

## FAQs ON VERIFICATION OF CLAIMS

### **Ques. 1 What is the meaning of claim?**

Ans. Claim means a right to payment and right to remedy as defined under the code in Section 3(6) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "**Code**").

Right to Payment underlines the claim. If there is no right to receive payment, no claim exists, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured.

To fall under claim, Right to remedy must give rise to right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, matured, unmatured, secured or unsecured.

### **Ques. 2 Who can submit claim?**

Ans. Any creditor (operational or financial), workmen, employees, home buyers or any other creditor defined under the Code.

### **Ques. 3 What is the time period for submission of claims?**

Ans. **In Case of CIRP**

Section 15(1)(c) of the Code read with Regulation 6(2)(ba) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred as "**CIRP Regulations**") provides that claim(s) are to be submitted within fourteen days of appointment of Interim Resolution Professional.

Further Regulation 12(2) of CIRP Regulations provides that, a creditor who fails to submit claim within fourteen days can submit the claim, on or before the Ninetieth day of the Insolvency Commencement Date.

#### **In case of Liquidation**

Section 38 of the Code read with Regulation 12(2) of IBBI (Liquidation Process) Regulations, 2016 (hereinafter referred as "**Liquidation Regulations**") provides that claim(s) are to be submitted within thirty days from the Liquidation Commencement Date.



**Ques. 4 To whom claims are to be submitted?**

Ans. **In case of CIRP**

Pursuant to the provisions of Regulation 6(2)(ba) of CIRP Regulations, claims are to be submitted to Interim Resolution Professional whereas pursuant to the provisions of Regulation 12(2) of CIRP Regulations, claims are to be submitted to Interim Resolution Professional or Resolution Professional, as the case may be.

**In case of Liquidation**

Pursuant to the provisions of Regulation 12(2) of Liquidation Regulations claims are to be submitted to Liquidator.

**Ques.5 What is the timeline for verification of claims?**

Ans. **In case of CIRP**

Regulation 13(1) of the CIRP Regulations provides that Interim Resolution Professional or the Resolution professional (as the case may be) shall verify claim, within seven days from the last date of receipt of claims.

**In case of Liquidation**

Regulation 29(1) of the Liquidation Regulations provides that the Liquidator shall verify the claims within thirty days from the last date of receipt of claims.

**Ques 6. What are the Forms for submitting the claims?**

Ans. **In case of CIRP**

<b>CIRP Regulations</b>	<b>Type of Creditor</b>	<b>Form as per Schedule I</b>
Regulation 7	Operational Creditor	Form B
Regulation 8	Financial Creditor	Form C
Regulation 8A	Financial Creditors in a class	Form CA
Regulation 9	Workmen and Employees	Form D
Regulation 9	Authorized Representative of	Form E



	Workmen and Employees	
Regulation 9A	Claims by other Creditors	Form F

### In case of Liquidation

Liquidation Regulations	Type of Creditor	Form as per Schedule II
Regulation 17	Operational Creditor	Form C
Regulation 18	Financial Creditor	Form D
Regulation 19	Workmen and Employees	Form E
Regulation 19	Authorized Representative of Workmen and Employees	Form F
Regulation 20	Other stakeholders	Form G

- Operational Creditor can submit the form to IRP in person, by post or by electronic means.
- Financial Creditor can submit the form to IRP in electronic form.
- Creditor in a class can submit the form to IRP in electronic form.
- Workman or employee of the corporate debtor can submit the form to IRP in person, by post or by electronic means.
- Any other creditor not covered above can submit the form to IRP in person, by post or by electronic means.

#### Ques 7. Who will bear the cost of proving debt?

Ans. The cost of proving debt will be borne by the creditor submitting the claim.

#### Ques 8. Is it mandatory for IRP/ RP/ Liquidator (as the case may be) to accept the claim?

Ans. IRP/ RP/ Liquidator (as the case may be) may accept or may not accept the claim quoting the reasons for such rejection.

#### Ques 9. What will happen if the amount claimed by creditor is not precise?



Ans. **In Case of CIRP**

Pursuant to Regulation 14 of CIRP Regulations, if the amount claimed by creditor is not precise due to any contingency or other reason, the IRP or RP, as the case may be, shall make the best estimate of the amount of the claim based on the information available. However, IRP/ RP shall revise the amount of claims admitted when he comes across additional information warranting such revision.

**In Case of Liquidation**

Pursuant to Regulation 25 of Liquidation Regulations, if the amount claimed by claimant is not precise due to any contingency or other reason, the Liquidator shall make the best estimate of the amount of the claim based on information available with him.

**Ques 10. What is the relevant date for converting debt in foreign currency?**

Ans. **In Case of CIRP**

Pursuant to Regulation 15 of CIRP Regulations, the claims denominated in foreign currency shall be valued in Indian Currency at the Official Exchange Rate as on date of Insolvency Commencement Date.

**In Case of Liquidation**

Pursuant to Regulation 26 of Liquidation Regulations, the claims denominated in foreign currency shall be valued in Indian Currency at the Official Exchange Rate as on date of Liquidation Commencement Date.

**Ques 11. Whether penal interest forms part of admitted claim?**

Ans. Row 4 in Form C (submission of proof of claim by Financial Creditor) under CIRP Regulations read as: "Total amount of claim, including any interest, as at the Insolvency Commencement Date."The word 'any' would include penal interest.

Supreme Court judgment dated 18<sup>th</sup> October 2001 in Central Bank of India vs. Ravindra and Ors has established the concept of Capitalization of Interest .The Pronouncement ruled that Penal Interest can form part of Claims admitted, but no further interest that is charged on the penal interest forms part of claims admitted.



**Ques 12. Whether cost borne by Liquidator towards verification or determination of claim forms part of Liquidation Cost?**

Ans. Regulation 24(2) of Liquidation Regulations provides that the costs incurred by the liquidator for verification and determination of a claim shall form part of liquidation cost.

Provided if a claim or part of the claim is found to be false, the liquidator shall endeavor to recover the costs incurred from such claimant, and shall provide the details of the claimant to IBBI.

**Ques 13. What will be the treatment of periodical payments under Liquidation?**

Ans. Regulation 27 of Liquidation Regulations provides that in 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.

**Ques 14. How liquidator treats Debt payable at future time?**

Ans. If a person proves his claim whose payment was not yet due on the liquidation commencement date he is entitled to distribution in the same manner as any other stakeholder.

**Ques 15. Whether unmatrued claim can be a ground for rejection of claims by IRP or RP?**

Ans. As per the ruling laid down in case of Export Import Bank of India and Ors. Vs. Resolution Professional JEKPL Private Limited and Ors. and Andhra Bank Vs. M/s. F.M Hammerle Textiles Ltd., IRP rejected claims of the banks since the same were not matured at the time of commencement of CIRP against the corporate debtor.

Thereafter, NCLT reaffirmed the decision of IRP. In appeal, the National Company Law Appellate Tribunal inter alia held that any person, who has a right to claim payment under Section 3(6) of IBC, can file its claim irrespective of the fact whether the same is matured or not at the time of commencement of CIRP.



**Ques 16. Whether IRP or RP may consider the claims of financial creditor appearing in books of accounts that has not been submitted as claim?**

Ans. Section 21 of the Code provides that the IRP shall, after collation of all claims received against CD and determination of the financial position of the CD, constitute Committee of Creditors.

Thus, IRP/RP may also look into the claim of a creditor appearing in books of accounts who has not submitted the claim and may also ask for proof of claim from those creditors.

**Ques 17. What will be the treatment of a charge which is not registered with Registrar of Companies while evaluating claims and its treatment under Section 53 of the code?**

Ans. Section 77 (3) of the Companies Act, 2013 provides that no charge created by a company shall be taken into account by the liquidator appointed under this Act or the Code, as the case may be or any other creditor unless it is duly registered with ROC.

Thus, it appears that a charge which is not registered with ROC while evaluating claims may not be treated as secured claim. As a result, the creditor may not be treated as secured creditor by the RP and hence will fall lower in order of priority under Section 53(1)(d) of the Code for the purposes of distribution of assets.

**Ques 18. In how many days a creditor can withdraw or vary his claim under Liquidation?**

Ans. A creditor may withdraw or vary his claim under Section 38(5) of IBC, 2016 within fourteen days of its submission.

