the receipt of the claim.	T+97
Section 21(6A) (b) / Regulation 16A	Application for appointment of AR	Within 2 days from verification of claims received under regulation 12(1)	T+23
Regulation 17(1)	Report certifying constitution of CoC	Within 2 days from verification of claims received under regulation 12(1)	T+23
Section 22(1) / Regulation 19(2)	1st meeting of the CoC	Within 7 days of constitution of the CoC, but with seven days' notice.	T+30
Section 22(2)	Resolution to appoint RP by the CoC	In the first meeting of the CoC	T+30
Section 16(5)	Appointment of RP	On approval by the AA	
Regulation 17(3)	IRP performs the	If RP is not	T+40

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	functions of RP till the RP is appointed.	appointed by 40 th day of commencement till the date of appointment u/s 22	
Regulation 27	Appointment of valuer	Within 7 days of appointment of RP, but not later than 47 th day of commencement.	T+47
Regulation 28	Transfer of debt due to creditor	Both the parties to provide IRP/ RP terms of such transfer and IRP/ RP to notify AA and each creditor within two days of such change	+2 days of such change
Section 12(A) / Regulation 30A	Submission of application for withdrawal of application admitted	Before issue of EoI without justification and after EoI with justification Date of receipt of application by IRP / RP	W
Section 12(A) / Regulation 30A	CoC to dispose of the application	Within 7 days of its receipt by CoC	W+7
Section 12(A) / Regulation 30A	Filing application of withdrawal to AA: - if before constitution of CoC - if approved by CoC with 90% majority voting, by RP to AA	Within 3 days of its receipt by IRP Within 3 days of approval by CoC	W+3 W+10

Model Timelines under different Regulations related to Claims under IBC

Regulation 35A	RP to form an opinion on preferential and other transactions	Within 75 days of the commencement	T+75
Regulation 35A	RP to make a determination on preferential and other transactions	Within 115 days of commencement	T+115
Regulation 35A	RP to file applications to AA for appropriate relief	Within 135 days of commencement	T+135
Regulation 36 (1)	Submission of IM to CoC	Within 2 weeks of appointment of RP, but not later than 54 th day of commencement	T+54
Regulation 36A	Public Announcement for Invitation of Eol in Form G	Within 75 days of commencement	T+75
Regulation 36A	Submission of Eol	At least 15 days from issue of Eol (Assume 15 days)	T+90
Regulation 36A	Provisional List of RAs by RP	Within 10 days from the last day of receipt of Eol	T+100
Regulation 36A	Submission of objections to provisional list	For 5 days from the date of provisional list	T+105
Regulation 36A	Final List of RAs by RP	Within 10 days of the receipt of objections	T+115

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Regulation 36B	Issue of RFRP, including Evaluation Matrix and IM	Within 5 days of the issue of the provisional list	T+105
Regulation 36B	Receipt of Resolution Plans	At least 30 days from issue of RFRP (Assume 30 days)	T+135
Regulation 39(4)	Submission of CoC approved Resolution Plan to AA	As soon as approved by the CoC but atleast 15 days before completion of CIRP	T+165
Section 31(1)	Approval of resolution plan by AA		T=180
Section 12(1)	Time-Limit for Completion of CIRP	Within 180 days from the date of admission of the application	T+180
Section 12(3) / Regulation 40	Extension of CIRP Period	AA may extend duration of the period but not exceeding 90 days not more than once	T+270

Model Timeline for Liquidation Process

[Notification No. IBBI/2019-20/GN/REG047, dated 25th July, 2019] introduced Regulation 47 - Model Timeline for Liquidation Process.

The following Table presents a model timeline of liquidation process on the assumption that the Liquidator is appointed on the date of commencement of the process and the time available is One Year.

Sl. No.	Section / Regulation	Description of Task	Norm	Latest Timeline (Days)
-1	-2	-3	-4	-5
1	Section 33 and 34	Commencement of liquidation and appointment of liquidator	Liquidation Commencement Date (LCD)	T
2	Section 33 (1) (b) (ii) /Regulation 12 (1), (2), (3)	Public announcement in Form B	Within 5 days of appointment of liquidator.	T + 5
3	Regulation 35 (2)	Appointment of registered valuers	Within 7 days of Liquidation Commencement Date	T + 7
4	Section 38 (1), Regulation 12(2)(b), 17, 18, 19, 20	Submission of claims;	Within 30 days of Liquidation Commencement Date	T + 30
	Regulation 21A	Intimation of decision on relinquishment of security interest	Within 30 days of Liquidation Commencement Date	T + 30
5	Section 38 (5)	Withdrawal/ modification of claim	Within 14 days of submission of claim	T + 44
6	Regulation . 30	Verification of claims received under regulation 12(2)(b)	Within 30 days from the last date for receipt of claims	T + 60

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7	Regulation 31A	Constitution of Stakeholders Consultation Committee	Within 60 days of Liquidation Commencement Date	T + 60
8	Section 40 (2)	Intimation about decision of acceptance/ rejection of claim	Within 7 days of admission or rejection of claim	T + 67
9	Regulation . 31 (2)	Filing the list of stakeholders to AA	Within 45 days from the last date of receipt of claims	T + 75
10	Section 42	Appeal by a creditor against the decision of the liquidator	Within 14 days of receipt of such decision	T + 81
11	Regulation 13	Preliminary report to the AA	Within 75 days of Liquidation Commencement Date	T + 75
12	Regulation 34	Asset memorandum	Within 75 days of Liquidation Commencement Date	T + 75
13	Regulation 15 and 36	Submission of progress reports to AA; Asset Sale report to be enclosed with every Progress Report, if sales are made	First progress report	Q1 + 15
			Q-2	Q2 + 15
			Q-3	Q3 + 15
			Q-4	Q4 + 15
			FY: 1 Audited accounts of	15th April

Model Timelines under different Regulations related to Claims under IBC

			liquidator's receipt & payments for the financial year	
14	Proviso to Regulation. 15 (1)	Progress report in case of cessation of liquidator	Within 15 days of cessation as liquidator	Date of cessation + 15
15	Regulation 37 (2, 3)	Information to secured creditors	Within 21 days of receipt of intimation from secured creditor	Date of intimation + 21
16	Regulation. 42 (2)	Distribution of the proceeds to the stakeholders	Within 3 months from the receipt of amount	Date of Realisation + 90
17	Regulation 10 (1)	Application to AA for Disclaimer of onerous property	Within 6 months from the LCD	T + 6 months
18	Regulation .10 (3)	Notice to persons interested in the onerous property or contract	At least 7 days before making an application to AA .	
19	Regulation 44	Liquidation of corporate debtor.	Within one year	T + 365
20	Regulation 46	Deposit the amount of unclaimed dividends and undistributed proceeds	Before submission of application under sub-regulation (3) of regulation 45	
21	Sch-1 Sl. No 12	Time period to H1 bidder to provide balance sale consideration	Within 90 days of the date of invitation to provide the balance amount.]	

Suggestive Model Timeline under Pre-Pack Insolvency Resolution Process

The following Table presents a suggestive model timeline of Pre-Pack Insolvency Resolution Process on the assumption that the time available is one hundred and twenty days.

Section Regulation /	Description of Activity	Norm	Latest Timeline
Sec - 11A(2)	Disposal of applications under section 54C and under section 7 or section 9 or section 10.	If application u/s 54C is filed within 14 days of application u/s 7,9,or 10	54C application to be disposed off first
Sec - 11A(3)	Disposal of applications under section 54C and under section 7 or section 9 or section 10.	If application u/s 54C is filed after 14 days of application u/s 7,9,or 10	Section 7,9 or 10 application to be disposed off first
Sec - 54A(2)(a)	Corporate debtors eligible for pre-packaged insolvency resolution process	It has not undergone pre-packaged insolvency resolution process or completed corporate insolvency resolution process, as the case may be, during the period of three years preceding the initiation date	• Cooling period of 3 years of CIRP and not undergone PPIRP. • No order of Liquidation is passed. • 66% of Financial Creditor has given approval.

Model Timelines under different Regulations related to Claims under IBC

Sec - 54A(2)(f)(i)	Corporate debtors eligible for pre-packaged insolvency resolution process	(f) the majority of the directors or partners of the corporate debtor, as the case may be, have made a declaration, in such form as may be specified, stating, <i>inter alia</i>, — (i) that the corporate debtor shall file an application for initiating pre-packaged insolvency resolution process within a definite time period not exceeding ninety days;	Declaration by Directors / partners to file application with in 90 days Timeline A+90 days
Sec - 54C	Application to initiate pre-packaged insolvency resolution process	(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order, — (a) admit the application, if it is complete; or (b) reject the application, if it is incomplete:	AA to accept or reject the application with 14 days. For rectification of mistake – 7 days Commencement of PPIRP = T

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		Provided that the Adjudicating Authority shall, before rejecting an application, give notice to the applicant to rectify the defect in the application within seven days from the date of receipt of such notice from the Adjudicating Authority. (5) The pre-packaged insolvency resolution process shall commence from the date of admission of the application under clause (a) of sub-section (4).	
Sec -54D(1)	Time-limit for completion of pre-packaged insolvency resolution process	The pre-packaged insolvency resolution process shall be completed within a period of one hundred and twenty days from the pre-packaged insolvency commencement date.	T+120

Model Timelines under different Regulations related to Claims under IBC

Sec -54D(2)	Time-limit for submission of resolution plan	Without prejudice to sub-section (1), the resolution professional shall submit the resolution plan, as approved by the CoC, to the Adjudicating Authority under sub-section (4) or subsection (12), as the case may be, of section 54K, within a period of ninety days from the pre-packaged insolvency commencement date.	T+90
Sec - 54G(1) / Regulation 20	List of claims and preliminary Information Memorandum	The corporate debtor shall, within two days of the pre-packaged insolvency commencement date, submit to the resolution professional the following information, updated as on that date, in such form and manner as may be specified, namely:—	T+2

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		(a) a list of claims, along with details of the respective creditors, their security interests and guarantees, if any; and (b) a preliminary Information Memorandum containing information relevant for formulating a resolution plan	
Regulation 19	Public Announcement	The resolution professional shall make a public announcement within two days of the commencement of the process	T+2
Sec -54K(1)	Consideration and approval of resolution plan	The corporate debtor shall submit the base resolution plan , referred to in clause (c) of sub-section(4) of section 54A, to the resolution professional within two days of the pre-	T+2

Model Timelines under different Regulations related to Claims under IBC

		packaged insolvency commencement date, and the resolution professional shall present it to the CoC.	
Regulation 34(1)	Committee with creditors in a class.	The RP shall provide the list of creditors in each class to be submitted to the respective authorised representative within three days by RP	T+3
Regulation 38	Appointment of Valuers	The resolution professional shall within three days of his appointment, appoint two registered valuers	T+3
Sec - 54I(1)	CoC	The resolution professional shall, within seven days of the pre-packaged insolvency commencement date, constitute a CoC, based on the list of claims confirmed under clause (a) of sub-	T+7

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		section (2) of section 54F	
Regulation 26	Change in CoC	Any change in the composition of CoC shall be intimated to all the members of the committee within two days of such change.	W+2
Sec - 54I(2)/ Regulation 27	Meeting of CoC.	The first meeting of the CoC shall be held within seven days of the constitution of the CoC.	T+14
Regulation 40(3)	Information Memorandum	The resolution professional shall submit to members of the committee within fourteen days of the pre-packaged insolvency commencement	T+14
Regulation 43 (1)	Invitation for resolution plans.	Where committee does not approve base resolution plan/ the Base Resolution Plan impairs claims to operational creditors	T+21
Regulation 43 (3)	Last date for submission of Resolution plan	Within fifteen days from the date of issue of invitation for resolution plan	T+36

Model Timelines under different Regulations related to Claims under IBC

Regulation 41(1)	Preferential and other transactions	Form an opinion whether the corporate debtor has been subjected to any transaction covered under sections 43, 45, 50 or 66	T+<=30
Regulation 41(2)	Preferential and other transactions	Determine transactions covered under sections 43, 45, 50 or 66,	T+>30 to T<=45
Regulation 41(3)	Preferential and other transactions	Apply to the Adjudicating Authority for appropriate relief from transactions covered under sections 43, 45, 50 or 66,	T+>45 to T<=60
Sec - 54D(2) / Regulation 49(1)	Submission of Resolution Plan to AA	Within a period of ninety days from the pre-packaged insolvency commencement date	T+90
Sec -54L(1)	Approval of resolution plan	If the Adjudicating Authority is satisfied that the resolution plan as approved by the CoC under sub-section (4) or sub-section (12) of section 54K, as	T+90 to T+120

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		the case may be, subject to the conditions provided therein, meets the requirements as referred to in sub-section (2) of section 30, it shall, within thirty days of the receipt of such resolution plan, by order approve the resolution plan:	
Sec - 54L(3)	Approval of resolution plan	Where the Adjudicating Authority is satisfied that the resolution plan does not conform to the requirements referred to in sub-section (1), it may, within thirty days of the receipt of such resolution plan, by an order, reject the resolution plan and pass an order under section 54N.	T+90 to T+120
Sec - 54N	Termination of pre-packaged insolvency resolution process	(1) Where the resolution professional files an application	T+90 to T+120

Model Timelines under different Regulations related to Claims under IBC

		with the Adjudicating Authority, — (a) under the proviso to sub-section (12) of section 54K; or (b) under sub-section (3) of section 54D, the Adjudicating Authority shall, within thirty days of the date of such application, by an order, — (i) terminate the pre-packaged insolvency resolution process; and (ii) provide for the manner of continuation of proceedings initiated for avoidance of transactions under Chapter III or proceedings initiated under section 66 and section 67A, if any.	
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Regulation 49(3)	Intimation of approval of resolution plan	On approval of Resolution Plan by AA, the Resolution Professional shall intimate each claimants within 7 days	T+127
Sec - 54O(1)	Application for initiation of corporate insolvency resolution process	The CoC, at any time after the pre-packaged insolvency commencement date but before the approval of resolution plan under subsection (4) or sub-section (12), as the case may be, of section 54K, by a vote of sixty-six per cent. of the voting shares, may resolve to initiate a corporate insolvency resolution process in respect of the corporate debtor, if such corporate debtor is eligible for corporate insolvency resolution process under Chapter II	T+0 to T+120 = W
Sec - 54O(2)	Approval of Initiation of	The Adjudicating Authority shall,	W+30

Model Timelines under different Regulations related to Claims under IBC

	corporate insolvency resolution process	within thirty days of the date of such intimation, pass an order to — (a) terminate the pre-packaged insolvency resolution process and initiate corporate insolvency resolution process under Chapter II in respect of the corporate debtor;	
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Suggestive Model Timeline under Fast Track Insolvency Resolution Process

The following Table presents a suggestive model timeline of Fast Track Insolvency Resolution Process on the assumption that the interim resolution professional is appointed on the date of commencement of the process and the time available is ninety days.

Section Regulation /	Description of Activity	Norm	Latest Timeline
Section 55	Commencement of CIRP and appointment of IRP	On acceptance of application.	T
Regulation 6(1)	Public announcement inviting claims	Within 3 Days of Appointment of IRP.	T+3
Regulation 6(2)(c)	Submission of claims	Within 10 days from the appointment of Resolution Professional, (i.e. passing of the order).	T+10
Regulation 12(2)	Submission of claims	till the approval of a resolution plan by the committee.	T+X
Regulation 13(1)	Verification claims received under of regulation 12(1)	Within 7 days from the last date of submission of the claim as specified in Public Announce.	T+17
	Verification of claims received under regulation 12 (2)		T+X+7
Regulation 17(1)	Filings by the interim resolution professional.	Report certifying constitution of CoC.	T+21

Model Timelines under different Regulations related to Claims under IBC

Section 22(1) / Regulation 17(4)/ Regulation 19	1 st meeting of the CoC	Within 7 days of filing of the report certifying constitution of the CoC, but with seven days' notice period or such reduced period not less than 24 hours.	T+28
Section 22(2)	Resolution to appoint RP by the CoC	In the first meeting of the CoC, by majority vote not less than 66% to appoint Resolution Professional.	T+28
Section 16(5) read with 22(3)(b)	Appointment of RP	On approval by the AA	
Regulation 26	Appointment of valuer	Within 7 days of appointment of RP (date of approval by AA).	T+ +7
Regulation 27	Transfer of debt Due to Creditors	Both the parties to provide IRP/ RP terms of such transfer and IRP/ RP to notify AA and each creditors within two days of such change.	W+2
Regulation 35(1)	Information Memorandum	submit the Information Memorandum in electronic form to- (a) each member of the committee within two weeks of his appointment as resolution professional (b) each prospective resolution applicant latest by the date of	From T+28 to T+42 days

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		invitation of resolution plan under clause (h) of sub-section (2) of section 25 of the Code.	
Regulation 35A (1)	Invitation of Resolution Plans	The resolution professional shall issue an invitation (in Form G) to submit resolution plans at least fifteen days before the last date of submission of resolution plans.	T+43 to T+60
Regulation 35A (2)	Invitation of Resolution Plans	Evaluation Matrix at least eight days before the last date for submission of resolution plans.	T+67
Regulation 35A (4a)	Invitation of Resolution Plans	(4) The timelines specified under this regulation shall not apply to an ongoing fast track corporate insolvency resolution process- (a) where a period of less than twenty-two days is left for submission of resolution plans under sub-regulation (1);	Time line not applicable if period left is < 22 days
Regulation 35A (4b)	Invitation of Resolution Plans	(b) where a period of less than eleven days is left for submission of resolution plans	Time line is not applicable if period

Model Timelines under different Regulations related to Claims under IBC

		under sub-regulation (2).	left is <11 days
Regulation 38./ Section 56	Approval of resolution plan	Submit the resolution plan approved by CoC to AA at least fifteen days before the expiry of the maximum period permitted under section 56.	T+75
Section 56 (1)	Time period for Completion	The Fast Track corporate insolvency resolution process shall be completed within a period of ninety days from the ICD.	T+90
Section 56(3)	Extension of Time period	AA can grant extension of process beyond 90 days for such period it thinks fit but not exceeding 45 days.	T+135

Suggestive Model Timeline for Voluntary Liquidation Process

The following Table presents a suggestive model timeline of Voluntary Liquidation Process which commences from the date of passing of Special Resolution in Extra-ordinary General Meeting (EGM) of Shareholders for Voluntary Liquidation (the Liquidator is appointed in EGM) and the time for completion of Voluntary Liquidation Process is one year:

Sl. No.	Section / Regulation	Description of Task	Norm	Latest Timeline (Days)
1	Section 59/Regulation 3(1)(c) on passing of shareholder's Special Resolution in EGM	Commencement of Voluntary liquidation and appointment of liquidator	Voluntary Liquidation Commencement Date	T
2	Regulation 5(2)	Intimation to Board	Within 3 days of appointment of liquidator	T+3
3	Regulation 14	Public announcement by Liquidator	Within 5 days of appointment of liquidator.	T+5
4	Regulation 14(2)(b)	Submission of claims	Submission of claims within 30 days from the Liquidation commencement date	T+30
5	Regulation 29	Verification of claims received	Within 30 days from the last date for receipt of claims	T+60

Model Timelines under different Regulations related to Claims under IBC

6	Section 40	Intimation to creditors for admission or rejection of claims	Within 7 days of such admission or rejection of claims.	T+67
7	Regulation 30 (2)	List of stakeholders.	Within 45 days from the last date of receipt of claim.	T+75
9	Section 42	Appeal by a creditor against the decision of the liquidator	Within 14 days of receipt of such decision.	T+81
10	Regulation 9	Preliminary report	Within 45 days of Liquidation Commencement Date.	T+45
11	Regulation 35	Distribution	Within 6 months from the receipt of amount .	Date of Realisation + 6 months
12	Regulation 37(1)	Completion of liquidation	Within 12 months from liquidation commencement date.	T+ 12 months
13	Regulation 37(2)	Annual Status Report along with Audited Accounts (if the liquidation process continuing for more than twelve months)	Within 15 days from the end of 12 months from the liquidation commencement date, and at the end every succeeding twelve months	T+12 months +15 days

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			till dissolution of the corporate person.	
14	Regulation 38	Final Report to Registrar and Board	On completion of liquidation process	T + W (Before 12 months or extended period)
15	Section 59(7)	Application to AA	After submission of Final Report to IBBI and Registrar	T + W (Before 12 months or extended period)
16	Regulation 39	Corporate Voluntary Liquidation Account	Before submission of application under sub-section (7) of Section 59, if failed to deposit then with interest @12%	T + W (Before 12 months or extended period)

Suggestive Model Timeline for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors

The following Table presents a suggestive model timeline of Insolvency Resolution Process for Personal Guarantors to Corporate Debtors on the assumption that the Resolution Professional is appointed on the date of commencement of the process and the time available is One Hundred and Eighty days:

Section / Regulation	Description of Activity	Norm	Latest Timeline
Section 100	Admission or rejection of application.	Within 14 days	T
Section 102(1)	Public notice and claims from creditors.	Public notice in 7 days	T+7
Section 102(1)	Public notice and claims from creditors.	Submission of claims in 21 days	T+28
Section 104(2)/ Regulation 7(5)	Preparation of list of creditors.	within thirty days from the date of public notice	T+37
Regulation 8(2)	Transfer of debt due to creditors.	To inform all creditors and AA change in list of creditors	W+2
Section 106(1)	Report of resolution professional on repayment plan.	RP to give report to AA on repayment plan within 21 days from the last date of submission of claims	T+49
Section 106(4)(a)	Meeting of Creditors	the meeting is to be held shall be	T+63 to T+77

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		not less than fourteen days and not more than twenty eight days from the date of submission of report under sub-section (1);	
Regulation 19	Filing of Repayment plan with the Adjudicating Authority.	along with the report mentioned in sections 106 or 112,	T+120
Section 101(1)	Completion of Moratorium	180 days from the date of acceptance of application under section 100 or on the date the AA passes an order on the repayment plan under section 114, whichever is earlier	T+180

Suggestive Model Timeline for Bankruptcy Process for Personal Guarantors to Corporate Debtors

The following Table presents a suggestive model timeline of Bankruptcy Process for Personal Guarantors to Corporate Debtors on the assumption that the bankruptcy trustee is appointed on the date of commencement of the process and the time available is one year.

Section Regulation /	Description of Activity	Norm	Latest Timeline
Section 121	Application for bankruptcy	Within three months of the date of the order passed by the Adjudicating Authority under the sections mentioned below : (a) where an order has been passed by an Adjudicating Authority under sub-section 4 of section 100; or (b) where an order has been passed by an adjudicating Authority under sub-section 2 of section 115; or (c) where an order has been passed by an Adjudicating Authority under sub-section 3 of section 118	Time period for filing of bankruptcy application is three months On passing of the order, interim moratorium is declare
Section 124	Effect of application	The Application by Debtor u/s 122 or by	From the date of application

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		Creditor u/s 123. An interim moratorium commences	
Section 126	Bankruptcy order	Within 14 days of receiving the confirmation or nomination of the bankruptcy trustee under section 125	T
Section 129	Statement of financial Position	The bankrupt shall submit his statement of financial position to the bankruptcy trustee within seven days from the bankruptcy commencement date	T+ 7
Section 130	Public notice inviting claims from creditors	AA/ bankruptcy trustee to send notice to creditors within 10 days of bankruptcy commencement date and issue of public notice for inviting claim	T+10
Section 131	Registration of claims	Creditors to register claim within 7 days of the publication.	T+17
Section 132	Preparation of list of creditors	The bankruptcy trustee shall, within fourteen days from the bankruptcy commencement	T+14

Model Timelines under different Regulations related to Claims under IBC

		date, prepare a list of creditors of the bankrupt	
Section 133	Summoning of meeting of creditors	Notice of meeting to every trustee within twenty one days from the bankruptcy commencement date	T+21
Regulation 8 (1)	Preliminary Report	The bankruptcy trustee shall submit a preliminary report to the Adjudicating Authority and the committee within ninety days of the bankruptcy commencement date.	T+90
Regulation 10	Progress reports	Submission of progress reports to AA within 15 days after end of each financial quarter; Asset Sale report to be enclosed with every Progress Report, if sales are made	
		Q-1 (from commencement date till end of that financial quarter)	Q1+15
		Q-2	Q2 + 15
		Q-3	Q3 + 15
		Q-4	Q4 + 15

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		Q-5(from 1st day of financial quarter till completion of process(i.e.365 days))	Completion date +15 days
		FY: 1 Audited accounts of liquidator's receipt & payments for the financial year (from commencement date till next 31st March)	15th April
		Audited accounts of liquidator's receipt & payment from 1st April till completion date)	Completion date + 15 days
Regulation 11	Final report	The bankruptcy trustee shall file the final report with the Adjudicating Authority along with the application under sub-section (1) of section 138	
Section 138/ Regulation 11	Discharge order	Apply for discharge order. On expiry of one year from bankruptcy commencement date, or within seven days of the approval of the CoC of the completion of	Timeline for Discharge order On completion of one year T+365, or Within 7 days of completion of

Model Timelines under different Regulations related to Claims under IBC

		administration of the estates of the bankrupt	administration of the estate of bankrupt. W+7, where W is < 365
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Note: In this chapter, suggestive model timelines have been provided for PPIRP, Fast Track, VLP, Insolvency Resolution Process for PG to CD and Bankruptcy Process for PG to CD to help in understanding the subject.

Chapter 11

Forms under The Insolvency and Bankruptcy Code, 2016 related to Claims

Table of forms under Insolvency and Bankruptcy Code and relevant regulations with respect to submission of claims

Form no Form for	CIRP form no.	Liquidati on	Fast. CIRP	Voluntary Liquidation	Personal guarantor
Operational Creditor	Form B	Form C	Form B	Form B	Form B
Financial Creditor	Form C	Form D	Form C	Form C	Form B
Creditor in Class	Form CA	X	X	X	Form B
Workmen or Employee	Form D	Form E	Form D	Form D	Form B
Auth. Representat ive of Workmen/ Employee	Form E	Form F	Form E	Form E	Form B
Others	Form F	Form G	Form F	Form F	Form B
All creditors	X	X	X	X	Form B

Forms under IBC related to Claims

Pre Pack Insolvency Resolution Process involves list of creditors to be submitted by corporate debtor. However following forms are applicable:

Form No.	Particulars
P1	Written consent
P2	List of creditors of [name of corporate debtor]
P3	approval of terms of appointment of resolution professional
P4	Approval for initiating pre-packaged insolvency resolution process of [name of corporate debtor]
P5	Written consent to act as authorised representative
P6	Declaration by director/partners
P7	Declaration regarding existence of avoidance transaction(s)
P8	Report of the insolvency professional
P9	Public announcement
P10	List of claims Annexure 1 list of secured financial creditors belonging to any class of creditors Annexure 2 list of unsecured financial creditors belonging to any class of creditors Annexure 3 list of secured financial creditors (other than financial creditors belonging to any class of creditors) Annexure 4 list of unsecured financial creditors (other than financial creditors belonging to any class of creditors) Annexure 5 list of operational creditors (workmen) Annexure 6 list of operational creditors (employees) Annexure 7 list of operational creditors (government dues) Annexure 8 list of operational creditors (other than workmen and employees and government dues) Annexure 9 list of other creditors (other than financial creditors and operational creditors)
P11	Invitation for resolution plans
P12	Compliance certificate
P13	Application for termination of pre-packaged insolvency resolution process
P14	Application for vesting management with resolution professional

40B Filing of Forms.

Inserted by Notification No. IBBI/201920/GN/REG052, dated 27th November, 2019 (w.e.f. 28.11.2019).

The Insolvency Professional, Interim Resolution Professional or Resolution Professional, as the case may be, shall file the Forms, along with the enclosures thereto, on an electronic platform of IBBI, as per the timelines stipulated against each Form, in the table below:

No.	Period covered and scope	To be filed by	Timeline
1	2	3	4
IP 1	Pre Assignment: This includes consent to accept assignment as IRP / RP, the details of IP and the Applicant, the details of the person which will undergo the process, terms of consent, terms of engagement, etc.	IP	Within three days of signing of Form-2 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 or Form AA of the Regulations, as the case may be.
CIRP 1	From Commencement of CIRP till Issue of Public Announcement: This includes details of IRP, CD, and the Applicant; admission of application by AA; public announcement; details of suggested Authorised Representatives; non-compliances with the provisions of the Code and other laws applicable to the CD; etc.	IRP	Within seven days of making the Public Announcement under section 13.
CIRP 2	From Public Announcement till confirmation / replacement of IRP: This includes details of Authorised Representative selected by IRPs	IRP	Within seven days of confirmation/ replacement of IRP under section 22.

Forms under IBC related to Claims

	for a class of creditors; taking over management of the CD; receipt and verification of claims; constitution of CoC, first meeting of CoC; confirmation / replacement of IRP; applications seeking cooperation of management (if any); expenses incurred on or by IRP; relationship of IRP with the CD, Financial Creditors and Professionals; support services taken from IPE; non-compliances with the provisions of the Code and other laws applicable to the CD; etc.		
CIRP 3	From Appointment of RP till issue of IM to Members of CoC: This includes details of RP; details of registered valuers; handing over of records of CD by IRP to RP; taking over management of the CD; applications seeking cooperation of management (if any); details in IM; non-compliances with the provisions of the Code and other laws applicable to the CD; etc.	RP	Within seven days of issue of IM to members of CoC under regulation 36.
CIRP 4	From Issue of IM till issue of RFRP: This includes expression of interest; RFRP and modification thereof; evaluation matrix and modification thereof; non-compliances with the provisions of the Code and other laws applicable to the CD; etc.	RP	Within seven days of the issue of RFRP under regulation 36B.
CIRP 5	From Issue of RFRP till completion of CIRP: This includes updated list of claimants; updated CoC; details of the resolution applicants; details	RP	Within seven days of the approval or rejection of the resolution plan

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	of resolution plans received; details of approval or rejection of resolution plans by CoC; application filed with AA for approval of resolution plan; details of resolution plan approved by the AA; initiation of liquidation, if applicable; expenses incurred on or by RP; appointment of professionals and the terms of appointment; relationship of the RP with the CD, Financial Creditors, and Professionals; support services taken from IPE; non-compliances with the provisions of the Code and other laws applicable to the CD; etc.		under section 31 or issue of liquidation order under section 33, as the case may be, by the AA.
CIRP 6	Event Specific: This includes: a. Filing of application in respect of preferential transaction, undervalued transaction, fraudulent transaction, and extortionate transaction; b. Raising interim finance; c. Commencement of insolvency resolution process of guarantors of the CD; d. Extension of period of CIRP and exclusion of time; e. Premature closure of CIRP (appeal, settlement, withdrawal, etc.); f. Request for liquidation before completion of CIRP; and g. Non implementation of resolution plan, as approved by the AA.	IRP or RP, as the case may be.	Within seven days of the occurrence of the relevant event.

Forms under IBC related to Claims

New clause (1A) is Inserted by Notification No. IBBI/202021/GN/REG070, dated 15th March, 2021 (w.e.f. 15.03.2021), reads as under:

(1A) Where any activity stated in column (2) of table below is not complete by the date specified therein, the interim resolution professional or resolution professional, as the case may be, shall file Form - CIRP 7 within three days of the said date, and continue to file CIRP 7, every 30 days, until the said activity remains incomplete:

	Activity requiring filing of CIRP 7, if not completed by the specified date	Timeline for filing CIRP 7 for the first time	Timeline for subsequent filing of CIRP 7
	(2)	(3)	(4)
1	Public announcement is not made by T+3 rd day	Date specified in column (2) + 3 days	X+30th day, X+60th day, X+90th day, and so on, till the activity is completed.
2	Appointment of RP is not made by T+30 th day		
3	Information Memorandum is not issued within 51 days from the date of public announcement		
4	RFRP is not issued within 51 days from the date of issue of Information Memorandum		
5	CIRP is not completed by T+180th day		

T = Insolvency commencement date, and

X = Date of filing of CIRP 7 for the first time under column (3).

Provided that subsequent filing of CIRP 7 shall not be made until thirty days have lapsed from the filing of an earlier CIRP 7.

Clarification: Only one CIRP 7 shall be filed at any time whether one or more activity is not completed by the specified date.

Illustration

- (a) If public announcement is not made by T+3rd day, CIRP 7 shall be filed by T+6th day. Thereafter, if public announcement is made on T+16th day, no further CIRP 7 will be filed. However, if public announcement is not made till T+33rd day, CIRP 7 shall be filed on T+36th day.
- (b) If public announcement is not made by T+3rd day, CIRP 7 shall be filed by T+6th day. Thereafter, if public announcement is made on T+16th day, no further CIRP 7 will be filed. However, if RP is not appointed by T+30th day, though CIRP 7 becomes due by T+33rd day, it shall be filed on 30th day from the filing of first CIRP 7, that is, on T+36th day.
- (c) If public announcement is not made by T+3rd day, CIRP 7 shall be filed by T+6th day. Thereafter, if either public announcement is not made till T+33rd day or RP is not appointed by T+30th day, CIRP 7 shall be filed on T+36th day.]

Chapter 12

Practical aspects related to Claims under IBC

Verification of Claims by Interim Resolution Professional / Resolution Professional and Liquidator. (Swiss Ribbons Pvt. Ltd. & Ors v/s Union of India WP No. 99 of 2018)

The Hon'ble SC in its Judgment of Swiss Ribbon categorically mentioned that Resolution Professional has administrative powers for claims under CIRP and Quasi-Judicial powers for verification, admission or rejection and determination of valuation of claim under the liquidation.

Relevant observation of Supreme Court is as under:

59. Under the CIRP Regulations, the resolution professional has to vet and verify claims made, and ultimately, determine the amount of each claim and thereupon maintain a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it.

60. As opposed to this, the liquidator, in liquidation proceedings under the Code, has to consolidate and verify the claims, and either admit or reject such claims under Sections 38 to 40 of the Code. Sections 41 and 42, by way of contrast between the powers of the liquidator and that of the resolution professional, are set out herein below: -

41. Determination of valuation of claims.— The liquidator shall determine the value of claims admitted under Section 40 in such manner as may be specified by the Board.

42. Appeal against the decision of liquidator.—A creditor may appeal to the Adjudicating Authority against the decision of the liquidator accepting or rejecting the claims within fourteen days of the receipt of such decision.

It is clear from these Sections that when the liquidator — “determines” the value of claims admitted under Section 40, such determination is a

—“decision”, which is quasi-judicial in nature, and which can be appealed against to the Adjudicating Authority under Section 42 of the Code.

61. Unlike the liquidator, the resolution professional cannot act in a number of matters without the approval of the CoC under Section 28 of the Code, which can, by a two-thirds majority, replace one resolution professional with another, in case they are unhappy with his performance. Thus, the resolution professional is really a facilitator of the resolution process, whose administrative functions are overseen by the CoC and by the Adjudicating Authority.

The Hon'ble Supreme Court in *Jaypee Kensington Boulevard Apartments Welfare Association & Ors. Vs NBCC (India) Ltd. & ors Civil Appeal No. 3395 of 2020 dated 24.03.2021* held

“66..1.1.Taking note of the relevant provisions, this Court in the case of **Essar Steel** (supra) summed up the key role of the resolution professional in the following terms:

“48. ...Another very important function of the resolution professional is to collect, collate and finally admit claims of all creditors, which must then be examined for payment, in full or in part or not at all, by the resolution applicant and be finally negotiated and decided by the CoC.”

Based on these observations of the Hon'ble Supreme Court with respect to claim, vital functions of an Insolvency Professional (Interim Resolution Professional, Resolution Professional, or Liquidator) in the Insolvency Resolution Process or Liquidation Process is consolidation, verification, admission or rejection (in case of liquidation) and determination of valuation of claims. This function of the Insolvency Professional is based on the submission of claim by creditors and substantiation of claim by submission of proof of claim by creditors.

SUGGESTIVE CHECKLIST FOR VERIFICATION OF CLAIMS

1. Claims received from creditors collated and acknowledged of the date of receipt and serially numbered.

For keeping control on the total amount of claim a detailed working in excel is advisable.

2. The claims are segregated on the basis of class of creditors as follows: -

- **Operational Creditors**

- Supplier, Service Provider (Total claim amount)
- Workmen - Claim amount for 2 years + balance claim amount= Total claim amount
- Employee - Claim amount for 1 year + balance claim amount= Total claim amount
- Govt Dues - Claim amount for 2 years + balance claim amount= Total claim amount

(Income Tax, GST, Provident Fund, ESIC, etc.)

- **Financial Creditors (based on the security interest of each and also class of creditor)**

- Secured financial creditors (to segregate on basis of security interest)
- Unsecured financial creditor
- Home buyers – (additional information with respect to their status and agreement value)*
- Fixed Deposit Holders
- Other class of financial creditors

- **Other creditors**

- Preference shareholders
- Equity shareholders
- Not defined in above

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3. Claimants under each category can be sub - categorized i.e. the financial creditor can be sub - categorized as:-
 - Banks
 - NBFC's
 - Asset Reconstruction Companies/ Insurance Companies
 - Bond holders,
 - Debenture holders
4. Develop Excel sheet of list of creditors as under:- (Prepare separate Excel sheet for different types of creditors)
 - Sr. No.
 - Form No.
 - Date of claim
 - Date received
 - Creditor's name.
 - Claim amount
 - Amount admitted
 - Amount pending for verification
 - Amount not admitted
 - Date of Verification
 - Amount of claim substantiated
 - Description of Security Interest
 - If in Foreign Currency then (Amount in Foreign Currency)/ Exchange Rate
 - Remarks (whether received by email or physical copy)
 - Whether date payable in future date (discounted value)
 - Periodical payments – interval of payment

*With respect to homebuyers, additional information required with respect to agreement value, whether agreement is registered or not ,

is amount received, balance amount receivable, interest (if any receivable/ payable), list of home buyers who have not submitted their claims, Possession given. etc.

5. The list of creditors as prepared, needs to be updated periodically based on the claim received and transfer of debt due to creditors under regulation 28 of CIRP. However, the list of stakeholders once finalized and submitted to AA, cannot be modified by liquidator without permission of AA. A creditor may appeal to the Adjudicating Authority against the decision of the liquidator [accepting] rejecting the claims within fourteen days of the receipt of such decision under Section 42.

The list is available for inspection by the persons who have submitted proof of claim, by members, partners, directors and guarantors of the corporate debtor, displayed on the website, if any, of the corporate debtor, filed with Adjudicating Authority, uploaded on the IBBI website and are presented at the first meeting of the committee.

Above list will facilitate distribution u/s 53 and also preparation of Final Report in case of liquidation of Corporate Debtor.

Further, IBBI has over a period of time provided facilitation/guidance in order to adhere with provisions of IBC.

Orders/Circular issued by IBBI for duties of RP with respect to claims under CIRP.

- Non-consideration of claims and failure to respond by Insolvency Professional was considered as a contravention in one of the IBBI orders.
- Circular dated 03-01-2018 as issued by IBBI mentioned that an insolvency resolution professional shall not outsource any of his duties and responsibilities under the Code. And as per one of the IBBI orders, outsourcing the responsibility of verification of claims is a contravention of his duties and responsibilities.

Chapter 13

Frequently Asked Questions on Claims under IBC

1. Can IRP/RP accept claim of a creditor beyond 90 days in CIRP?

Ans: As per Regulation 12(2), a creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit the claim with proof to the interim resolution professional or the resolution professional, as the case may be, on or before the ninetieth day of the insolvency commencement date.

However, the period of 90 days is not mandatory but directory. The IRP/RP can accept claim of a creditor beyond 90 days till approval of Resolution Plan by the COC (as judicially decided).

2. What will happen if creditors don't file the claim by the last date of submission as mentioned in the public announcement in case of liquidation?

Ans: In case of liquidation, claims received post the last date for submission of claims as mentioned in the public announcement will not be entertained by the liquidator.

3. If the resolution plan is approved, whether the Government Authorities / other creditors who have not filed their claims during CIRP, can approach different judicial forums for recovery of their dues?

Ans: Once the resolution plan is approved all claims which are not part of a resolution plan shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect of a claim which is not part of the resolution plan.

4. When the creditor has used wrong form for submission of claims, whether IRP/ RP/ liquidator would disqualify the creditor from submission of claim?

Ans: No, claim will not be rejected on the basis that the claim is filed in wrong form.

5. Is there any time limit within which IRP/ RP / liquidator has to verify the claims?

Ans: Yes, in CIRP - IRP/ RP has to verify the claims within 7 days from the last date of the receipt of claims as per Regulation 13(1) of (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

In liquidation process, liquidator has to verify claim within 30 days as per Regulation 30 of Liquidation Regulations.

6. Who will bear the cost of proving proof of the debt?

Ans: Creditor who has submitted the claim, will have to bear the cost of proving proof of the debt.

7. Can workmen/employees of the Corporate Debtor authorize their Union to file workmen and/ employee's proof of claim with IRP/RP/liquidator on their behalf?

Ans: Authorised representative of workmen and/employee's Union of the Corporate Debtor can file proof of claim in prescribed form (single form) for all employees and workmen of Corporate Debtor.

8. Can a creditor withdraw/modify his claim which is already submitted?

Ans: Creditor can withdraw/modify his claim within a period of 14 days of original date of submission. Claim once submitted cannot be withdrawn after 14 days.

(Refer Section 38(5) of the Code)

9. How will the IRP/ RP/ liquidator will arrive at the Valuation of claim amount if the amount of claim is arbitrary?

Ans: Where the amount of claim is arbitrary, the IRP/RP/liquidator shall make the best estimate of the amount of the claims based on the proof of claim submitted and revise the claims when he receives additional information.

10. If the claim is received in foreign currency, at what value the claim will be admitted by IRP/RP/liquidator?

Ans: If the claim is received in foreign currency then it will be valued in Indian currency at the exchange rate as on the insolvency commencement date or liquidation commencement date.

11. If the claim is rejected by the Liquidator, what remedy do creditors have against such rejection?

Ans: The creditor may appeal to the NCLT for appropriate relief against the decision of the Liquidator within a period of 14 days of receipt of such decision. However, making an appeal does not guarantee admission of claim. (Refer Section 42 of the Code)

12. Is Law of Limitation in respect of debt is applicable for filing of application under section 7 or 9 of the IBC?

Ans: Yes, refer section 238A of IBC and Article 137 of the Law of Limitation which prescribes period of three years with in which application to be filed under IBC for initiation of CIRP.

13. If the amount of Financial Debt is of Rs. 3 Crore as reflected in the balance sheet of corporate debtor from the financial year ended 31.03.2013 onwards and corporate debtor defaulted in payment of debt from 01.04.2014 onwards. Can financial creditor file an application under Section 7 of the IBC today?

Ans: Yes, the financial creditor can file application under section 7 of the IBC by taking plea that the appearance of financial debt of Rs. 3 Crore in the balance sheet of the Corporate Debtor amounts to "Acknowledgement of Debt" under Section 18 of the Law of Limitation. As per section 18 of the Law of Limitation, if the Corporate Debtor acknowledges an amount of debt as payable within the Limitation period of three years, the limitation period is extended for another three years from the date of acknowledgement.

14. A bank gave loan of Rs. 5 Crores to Corporate Debtor in the year 2010. The Loan became NPA on 11.12.2013. The Bank regularly reminded CD for payment. CD also acknowledged the debt but expressed its inability to pay the Debt. The CD acknowledged debt on 15.12.2014, 23.05.2016 and 05.02.2018. Can the Bank file an application under section 7 of IBC today considering section 18 of Law of Limitation?

Ans: Yes, the bank can file application under section 7 of the IBC for initiation of the CIRP as the debt is acknowledged under limitation period as prescribed under section 18 of Law of Limitation.

15. **A bank granted loan of Rs. 10 crores to Corporate Debtor in the year 2012. The CD defaulted on loan on 31.12.2014 and the account of CD became NPA. The bank initiated action under SARFAESI Act and issued notice under section 13(2) of the SARFAESI Act on 15.06.2015. The CD filed application in High Court and High Court granted stay on invocation of action under SARFAESI Act. Meanwhile on 15.06.2020 the bank filed an application under Section 7 of the IBC for commencement of CIRP. Whether the application is barred by law of Limitation?**

Ans: The application of the Bank under section 7 of the IBC for initiation of CIRP is not barred under the Law of Limitation.

As per Section 14 of the Law of Limitation, the period during which the bank was restrained from taking any action of recovery, (i.e. from the date High Court order to the date of filing of application, - Period of five years (from 15.06.2015 to 15.06.2020) will be excluded under Law of Limitation for the purpose of filing of application under section 7.

16. **At the time of receipt of claim, whether Law of Limitation period to be considered by IRP/RP/ Liquidator?**

Ans: IRP/RP will have to consider the law of Limitation at the time of accepting any claim from the creditor as he cannot give new lease of life to expired claims. If time barred claims are accepted, then it will increase the fund requirement of the resolution applicant. IRP/RP must take into account the books of accounts which are in his possession and he should accept the claim whose entries are reflected in the account within time.

But this is not the case with liquidator as in the case of liquidation, claims of all creditors are to be settled.

17. **Claim form should be accompanied by proof of claim or any documentary evidence?**

Ans: Yes, every form for filing proof of claim of a creditor shall be supported by documentary evidence.

Examples of documentary evidence are as under:

Contract, invoices, order of Court, financial accounts, financial contract, amount drawn under facility, financial statement etc.

18. At the time of submission of claim if there are mutual credit and set-offs, how to determine the amount of claim?

Ans: In case of mutual dealings between the corporate debtor and any creditors, the sums due from one party shall be set off against the sums due from the other to arrive at the net amount payable to the corporate debtor or to the creditor.

For example:

X owes Rs. 100 to the corporate debtor. The corporate debtor owes Rs. 70 to X.

After set off, Rs. 30 is payable by X to the corporate debtor

19. Does filing of claim guarantee the payment of money by the IRP/RP/Liquidator to the Creditor?

Ans: No, the payment, if any to the creditor will be subject to the order of priority of distribution in case of CIRP/liquidation provided under section 53 of the Code.

20. What if a creditor submits a wrong claim or inflates the claim amount, or writes wrong particulars?

Ans: The submission of a claim by creditor is supported by Affidavit. Submission of wrong claim is punishable offence u/s 184 of IBC.

21. If the claim of a creditor was disputed by the Corporate Debtor, can creditor still submit the claim?

Ans: Yes, the creditor must make it clear in its claim form that the Corporate Debtor has disputed his claim.

22. Can a creditor submit a claim which is contingent?

Ans: Yes, the creditor must make it clear that the claim is contingent, and clarify the nature of contingency.

23. OC Ltd. is an Operational Creditor and FC Ltd. is a Financial Creditor of Corporate Debtor. FC Ltd. assigns its debt to OC Ltd. Now OC Ltd. wants to file its claim. Please advice?

Ans: Post assignment, OC Ltd. which is partly an operational creditor and partly a financial creditor shall submit its claim of the amount

Frequently Asked Questions on Claims under IBC

operational debt as operational creditor and of the amount of financial debt as financial creditor.

24. Whether a creditor holding decree against Corporate Debtor can file its claim with IRP/RP/liquidator?

Ans: The court decree amounts to crystallized debt and the creditor can file the claim before the IRP/RP/liquidator.

25. Whether interest on penal interest can form part of claim amount?

Ans: No, interest on penal interest cannot form part of claim.

Chapter 14

Case laws under The Insolvency and Bankruptcy Code, 2016 on Claims

1A. Whether claims of guarantors on account of subrogation which stand extinguished on approval of Plan can be applied to guarantees furnished by Ex-Directors.

The Hon Supreme Court in *Committee of Creditors of Essar Steel India Limited through Authorised Signatory v/s Satish Kumar Gupta & other C.A No.8766-87 of 2019 dated 15.11.2019* held that

“66. Section 31(1) of the Code makes it clear that once a resolution plan is approved by the Committee of Creditors it shall be binding on all stakeholders, including guarantors. This is for the reason that this provision ensures that the successful resolution applicant starts running the business of the corporate debtor on a fresh slate as it were.

It is difficult to accept the argument that that part of the resolution plan which states that the claims of the guarantor on account of subrogation shall be extinguished, cannot be applied to the guarantees furnished by the erstwhile directors of the corporate debtor.”

1B. Claims that may exist apart from those decided by the Resolution professional and the Adjudicating Authority [AA] and the Appellate Tribunal cannot be decided by other forums in terms of Section 60(6) of the Code.

The Hon Supreme Court in *Committee of Creditors of Essar Steel India Limited through Authorised Signatory v/s Satish Kumar Gupta & other C.A No.8766-87 of 2019 dated 15.11.2019* in para 67 of its order held that the Resolution plan once approved by the AA brings a closure to all claims and such claims that are not decided cannot be decided in other forums in terms of Section 60(6) of the Code.

1C. Claims filed after the submission of the Resolution Plan cannot be considered.

The Hon Supreme Court in *Committee of Creditors of Essar Steel India Limited through Authorised Signatory v/s Satish Kumar Gupta & other C.A No.8766-87 of 2019 dated 15.11.2019* in para 97 & 67 of its order held that

Claims filed after submission of Resolution Plan cannot be considered. The Court held that that a successful Resolution Applicant cannot suddenly be faced with “undecided claims after the Resolution plan submitted by him has been accepted as this would amount to a hydra head popping which would throw into uncertainty amounts payable by the prospective Resolution applicant who takes over the business of the corporate Debtor. All claims must be submitted to and decided by the Resolution professional so that the prospective Resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the Corporate Debtor.

1D. Claims filed after the completion of the CIRP cannot be considered.

The Hon Supreme Court in *Committee of Creditors of Essar Steel India Limited through Authorised Signatory v/s Satish Kumar Gupta & other C.A No.8766-87 of 2019 dated 15.11.2019 in para 98 of its order* held that claims filed after the completion of the CIRP cannot be considered.

1E. Claims based on documents on which stamp duty is not paid cannot be considered.

The Hon Supreme Court in *Committee of Creditors of Essar Steel India Limited through Authorised Signatory v/s Satish Kumar Gupta & other C.A No.8766-87 of 2019 dated 15.11.2019 in para 99 of its order* affirmed the decision of Hon NCLT and NCLAT where they had rejected the claim based on documents on which stamp duty was not paid. The Supreme Court further held that the subsequent payment of Stamp duty cannot assist in admitting the claim.

1F. Claims where there are disputes which are pending cannot be considered.

The Hon Supreme Court in *Committee of Creditors of Essar Steel India Limited through Authorised Signatory v/s Satish Kumar Gupta & other C.A No.8766-87 of 2019 dated 15.11.2019 in para 102 of its order* held that claims of Dakshin Gujarat Vij Company, Sales Tax Officer, Gujarat, Gujarat Energy Transmission Corporation Ltd and Indian Oil Corporation Ltd were disputed by the corporate Debtor and were admitted by the Resolution Professional at a nominal value of Rs 1/-. The Court held that the Resolution Professional was correct in admitting the claim at a notional value of Rs 1/- as these claims were disputed by the Corporate debtor.

2. Collation of claims of offshore creditors and assets of the Corporate Debtor outside India and other places are required to be under the control & custody of the Resolution Professional.

In *Jet Airways (India) Ltd (offshore Regional Hub/office) Holland v/s State Bank of India & Anr CA(AT) No 707/2019 dated 26.09.2019* the Hon NCLAT held that the Resolution Professional is required to collate the claims of all offshore creditors and take control and custody of the assets of the Corporate Debtor outside India & other places. However, for giving it effect, the Resolution professional is required to reach an arrangement or agreement with the administrator appointed pursuant to the proceedings initiated in Holland.

3. Claims will include all matured or unmatured claims, whether there is default or there is no default or whether the guarantees invoked or not.

The Hon NCLAT in *Export Import Bank of India v/s Resolution Professional of JEKPL Private Limited CA(AT) 304 of 2017 & 16 of 2018 and. Axis Bank Limited v/s Edu smart Services Private Limited CA(AT) 302 of 2017 dated 14.08. 2018* held that the question as to whether there is a default or not is not to be seen and that maturity of claim or default of claim or invocation of Guarantee for claiming the amount has no nexus with filing of claim pursuant to the Public Announcement.

4. Resolution Professional can only collate and verify the claims during the CIRP but cannot admit or reject the claim.

The Hon Supreme Court in *Swiss Ribbon Private Limited & Anr v/s Union of India & others Writ Petition (Civil) No. 99 of 2018 dated 25.01.2019*, held that the Resolution professional during CIRP has to collate and verify the claims and has only administrative powers as opposed to Quasi-Judicial powers. Whereas in Liquidation the Liquidator has Quasi-Judicial powers to verify, admit and reject the claims. During CIRP the power to admit or reject the claims is vested in the CoC.

5. Contingent claims can be given Differential treatment than that given to accepted claims.

The Hon NCLAT in *JSW Steel Ltd v/s Mahendra Kumar Khandelwal & others C.A (AT) nos 957 and others dated 17.02.2020* held that in a Resolution Plan, differential treatment can be given to contingent claims of Operational creditors than that given to Operational Creditors whose claims are accepted.

6. Operational Creditors have no right to representation on the CoC where the claims constitute less than 10% of total claims.

The Hon NCLAT in *Consolidated Engineering company and another v/s Golden Jubilee Hotels Private Limited CA(AT) No 501 of 2018 dated 12.12.2018* held that if on verification the claims of Operational creditors is less than 10%, the Operational Creditors have no Right of Representation on the CoC. The Unverified claims are not to be considered or taken into account while computing the 10%.

7. Filing of claims within 90 days of insolvency commencement date.

The Hon NCLT, Principal Bench clarified in *State Bank of India v/s Surya Pharmaceuticals Private Limited (IB)-904(PB)/2018 order dated 17.05.2019* that the provisions with regard to the filing of the claim within the stipulated period of 90 days as prescribed by Regulation 12(2) of the IBBI (insolvency Resolution Process for Corporate Persons) Regulation 2016 is not mandatory but directory.

8. Claims not provided for / not part of the Resolution Plan shall stand extinguished once the Resolution Plan is approved.

The Hon Supreme Court in *Ghanashyam Mishra & Sons Private Limited v/s Edelweiss Asset Reconstruction Company Limited Civil Appeal No 8129 of 2019 with WP No 1177 of 2020 & Civil Appeals No 1550-1554 of 2021 dated 13.04 2021* held that once the Resolution plan is approved all claims which are not part of a resolution Plan shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect of a claim which is not part of the Resolution plan. It further held that all the dues which including the statutory dues owed to the Central Government, State Government, Local authority if not part of the Resolution plan shall stand extinguished and no proceedings in respect of such dues for the date prior to the date on which the Adjudicating Authority grants its approval u/sec 31 could be continued.

9. Financial Creditors can make a claim on Principal Borrowers and Guarantors simultaneously.

The Hon NCLAT in *State Bank of India v/s Animesh Mukhopadya Resolution Professional of Zenith Finesse (India) Private limited CA (AT) No186 of 2021, dated 08.03.2021* held that the Financial Creditors can make a claim and initiate CIRP on the Principal Borrower as well as the Guarantor

simultaneously. The Hon NCLAT was following its orders in *SBI v/s Athena Energy Ventures Private limited 2018 SCC 394* and *Edelweiss Asset reconstruction Company Limited v/s Gwalior Bypass Projects Ltd Co (AT) 1186 of 2019 dated 08.03.21*.

10. Claim of lease rent on immovable property is admissible as operational creditor.

The Hon NCLAT in *Anup Dubey v/s NAFED CA (AT) No 229 of 2020 dated 07.10.2020* held that lease rent on immovable property is an operational debt and consequently an operational claim.

11. Claim based solely on Mortgage of property owned by the corporate debtor and where the Borrowing is by another group concern.

The Hon Supreme court in *Anuj Jain IRP of Jaypee Infratech Ltd. v/s Axis Bank Ltd Company Appeal (AT) (Insolvency) No. 243 of 2018* held that a claim based solely on Mortgage of property of the corporate debtor under CIRP and where the loan is taken by another group concern [the Borrowing Company], then the Appellant cannot be admitted as a Financial Creditor.

12. Claim based solely on holding pledge of shares owned by the corporate debtor and where the Borrowing is by another group concern.

The Hon Supreme Court in *Phoenix ARC Private Limited v/s Ketulbhai Rambhai Patel civil appeal no 5146 of 2019 dated 03.02 2021* held that a claim based solely on having a pledge of shares owned by the corporate debtor and where the borrowing is done by another group concern [the borrowing company], the claim cannot be admitted as a Financial Creditor.

13. Claim of Financial Creditor not to be considered in case of non -payment of CIRP costs [fees, CIRP expenses].

The Hon Principal bench NCLT Delhi in *Reliance Commercial Finance Ltd v/s Noble Resourcing Business and Solutions Private Limited CA-430/478 (PB) 2019 dated 12.04.2019* held that in case the Financial Creditor who is holding 42.78% voting share in the CoC does not contribute its share of 42.78% towards CIRP expenses then their share in the CIR process would not be considered.

14A. Dues of Provident Fund and Gratuity fund including interest is outside the purview of IBC.

The Hon NCLAT held in *Tourism Finance Corporation of India Limited v/s Rainbow Papers Limited CA(AT) No 354/364 / 404/1001 of 2019 dated 19.12.19* held that the dues of Provident Fund [PF] and Gratuity Fund [GF] are not assets of the corporate Debtor and are outside the purview of IBC. It was also held that the dues along with interest thereon are also payable for the period when the corporate debtor is under CIRP. Further, it was held that since PF and GF are not assets of the corporate debtor as the provisions of Section 238 of IBC 2016 which provides for an overriding effect over the 'Employees Provident Fund & Miscellaneous Provisions Act 1952 does not apply.

On further appeal by the Resolution Applicant, Kushal Limited to the Hon'ble Supreme Court against the order of NCLAT, the *Hon Supreme Court dismissed the appeal and upheld the NCLAT order in CA No 1920 of 2020 order dated 20.05.20.*

14B. Claim of Sales Tax Officer to treat VAT claim as a secured Financial Creditor in view of Section 48 VAT Act 2003 rejected.

The Hon NCLAT held in *Tourism Finance Corporation of India Limited v/s Rainbow Papers Limited CA(AT) No 354/364 / 404/1001 of 2019 dated 19.12.19* held that the claim of the sales Tax officer , Mehsana , Gujarat to treat the VAT claim as “ Secured Financial Creditor” in view of Section 48 of Gujarat vat Act 2003 [where it claimed First charge over the property of the dealer] was without merit as the IBC prevails over the VAT Act and also that such claims do not fall within the meaning of Financial debt as defined in IBC 2016 and are in the nature of operational creditors under IBC.

15. Section 52 Secured creditor in liquidation proceedings.

The Honble NCLAT in the matter of *Srikanth Dwarakanath v. Bharat Heavy Electricals Limited Company Appeal (AT) (insolvency) No. 1510 OF 2019 [2020] order dated 18.06. 2020* held that where overwhelming majority of secured creditors had relinquished their security interest into liquidation estate, a single secured creditor having minority percent share in the liquidation estate, cannot individually stay out of Liquidation process by invoking section 52 and thereby not relinquishing security interest in favour of the Liquidator. NCLAT ordered to complete the liquidation process as if all secured creditors had relinquished their security interest in favour of Liquidator.

16. Where it comes to notice of Liquidator that a secured creditor intends to sale assets, to persons who are ineligible in terms of section 29A, it is always open to reject application under section 52(1)(b), read with section 52(2) and (3).

In the matter of *State Bank of India v. Anuj Bajpai (Liquidator) in Company Appeal (AT) (Insolvency) NO. 509 OF 2019 dated 18.11.2019 NCLAT* at para 16 held that

“16. If during the liquidation process assets cannot be sold to a person who is ineligible under section 29A, the said provision only applicable to the 'Liquidator' but also to the 'secured creditor', who opt out of section 53 to realise the claim in terms of section 52(1)(b) read with section 52(4) of the 'I&B Code'.”

17. Law of Limitation

17A. Amount appearing in the balance sheet amounts to acknowledgement of debt under section 18 of Law of Limitation.

The Hon'ble Supreme Court in *Asset Reconstruction Company (India) Limited Vs Bishal Jaiswal & Anr [Civil Appeal No.323 OF 2021] dated 15.04.2021* held that amount appearing in Balance Sheet which representing amount of debt in a Balance Sheet of corporate debtor amounts to acknowledgement of debt under section 18 of Limitation Act, 1963.

17B. The amount of default acknowledged by Corporate Debtor from time to time amounts to acknowledgement of debt under section 18 of Law of Limitation.

The Hon'ble SC in *Laxmi Pat Surana v. Union Bank of India, Civil Appeal No. 2734 of 2020, dated 26.03.2021* held where the amount of default is acknowledged by the Corporate Debtor from time to time, amounts to acknowledgement of debt under section 18 of law of limitation and the financial creditor can file an application under section 7 of the IB Code, 2016.

17C. On default, Financial creditor initiated action under SARFAESI, and High Court stayed action under SARFAESI, meanwhile, Financial Creditor filed application under section 7 of IB Code, 2016. Whether period from the date of initiation of SARFAESI till the date of High court order be excluded under section 14 of Law of Limitation for the purpose of calculation of period under Law of Limitation.

Supreme Court in *Sesh Nath Singh & Anr. Vs Baidyabati Sheoraphuli Co-Operative Bank Ltd And Anr. [Civil Appeal no. 9198 of 2019]* dated 22.03.2021 held that in case where the Financial Creditor had, on default of corporate debtor and declaration of corporate debtor account as NPA, issued demand notice under SARFAESI, and High Court stayed action under SARFAESI, and meanwhile financial creditor filed an application under Section 7 of the IBC, period from the date of initiation of SARFAESI to the date of High Court order was to be excluded in computing the period of limitation for filing application under section 7 of the IBC ,for initiation of CIRP.

18. Claim of Government with respect to Spectrum in resolution of Telecom companies and AGR issue.

The matter was in Supreme Court with respect to collection of AGR (Adjusted Gross Revenue) issue related to telecom companies. Meanwhile certain telecom companies, from whom AGR dues with respect to spectrum were receivable by the Government, became insolvent and

- some went in CIRP and whose resolution plans have been approved/ Pending for approval, spectrum dues (AGR) have not been cleared and
- some companies have sold spectrum to other Telcos and closed down operations without payment of AGR to Government.

The question as to who will pay the AGR dues of insolvent telecom companies whose Resolution plans have been approved / pending for approval?

The NCLAT in the matter of *Union of India Vs Vijaykumar V. Iyer [Company Appeal (AT) (Insolvency) No. 733 of 2020]* dated 13.04.2021 ruled that on sanction of the resolution plan, the spectrum can be transferred to the successful resolution applicant only after payment of spectrum dues to government, though the dues are of “operational creditors”.

19. When company is under Moratorium under section 14, Enforcement Directorate cannot attach the property of the corporate debtor.

National Company Law Tribunal, Mumbai Bench in *of SREI Infrastructure Finance Ltd. Vs. Sterling SEZ & Infrastructure Finance Ltd. [C.P. 405/2018]* in M.A. NO. 1280/2018 dated 12.02.2019 held that Enforcement Directorate cannot attach property of the corporate debtor during CIRP Period. (This

decision was before insertion of section 32A, which has further clarified that matter).

20. In the Liquidation process, when the asset is under attachment by the Enforcement Directorate, can Liquidator sale such assets?

National Company Law Tribunal, Kolkata Bench in *SBER Bank v. Varrsana Ispat Ltd.* [IA /KB/2020 in C.P. (IB) NO. 543/KB/2017] dated 22.07.2020 allowed Liquidator to sale assets of the corporate debtor and complete Liquidation process in prescribed time though assets were attached by Enforcement Directorate.

21. Financial Creditor, if it is a related party of the corporate debtor, shall not have any right of representation, participation or voting in a meeting of the CoC.

The Hon'ble Supreme Court in *Phoenix Arc (P.) Ltd. Vs Spade Financial Services Ltd.* [Civil Appeal Nos. 2842 & 3063 OF 2020] dated 01.02. 2021 held that financial creditor if it is a related party of the corporate debtor, shall not have any right of representation, participation or voting in a meeting of the CoC in terms of proviso to section 21(2).

22. Notification of provision of section 10A for no-initiation of Insolvency proceedings for a maximum period of one year for default committed with effect from 25th March, 2020.

The Hon'ble Supreme Court in *Ramesh Kymal vs. Siemens Gamesa Renewable Power (P.) Ltd.* [Civil Appeal No. 4050 OF 2020] dated 09.02.2021 upheld the notification dated 5th June, 2020 for no-initiation of insolvency proceedings for a maximum period of one year for default committed with effect from 25th March, 2020.

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