

FAQs on IBC by IBBI

(as on 24.09.2025)

Disclaimer: This FAQ has been prepared to provide a general overview of common issues under the Insolvency and Bankruptcy Code, 2016 (IBC / Code) and the relevant regulations. It is not a legal instrument and must not be treated as legal advice or an authoritative opinion. In the event of any inconsistency or ambiguity, the provisions of the IBC, the rules and regulations framed thereunder, notifications and circulars issued by the competent authority, and binding judicial decisions shall prevail. The answers herein are illustrative, may omit factual nuances, and may not be suitable for application to specific cases without independent assessment.

Laws and interpretations evolve. While reasonable care has been taken to ensure accuracy as of the date above, no representation or warranty, express or implied, is made regarding completeness or currentness, and the Board shall not be liable for any loss arising from reliance on this material. Readers are advised to refer to the IBC, the applicable rules/regulations, official notifications/circulars, and relevant case-law for precise requirements, and to seek professional advice where necessary. Feedback and suggestions for improvement may be shared at cirp.monitoring@ibbi.gov.in.

| CORPORATE INSOLVENCY RESOLUTION PROCESS (CIRP) | | |
|--|--|---|
| Appointment/Replacement of IRP/RP | | |
| Sl. No. | FAQs | Comments |
| 1. | The CIRP admission orders are received by the IRP after 5-7 days. What shall be the start date for CIRP commencement to determine all other deadlines? Can the ICD be the date of receipt of such order? | As per section 5(12) of the IBC, the insolvency commencement date (ICD) of Corporate Insolvency Resolution Process (CIRP) is the date of the admission of the application. As per section 16(1), the IRP is appointed by the AA on the ICD. As per section 17(1), from the ICD, the management of affairs of CD are vested in the IRP and the Board of Directors is suspended. Accordingly, the ICD is typically the date of the order itself, not the date of receipt of order. The IP may |

| | | |
|----|--|--|
| | | subsequently take exclusion on a case-to-case basis from Adjudicating Authority wherever required. |
| 2. | The IRP is required to make public announcement of invitation of claims in both English and Vernacular papers. Whether it is compulsory to put in vernacular language? | <p>Yes. According to regulation 6(2)(b)(i) of the CIRP Regulations, the following is stated:</p> <p><i>‘The public announcement referred to in sub-regulation (1) shall: (b) be published- in one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, of the corporate debtor and any other location where in the opinion of the interim resolution professional, the corporate debtor conducts material business operations’.</i></p> <p>Therefore, it is compulsory to put public announcement in one English newspaper in English language and in one regional newspaper in vernacular language.</p> |
| 3. | The IRP is required to publish the public announcement (PA) at the places where the registered office of CD is situated. However, where he is not able to ascertain all its operational locations due to lack of co-operation from the management, can the PA be published in other locations at a later date? | <p>According to regulation 6(2)(b)(i) of the CIRP Regulations, the following is stated:</p> <p><i>‘The public announcement referred to in sub-regulation (1) shall: (b) be published- in one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, of the corporate debtor and any other location where in the opinion of the interim resolution professional, the corporate debtor conducts material business operations’</i></p> |

| | | |
|----|---|--|
| | | The public announcement in such newspaper must be made where the registered office of CD is situated as per records with MCA and also such immediately known locations where material business operations are conducted within specified timelines (within three days from ICD). In other locations the IRP should make such PA as soon as it comes to his notice but must indicate that the timelines as provided in first PA. |
| 4. | In absence of the books of accounts, it is difficult for the RP to admit the claim and constitute the COC. How should the RP proceed in such cases? | The RP should consider the documents/annexures submitted by the claimant. He may also obtain list of creditors or related information from NESL and the applicant creditor if available. He must also use available information such as bank account details, records such as MCA Records, record of charges, income tax & GST records, EPFO statements etc. to admit claims. Thereafter, RP must update information as and when received. |
| 5. | Whether RP needs to wait until decision in the 19(2) petitions seeking books of accounts or not before constituting CoC? | The RP must constitute CoC within specified timelines based on admitted claims and not simply wait for orders under Section 19(2). Additionally, the RP should also pursue for urgent mentioning of such cases. |
| 6. | If the Sec 12A withdrawal application is filed before AA before COC constitution, and the said petition is pending for hearing, whether the IRP must constitute the COC or wait till Sec 12A orders? | The IRP should continue with the CIRP, including the constitution of the COC, even if a section 12A withdrawal application is pending. The process can be stopped or modified later, depending on the outcome of such application. |
| 7. | Whether the Form II and Form III should be filed with IPA if the IRP is continuing as deemed RP as he is neither replaced with another IP as RP, nor he has been approved with requisite 66% voting to become RP? | Yes, he has to file. The IRP is to add assignment as an RP while mentioning in the comments that he is acting as a deemed RP. The IRP is required to continue to perform all functions as that of RP till he is replaced or confirmed. |

| | | |
|---------------------------|--|---|
| 8. | If the Liquidation order is pronounced by the AA, then how and up to what date the Form II and Form III to be filed with IPA by the IRP who is continuing as RP? | The IRP has to file Form II within 7 days of demitting office as IRP and file Form III within 7 days of demitting office as RP (Including where IRP continues as RP pending confirmation). |
| 9. | Under Section 22(2) where the CoC does not resolve either the IRP to continue as RP or to replace the RP and simply defer the agenda, what are the power of IRP or RP? | <p>According to regulation 17(3) of the CIRP Regulations, the following is stated:</p> <p><i>‘Where the appointment of resolution professional is delayed, the interim resolution professional shall perform the functions of the resolution professional from the fortieth day of the insolvency commencement date till a resolution professional is appointed under section 22.’</i></p> <p>If the CoC doesn't resolve to continue the IRP as RP or replace the RP and defers the agenda, the IRP shall continue to function as per the terms of Regulation 17(3) of CIRP Regulations. However, it is duty of IRP to place agenda in this regard.</p> |
| 10. | Can IRP appointed by NCLT from IBBI Panel, also be replaced by COC? | Yes, an IRP appointed by the NCLT from the IBBI Panel can be replaced by the CoC, as per the provisions under section 22 of the IBC. The CoC can resolve to replace the IRP/RP with another IP. |
| Claim Verification | | |
| 12. | Regulations provides that creditors are permitted to file claims till 90 days from date for commencement of insolvency proceedings. There are judicial | <p>Regulations 12 & 13 of CIRP Regulations read as follows –</p> <p><i>12. Submission of proof of claims.</i></p> |

| | | |
|--|--|--|
| | <p>pronouncements requiring RP to accept claims beyond 90 days. Whether RP is duty bound to reject claims submitted after 90 days? Moreover, whether RP is duty bound to reject claims submitted after submission of resolution plan by resolution applicants?</p> | <p><i>(1) A creditor shall submit claim with proof on or before the last date mentioned in the public announcement.</i></p> <p><i>Provided that a creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit his claim with proof to the interim resolution professional or the resolution professional, as the case may be, up to the date of issue of request for resolution plans under regulation 36B or ninety days from the insolvency commencement date, whichever is later:</i></p> <p><i>Provided further that the creditor shall provide reasons for delay in submitting the claim beyond the period of ninety days from the insolvency commencement.</i></p> <p>13. Verification of claims.</p> <p><i>(1) The interim resolution professional or the resolution professional, as the case may be, shall verify every claim, as on the insolvency 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.</i></p> <p><i>(1A) Where the interim resolution professional or the resolution professional, as the case may be, does not collate the claim after verification, he shall provide reasons for the same.</i></p> <p><i>(1B) In the event that claims are received after the period specified under sub-regulation (1) of regulation 12 and up to seven days before the date of meeting of creditors for voting on the resolution plan or the</i></p> |
|--|--|--|

| | | |
|-----|---|---|
| | | <p><i>initiation of liquidation, as the case may be, the interim resolution professional or resolution professional, as the case may be, shall verify all such claims and categorise them as acceptable or non-acceptable for collation.</i></p> <p>The RP is duty bound to follow Code and all judicial pronouncements in the assignment. The RP should accept claims wherein orders have been made by AA.</p> |
| 13. | <p>If Claim under question is the subject matter of litigation of CD, how is the RP/IRP required to deal with such claim?</p> <p>If there is litigation before NCLT/NCLAT/SC on the claim admitted/rejected/partially admitted or rejected. How is the RP/IRP required to deal with such claim?</p> | <p>All claims which are subject matter of litigation of the CD, should be disclosed in the Information Memorandum. The RP should act as per Regulation 14(1) which provides that: <i>‘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 based on the information available with him.’</i></p> <p>The treatment given to such claim by the IP shall continue till the outcome of such decision before the Adjudicating Authority/NCLAT/SC. In case of any interim order by any court or judicial authority, IP to act accordingly.</p> |
| 14. | If no claims are received after public announcement of CIRP, what actions can be taken by IRP? | The IRP should act as per Regulation 6A which provides that the IRP should send a communication with the public announcement to all creditors named in the latest books via post or email (where such contacts exist). |

| | | |
|-----|---|---|
| | | IRP should also obtain details from NeSL of any creditors. The IP may submit such information to AA where no claim is received even thereafter. |
| 15. | If any creditor having balances in the CD's books, does not submit claim, in spite IRP/RP having sent email/letter to the creditor, whether the same is to be admitted? | <p>The IRP should act as per Regulation 6A which provides that the IRP should send a communication with the public announcement to all creditors named in the latest books via post or email (where such contacts exist).</p> <p>The IP should endeavour to receive and collect as many claims as possible by sending individual communication to all known creditors. In real-estate cases, IPs must send individual communications to all known home-buyers.</p> <p>However, if any creditor having balances in the CD's books, does not submit claim, in spite IRP/RP having sent email/letter to the creditor, the same should be stated in the IM.</p> |
| 16. | If the books are not updated, and the claim is submitted along with sufficient supporting documents, can the IRP/RP accept the same even though the same is not matching with the books? | If the books are not updated and a claim is submitted with sufficient supporting documents, the IRP/RP can accept the claim, however, the supporting documents should provide adequate proof of the validity of the claim. IP shall also make an effort to reconcile, revise and updation of the books of accounts after taking into consideration such claims. |
| 17. | Banks are charging Penal interest / default interest as per their card rate which is some time very unreasonable and high say more than 20 pct. Should IRP / RP consider such high rate of Interest while verifying the claims? | <p>Financial Institution such as Banks as defined under the Code are regulated entities hence interest and other charges charged by such institutions as per the applicable loan document should be included in the claims.</p> <p>However, for unregulated financial or operational creditors, the RP may examine the transactions from the perspective of extortionate transactions.</p> |

| | | |
|---|---|---|
| 18. | If PF department does not submit their claim as per IBBI liquidation process regulations/formats, despite instructions, can the claims be rejected by IRP/RP? | As per recent judicial pronouncements, creditors including EPFO can file their claims other than in prescribed format with supporting verifiable documents and IPs should consider the same. IP should not reject such claims merely on technical grounds. |
| Constitution/conducting CoC Meetings | | |
| 20. | In case there are more than one operational creditor having individual debt more than 10% of total debt, whether they all shall be part of CoC (Committee of Creditors) or only one of them can represent all such creditors? | All individual OCs having more than 10% are to be invited to CoC meetings. Where the cumulative voting share of OCs is 10%, they may amongst themselves nominate a representative to participate in CoC meetings. |
| 21. | Whether CoC meetings could be conducted on Sunday or holidays? | Yes. There are no specific restrictions on conducting CoC meetings on Sundays or holidays under the IBC. However, the convenience of members of CoC have to be taken into account for facilitating maximum participation subject to other constraints such as deadline for any CIRP activity or other related issues. |
| 22. | Whether suspended directors could be represented by their legal counsel in CoC meetings? | The CoC is akin to the Board of Directors. Therefore, the directors must attend the meetings personally, except OCs who will be represented by their authorised representative. |
| 23. | Whether the Notice of the COC meetings to be informed to all the Creditors or only to the COC members and Representative of the suspended directors? | Under Section 24(3), notice of each CoC meeting must go to (i) all CoC members (including any authorised representatives under Section 21), (ii) the suspended board of directors or the partners, as applicable, and (iii) operational creditors (or their representatives) only if their aggregate dues are at least 10% of the total debt. |

| | | |
|-----|--|--|
| 24. | When a Section 10 application is admitted but no claimant comes forward to file claims after Public Announcement and after verifying books of CD there is no surviving financial creditor, then should IRP wait for 90 days from ICD to ask AA for directions or should IRP file IA after 30 days from ICD when it is clear that there are no claimants? | <p>An application under Section 10 is admitted only after default. IP must ascertain the details from the creditor against whom such default was committed.</p> <p>Even after such correspondence if no claim is filed, then orders of AA must be obtained.</p> |
| 25. | When no CoC can be constituted due to only claims from related-party FC and related-party OC filing claims, should the CoC be formed with a single related-party OC as the code only bars related-party FC from participating in CoC, but no such bar is there on a related-party OC? | If all creditors are related parties, the RP should approach the AA for further orders. |
| 26. | Whether CoC meetings can be conducted at the office of a creditor or bank? | There are no restrictions regarding the same and the same can be conducted as per the convenience of CoC. |
| 27. | Whether it is necessary to record the proceedings of a CoC meeting in case of its a physical meeting? | There are no explicit requirements for recording. However, an IP can do so for preparation of minutes after obtaining the consent of members of CoC. |
| 28. | Can CoC be formed if claim verification of a creditor after submission of all documents, is pending at the end of RP? | <p>It is the duty of RP to form CoC within 30 days of ICD.</p> <p>He should verify claims without delay so that CoC can be formed at the earliest. Pendency of verification should be avoided. IRP should invariably obtain list of creditors from NeSL and other sources including the application.</p> |

Appointment of Professionals

| | | |
|-----|---|--|
| 29. | What are the guidelines on fee sharing between RPs and IPEs – fixed as well as success fee / variable? | <p>Fees of the IP and the IPE are separate—each must raise its own invoice and be paid directly into their respective bank account as per clauses 25B and 25C of the Code of Conduct for IPs. Further, as per clause 26A, no fee-sharing is permitted.</p> <p>For success/variable fees, the performance-linked incentive under Reg. 34B of the CIRP Regulations Performance-linked incentive fee is meant only for IPs.</p> |
| 30. | How are IPEs different from other professionals? What exactly do we mean by professionals? | The key difference is that IPEs are recognised by IBBI. Whenever an IP requires support services, these should ordinarily be availed from IPEs, as they are institutionally equipped and more conversant with the requirements of the IBC framework. |
| 31. | If CoC fails to approve fee for professional, selected after due process, what are the remedies available to RP and the concerned professional? | The RP should first obtain CoC approval for fees of the professional before appointing them. This would avoid confusion on fees and future disputes. |
| 32. | Can the IRP/RP/Liquidator appoint other IPs to support him in an Insolvency Resolution/Liquidation Process? | Yes IRP/RP/Liquidator can appoint professionals including IP/IPE for support services. |
| 33. | Should the fees payable to IBBI on professionals' fees @ 1% be deducted from professional fees or its over and above such professional fees? | The 1% fee payable to IBBI on the fees of professionals is over and above the professional's fee, and not to be deducted from the amount payable to the professional. |

| | | |
|-----|---|--|
| | | The professional is entitled to receive the full fee as approved by the CoC & AA. This fee is also part of the CIRP costs in addition to the amount payable to the professional. |
| 34. | Whether IP is required to issue newspaper advertisements for appointment of professionals? | There is no mandate to issue newspaper advertisements for appointment of professionals. IPs should in consultation and with approval of CoC appoint a professional. |
| 35. | Whether L-1 fee can be the sole criteria for appointment of a professional? | RP should decide on the terms of appointment of professionals in consultation and with approval of CoC. |
| 36. | Whether the same professional can be appointed in more than one processes conducted by an IP, especially when funds are not available to make timely fees to the professionals and other professionals are not readily available? | Yes, same professional can be appointed. |
| 37. | Whether IP is required to incur expenses from his own sources for payment of fee to professionals in case no funds are available with CD and COC is also not contributing? | No, the IP should not deploy personal funds for conducting the CIRP. Professionals must be appointed only after obtaining prior approval of fees from the CoC. In case of any difficulty in arranging funds, the RP should formally request the CoC to provide the necessary finances, and if the issue persists, seek suitable relief from the AA. |
| 38. | In case of AR's appointment for Homebuyers a CIRP of real estate, when is the effective date of AR's appointment, the date of application for appointment of AR filed with AA or from the date of order by AA? In case of delay in order by AA, can AR play an official role or IRP/RP should act in AR's place and facilitate voting for the homebuyers? | Regulation 16A(2) has been amended in this regard which reads now to state that once the application for appointing an AR is filed and is pending, the insolvency professional who has been selected to be the AR steps in as an interim representative for the homebuyer class. During this interim period, they have the same rights and duties as an AR—including attending CoC meetings, collecting instructions from homebuyers, and casting votes for the class. |

| Withdrawal/settlement | | |
|-------------------------------------|---|--|
| 39. | In an CIRP, the Applicant and CD may execute settlement agreement which IRP/RP files with AA. Under such circumstances, when should the IRP/RP stop discharging its duties with regard to CIRP? | The IRP/RP should continue discharging their duties with regard to the CIRP until the AA approves the withdrawal application under section 12A. Once the AA approves the withdrawal, the CIRP process comes to an end, and the IRP/RP's duties cease. |
| 40. | Whether withdrawal application could be filed without Bank Guarantee? | No. The requirement for a bank guarantee in a withdrawal application is contained in Regulation 30A(2) of CIRP Regulations. |
| 41. | Whether withdrawal application could be filed by another FC who was not the applicant in case of application u/s 7? | Another financial creditor who was not the applicant cannot file withdrawal application. |
| 42. | Upon filling of 12A application to NCLT and until its disposal, whether CIRP should be pursued by IRP/RP or should it deemed to be under stay? | Upon filing a Section 12A application, the CIRP should be continued by IRP/RP until the AA decides the application. |
| Custody/control of CD/Assets | | |
| 43. | It is common for NCLAT to direct IRP to not to constitute CoC in appeal application filed by promoter. Whether IRP / RP should continue to discharge its duties with regard to CIRP? Whether minimum fee regulations will apply to stay period? | <p>The IP should continue with the process if it has not been explicitly stayed by NCLAT. He should continue with the process including public announcement, collection of claims, and inform all creditors that CoC formation has been stayed by NCLAT. In the absence of CoC, he may obtain approval/directions of NCLAT on all matters in which CoC approval is necessary.</p> <p>Meanwhile, the RP should take all necessary steps for expeditious disposal of the application in NCLAT.</p> |

| | | |
|-----|--|---|
| | | The minimum fee regulations will apply in such cases as he is running the process. |
| 44. | Whether Board meetings are required be held by directors during CIRP period? | In this regard, the compliance of provisions of the Companies Act, 2013 be done. |
| 45. | Can Custody and Control be symbolic (public announcement pasted on all offices of CD) rather than IRP/ RP physically visiting the CD office and taking physical custody and control? | No, it is the duty of the IRP/RP to ensure that they have full physical control over the assets to protect and preserve them. As such custody and control cannot be symbolic. |
| 46. | How to take control of CD when the registered office or any other place of business is not in existence and directors are also not reachable? | In cases where the registered office or other places of business are not in existence and directors are unreachable, the IRP/RP may get information from CoC and thereafter may seek assistance from local authorities or seek directions from the AA to take control of the corporate debtor. If the records show that the company is non-operational and without assets, place a report before the CoC and for consideration of liquidation in line with Reg. 40D factors (e.g., prolonged non-operations, obsolescence, absence of assets/intangibles), and may seek appropriate orders from the AA. |
| 47. | Whether the process of handover of charge by the directors to RP, need to be video recorded? | There is no explicit requirement in the IBC to video record the handover of charge by the directors to the RP. However, maintaining proper documentation and evidence of the handover process is necessary. RP must also take guidance from Regulation 3A & 4 of CIRP Regulations. |
| 48. | What should an RP do in case applications filed under section 19 are not disposed of by AA and directors are not even appearing after notices are issued to them? | RP after apprising the CoC may take steps for disposing of the section 19 application including approaching the AA for urgent hearings. RP can also approach the AA with request for issuance of non-bailable warrants against such directors. RP must also take guidance from Regulation 3A & 4 of CIRP Regulations. |

| | | |
|-------------------------------|--|---|
| 49. | What is the course of action against statutory auditor who is not providing audit papers required to be maintained in accordance with auditing standards? Whether RP is required to file complaint for disciplinary action before ICAI also? | <p>Under Section 19(2) of the Code, the RP can file an application before the AA seeking necessary directions against any person required to assist or cooperate who fails to do so, including the statutory auditor. In view of the above, RP should file an application before the AA.</p> <p>Further, where a statutory auditor is not providing relevant information, the RP may file a complaint with the relevant regulatory authority, such as the Institute of Chartered Accountants of India (ICAI), for disciplinary action. The RP may also make a complaint in NFRA against such auditor.</p> |
| Avoidance Transactions | | |
| 50. | Whether filing of application for Avoidance transaction should be approved by CoC? | <p>There is no requirement for CoC approval regarding filing of application for avoidance transaction. However, information regarding avoidance actions may be shared with CoC as they may facilitate the identification of avoidance transactions and make suggestions in the application regarding avoidance action.</p> <p>IP should also take information from CoC in terms of Regulation 4 which states that the IP must obtain relevant information from creditors, including audit reports, valuation reports, stock statements, and other documentation that assists in identifying avoidance transactions.</p> |
| 51. | Whether preferential transactions u/s 43 for more than 1 year and for more than 2 years (in case of related party) could be pursued under Sec 66? | Any such transaction, if it satisfies the conditions provided in section 66, must be pursued under section 66. |

| | | |
|-----|---|---|
| 52. | Whether Undervalued transactions for more than 1 year and for more than 2 years (in case of related party) could be pursued under Sec 66? | Any such transaction, if it satisfies the conditions provided in section 66, must be pursued under section 66. |
| 53. | Whether forensic audit is mandatory to establish or otherwise, the avoidance transactions? | Forensic audit is not mandatory. It is for the IP to decide whether forensic audit is necessary. Before conducting forensic audit, IP must discuss the same with CoC and get CoC approval for fees of such forensic audit. |
| 54. | What action can be taken by RP, If COC is not agreeing for application for Avoidance transactions to AA due to additional cost of CIRP? | It is the duty of IP to file avoidance applications. If IP is able to make out a case for avoidance action, he may seek direction from AA in this regard. |
| 55. | How to proceed for filing of avoidance applications in case books of accounts are not handed over to RP / Liquidator, especially when there are no concrete findings of the transaction auditor from the other available documents like bank statements etc.? | If the books of accounts are not handed over and there are no concrete findings from the transaction auditor, the RP or Liquidator may seek information from creditors including forensic audit conducted in the past, or use other available means to obtain the necessary information for filing avoidance applications. IP should also take information from CoC in terms of Regulation 4 which states that the IP must obtain relevant information from creditors, including audit reports, valuation reports, stock statements, and other documentation that assists in identifying avoidance transactions. |
| 56. | If the review of immediately two preceding financial year records/financials does not provide any suspicious transactions, whether the RP is required to go beyond two years for examining the possibility of fraudulent transactions if any? | Section 66 does not provide for any limit on look back period. |

| Issuance RFRP/IM/Eligibility | | |
|------------------------------|---|---|
| 57. | Whether RFRP document needs to get approved from CoC? | Yes. The Request for Resolution Plan (RFRP) is a key document that sets out each step in the process, and the manner and purposes of interaction between the resolution professional and the prospective resolution applicant, along with corresponding timelines. Since these aspects directly impact the conduct of CIRP, the RFRP document requires approval of the CoC . The RP prepares the draft in consultation with CoC, but it must be placed before the CoC for approval. |
| 58. | If no books or documents are available with the CD for the last 2 years or more and there is no possibility of preparing the Financials with reliable information, can the IRP/RP file for liquidation of CD without preparing the Information Memorandum as per Explanation to Section 33(2) of IBC? | <p>No, the absence of books or documents for the last two years or more and inability to prepare reliable financials should not serve as the sole criteria for filing liquidation of the Corporate Debtor without preparing the Information Memorandum. Certain criteria for liquidation are specifically laid down under Regulation 40D.</p> <p>Even when books and documents are unavailable, the IP should exhaust all available means to gather information as prescribed under Regulation 4, which empowers the IP to obtain information from creditors, including valuation reports, stock statements, receivables statements, audit reports, bank statements, and other relevant documentation that can assist in preparing the Information Memorandum and conducting the resolution process. The IP must make diligent efforts to reconstruct the financial position through alternative sources and stakeholder cooperation before considering liquidation, ensuring that the decision is based on substantive grounds rather than mere unavailability of primary records.</p> |

| Approval of Resolution Plan | | |
|-----------------------------|--|---|
| 59. | COC approved resolution plan and is pending for adjudication. Later Hon'ble NCLT issues direction to comply with distribution in accordance with Rainbow judgement and hence RA wants to renegotiate with COC to enable revised distribution in line with Rainbow judgement. Can Resolution Plan once approved by COC be renegotiated by RA? | RP is required to abide by all judicial directions. |
| 60. | Whether a resolution plan not complying with section 30(2) (b) and other provisions of the code is required to be placed in the CoC for decision? | <p>As per Section 25 of the Code, all resolution plans have to be presented before CoC. Further, Regulation 39(2) of CIRP Regulations also states that</p> <p><i>'The resolution professional shall submit to the committee all resolution plans along with the details of non-compliant plans and following transactions, if any, observed, found or determined by him..'</i></p> <p>However, only compliant plans are to be voted upon by CoC as per Section 30(3) of the Code.</p> |
| Remuneration of IRP / RP | | |
| 61. | If there is stay on formation of CoC, but AA orders for continuance of all other CIRP activity, how an IRP/RP should function in absence of COC? | The IP should continue with the process if it has not been explicitly stayed by NCLT. He should continue with the process including public announcement, collection of claims, and inform all creditors that CoC formation has been stayed by NCLT. In the absence of CoC, he may obtain approval/directions of NCLT on all matters in which CoC approval is necessary. |

| | | |
|-----|---|---|
| 62. | What are the remedies available to IRP / RP to recover approved remuneration from the members of CoC? | IP may file an IA before the AA for the same. |
| 63. | Can an IRP/RP/Liquidator accept the remuneration less than Rs. 1 Lac per month if CoC/SCC decides to pay a remuneration less than the amount prescribed in the regulations? | CoC is empowered to fix fee. However, Regulation 34B of CIRP Regulations has specified the minimum fixed fee of the IRP/RP that shall be decided by the applicant or the CoC. It is not applicable to liquidation cases. So, the compliance of regulations is to be observed at the time of approval of the fees by the CoC. |
| 64. | If the CD has no assets, no bank balance, no operations, no employees, and no creditors filing their claims, then who will decide/pay the remuneration of the IRP/ RP for conducting the Resolution Process? | <p>The applicant shall fix the fee for the IRP and if, CoC is constituted, the CoC shall fix the fee of the RP.</p> <p>In terms of regulation 33, 34 and 34B of CIRP Regulations read with Schedule-II to said regulations, the fee may be contributed by the applicant/CoC and shall be included in the IRPC. If the same is not contributed, the IP should approach AA for the same.</p> <p>Further, in such cases, the IP should endeavour to close the proceedings as early as possible.</p> |
| 65. | If the CD has no operations and no cash-flow, and only related-party FC are there in claimants - who cannot form the CoC, then who will approve the IRP/ RP fees and other CIRP costs? Can it be the Government claimant sitting as the sole OC in the CoC? | <p>The Government as OC can be a sole CoC member. The CIRP costs are also required to be approved by them.</p> <p>In terms of regulation 34B of CIRP Regulations read with Schedule-II to said regulations, the fee may be paid from the funds, available with the corporate debtor, contributed by the applicant or members of the committee and/or raised by way of interim finance and shall be included in the insolvency resolution process cost.</p> <p>Further, in such cases, the IP should endeavour to complete the proceedings as early as possible.</p> |

| | | |
|---|--|--|
| 66. | Whether RP is required to work without receiving the monthly remuneration which has been approved by the COC in situations like when no funds are available with CD, assets and books of accounts are not handed over to RP or assets are insufficient to meet out the CIRP costs? | In situations where the CD has no funds or realizable assets to meet CIRP costs, the RP should seek contributions from CoC members. If CoC does not contribute, RP may approach the AA for suitable directions. |
| 67. | Whether RP can resign in case CIRP costs are not contributed by COC? | RP can resign in terms of the process prescribed under the Code and Regulations. |
| Monitoring/Implementation of Resolution Plan | | |
| 68. | Before full implementation, that is before full payment to the creditors by SRA, whether SRA can take over the CD and run it? | The terms of the resolution plan approved by the AA will govern this aspect. |
| 69. | Is it mandatory for SRA to nominate RP as a member of Monitoring Committee? | <p>It is not mandatory for the SRA to nominate the RP as a member of the Monitoring Committee. Regulation 38(4)(b) of the CIRP Regulations states the following:</p> <p><i>‘(b) The monitoring committee may consist of the resolution professional or any other insolvency professional, or any other person, including representatives of the committee and representatives of resolution applicant(s), as its members:</i></p> <p><i>Provided that where the resolution professional is proposed to be part of the monitoring committee, the monthly fee payable to him shall not exceed the monthly fee received by him during the corporate insolvency resolution process.’</i></p> |

| | | |
|-----|---|--|
| | | |
| 70. | Whether Minimum fee of IP criteria is applicable during the period of Monitoring/Implementation of Resolution Plan? | The minimum fee criterion is not applicable. |

LIQUIDATION

Appointment/Replacement of Liquidator

| | | |
|-----|--|---|
| 71. | Whether liquidator could be replaced by SCC? | As per regulations, the stakeholder consultation committee, after recording the reasons, may by a majority vote of not less sixty-six per cent., propose to replace the liquidator and shall file an application before AA, after obtaining the written consent of the proposed liquidator. |
| 72. | Whether there is any minimum fee applicable for liquidators? | No. Regulation 4(2)(b) provides the fee to which the liquidator shall be entitled to, if the stakeholders do not fix the fees of the liquidator. The CoC or the stakeholders are free to fix fees of the liquidator. |
| 73. | Can the RP who has given willingness to continue as the Liquidator, withdraw his continuation as the Liquidator subsequently? | Yes. |
| 74. | The liquidator is appointed at a remuneration payable in accordance with regulations based on realizations and distribution. However, no realisations could be made specially when assets are in the form of receivables. The liquidator is also not in a position for early liquidation. In such cases who will pay the liquidation expenses and whether no fee is payable to the liquidator? | When the only substantial asset of the Corporate Debtor (CD) consists of receivables, the Liquidator should consult the SCC regarding their auction or distribution to stakeholders and thereafter seek early dissolution of the CD. |

Constitution/Conducting SCC Meeting

| | | |
|-----|---|---|
| 75. | Operational creditors having 80% voting power are neither participating in SCC meetings nor casting e-voting. Financial Creditors having 20% voting power | Reg.31A(9) provides that the SCC shall advise the liquidator, by a vote of not less than sixty-six percent of the votes cast. Hence, only stakeholders, who vote, would be counted. |
|-----|---|---|

| | | |
|--|--|--|
| | voted in favour of resolution. Whether resolution would be considered passed with 100% voting or 20%? | |
| 76. | Is it mandatory to conduct SCC meetings on regular basis after the first meeting, if there is no material matters to be consulted with SCC? | Yes, the liquidator must conduct SCC meetings on a regular basis as per the regulation 31A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. |
| 77. | If the employees and/or workers are unable to choose a person as their representative, whether all the employees and/or workers are to be allowed in the SCC meeting? | Only the representatives can attend the meeting. |
| 78. | As per amended regulations, SCC should consist of all the creditors. However, it becomes difficult for liquidators to conduct SCC meetings with a large number of creditors especially when there is no class of such creditors. How to proceed in such cases? | Section 21(2) provides that the CoC shall consist of all FCs of the CD. Since no difficulty is faced during CIRP in conducting such meetings, no practical difficulty is envisaged during liquidation process which provides for constitution of SCC. |
| 79. | Who should pay the fee of Authorised Representative of Home buyers under Liquidation? | <p>The provision to appoint AR for real estate allottees (as provided in CIRP), does not extend to liquidation process.</p> <p>In liquidation, homebuyers like other creditors may appoint representative, for representation in SCC, as per liquidation process regulations, whose fees is to be borne by them.</p> |
| E-Auction/ Realisation/Distribution | | |
| 80. | If the asset is not sold through after several e-Auctions, what action can be taken by liquidator? | Liquidator must consult with SCC and act accordingly, in line with the applicable legal framework. |
| 81. | If property being auctioned is on 'as is where is' basis, can the liability of unpaid wages, taxes be attached with the property being sold? | No. Distribution of proceeds against claims is as per Section 53. |

| | | |
|--------------------|---|---|
| 82. | After the SCC meeting, if some or all of the SCC members do not confirm their approval within specified days, can the Liquidator consider this as deemed acceptance and proceed with the E-auction? | The SCC shall advise the liquidator, by a vote of not less than sixty-six percent of the representatives of the consultation committee, of the votes cast. Hence, only stakeholders, who vote, would be counted. |
| Dissolution | | |
| 83. | Whether the requirement in respect of safekeeping of records of CD for 8 years is from the date of dissolution order or submission of dissolution application to NCLT? | The requirement of safekeeping of records for a minimum period of 8 years is from the date of the order of dissolution passed by the AA or closure of the liquidation process or the conclusion of any proceeding relating to the liquidation process, before the Board, the AA, Appellate Authority or any Court, whichever is later, as per regulation 45A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. |
| 84. | Whether any unsold assets can be assigned to creditor and closure/dissolution can be done in timely manner as defined in IBC law? | Unsold assets can be distributed to a stakeholder under regulation 38 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. |
| 85. | How to determine the liquidation expenses after filing for dissolution but before its approval by AA as such dissolution applications may remain pending for years and the liquidator is required to incur expenses for advocate and travelling etc during that period? | The liquidator should consult with SCC regarding fee of professionals before such appointment, as per the provisions of Regulation 31A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. |

INDIVIDUAL INSOLVENCY

| | | |
|-----|--|---|
| 86. | Whether application for extension of time could be filed with AA in case repayment of plan is not received from the guarantor within a period of twenty-one days from the last date of submission of claims under section 102? | To enable the debtor or creditor to file an application for bankruptcy, regulation 17B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 provides that - <i>Where no repayment plan has been prepared by the debtor under section 105 of the Code, the resolution professional shall file an application, with the approval of creditors, before the Adjudicating Authority intimating the non-submission of a repayment plan and seek appropriate directions.</i> |
| 87. | Whether letter to guarantors could be served on their WhatsApp in case they are not traceable on their available address? | Mode of communication should depend upon various factors including the nature of the letter, contractual service provisions, applicable procedural law, and relevant judicial precedents. |
| 88. | What are compliances to be done with IBBI and IPA for Individual Insolvency assignments? | Presently, the IPs are required to submit all proceedings to the Board through email (ra-pgcd@ibbi.gov.in) under section 208(2)(d) of the IBC. Further, as per circular dated 11 th Feb, 202, intimation should be made to IBBI on the appointment of insolvency professional under various processes under the Code. |
