

Frequently Asked Questions (FAQs) dated 03-04-2018

***DISCLAIMER:** The following questions and answers are intended to be provided for general information in relation to the Corporate Insolvency Resolution Process of Southern Investments Private Limited (SI) only and may be updated from time to time. These may not be completely accurate in every circumstance, do not constitute or purport to constitute legal advice, and are not intended to be binding, in any manner, on any stakeholder, including the interim resolution professional ("IRP").*

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

1. What is the Corporate Insolvency Resolution Process?

This is a process during which a resolution professional is appointed to manage the affairs of the Company as a going concern and invites prospective lenders, investors and any other persons to put forward their resolution plans in order to explore the possibility of having a resolution by way of restructuring or other possible modes to revive the Company.

2. What are the timelines?

180 days from 26th March, 2018. This can be extended by maximum of 90 days. A maximum period of 270 days is permitted under the Insolvency and Bankruptcy Code, 2016.

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

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

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

Suspension of powers of the board of directors does not mean that the board of directors is dissolved. The directors do not cease to be the directors. All directors, managers, Key Managerial Personnel, and all other personnel of the Company are required to extend all assistance and cooperation to the IRP as may be required by him/her in managing the affairs of the Company. Additionally, all officers and managers of the Company shall report to the IRP.

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

The major role of IRP/RP is as under:

- a) to collect all information relating to the assets, finances and operations of the Company for determining the financial position of the Company and take control and custody of assets of the Company as per the Code.
- b) receive, collate & verify claims submitted by creditors, pursuant to public announcement published on March 28, 2018
- c) constitute Committee of Creditors within 7 days of the receipt of claim (“CoC”) & prepare list of creditors and report the same to NCLT
- d) convene a meeting within 7 days of filing the report with NCLT but within 30 days of appointment of IRP.
- e) invite prospective lenders, investors, and any other persons, through publication of Expressions of Interest / Notice of Invitation or otherwise, to submit resolution plans (if any).

6. What is resolution plan?

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

7. Who will sanction the Resolution Plan?

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

8. What are the forms through which claims can be filed?

Regulations require financial creditors to file claim in Form C, operational creditors in Form B, employees in Form D, employees through their authorised representative in Form E and other creditors in Form F. Insolvency and Bankruptcy Board of India has issued a Form F for creditors other than financial and operational creditors to file claim. Flat buyers may file their claim in Form F. The forms can be downloaded from the website – www.ibbi.gov.in under the section “Downloads”. They can also be downloaded from the website of SI.

9. If the flat buyer files claim in incorrect form, will IRP reject the claim?

IRP will not disqualify the claim just because it has been filed in an incorrect form. The same will be informed to claimant asking him/her to file the correct form.

10. What will happen if flat buyer fails to submit proof of claim within stipulated time?

Flat buyer is requested to at least submit the form by the deadline provided i.e. 9th April, 2018. The supporting documents can be provided subsequently however before a resolution plan is filed.

11. Will deadline for filing the claims be extended? Will the deadline for filing forms be extended for persons staying outside India?

IRP cannot extend the timeline.

12. Will the Form/Claim be rejected if the proof of claim is not submitted? Can it be filed after 9th April, 2018?

The claim will not be rejected but to verify the claim it will be useful to file proof. Proof can be filed any time before resolution plan is filed.

13. How should the Form be sent to IRP?

All claimants can file their claims electronically at the email id schitra18@gmail.com or send by post to

Ms. Chitra Srinivas,
Flat B7, G.R.Flats,
Anbu Nagar First Street,
Valasarvakkam,
Chennai- 600087.

There is no requirement to come in person.

14. For flat buyers who live abroad, can they file Form by electronic means only.

Yes

15. Is the affidavit need to be given?

Not required. The IBBI has amended the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Second Amendment Regulations, 2018 with effect from 1.4.2018. Now affidavit is not required to be given. It has been replaced by a declaration with verification, which can be given on a white paper.

16. Can a claimant appoint a representative to sign the Form on his behalf?

Yes, subject to the representative having a valid authority/Power of Attorney.

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

Documents that are needed to support your claim such as allotment letter, receipts etc. other communication/material, bank statements etc. in support of claim.

18. What if the claim of flat buyer is for possession of flat and not refund?

The flat buyer may mention in claim form that he/she wants the flat only as per terms of the allotment letter.

19. What about court cases filed by flat buyers?

NCLT vide its order dated March 26, 2018 has declared moratorium prohibiting the institution of suits or continuation of pending suits or proceedings against the Company, including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority. In view of the same, all suits and proceedings pending against the Company shall be stayed. Please refer to Section 14 of IBC.

20. How do I contact the IRP?

The IRP can be contacted at schitra18@gmail.com

21. Can I call the IRP?

Email will be preferred.