

Corporate Insolvency Resolution Process

The logo for EzResolve features the text "Ez ₹esolve" in a green, sans-serif font. The Indian Rupee symbol (₹) is integrated into the word "Resolve". To the right of the text is a green line graph with an upward-pointing arrow, symbolizing growth or resolution.

**One Day Seminar on
NCLT Process under IBC – Latest
Developments in Law and Practice
(organized by ICSI)**

By

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EzResolve LLP

Completed Assignments

Raghu Babu Gunturu	Kadevi Industries Limited	IRP & RP	15 Mar 2017	<p>Liquidation order passed by NCLT</p> <p>CoC consists of Indian Bank, State Bank of Hyderabad, Corporation Bank, Axis Bank</p> <p>Total Claims Rs 460 Crores</p>
Raghu Babu Gunturu	Viz Infra Consultants Pvt Ltd	IRP / RP	28 Aug 2018	<p>CoC consists of IFICI Ltd and IFCI Venture Capital Limited</p> <p>Total Claims Rs 474 Crores</p> <p>NCLT approved Resolution Plan-Order passed</p>
Raghu Babu Gunturu	Kumar's Metallurgical Corporation Limited	IRP / RP	28 Nov 2018	<p>CoC consists of SASF, ARCIL, Prudent ARC Ltd, Central Bank of India .Total Claims Rs 5650 Crores</p> <p>Resolution Plan filed with NCLT, Hyderabad bench and Order is awaited</p>

Completed assignments

Sandhya Tadla	Neutrino Systems Limited	Power Private	IRP	22 Jan 2018	Acted only IRP Period CoC consists of Bank of Bahrain & Kuwait Total Claims Rs 43 Crores
Sandhya Tadla	Ashok Limited	Polymers	IRP	19 Feb 2019	Withdrawal of Petition as per Sec-12A CoC consists of ICICI Bank and others Total Claims Rs 35 Crores
Sandhya Tadla	Ciscon Projects Pvt Ltd		IRP/RP	31 Jan 2019	CoC consists of Tata Capital Financial Services Ltd. Total Claims Rs 25 Crores Resolution Plan filed with NCLT, Hyderabad bench and Order is awaited

Ongoing Assignments

Name of the Corporate Debtor	Acted as	CIRP commenced	Remarks
Lanco Hoskote Highway Limited	IRP/RP	17 th Oct 2019	CoC Consists of State Bank of India and Edelweiss Total Claim Rs. 687.81 Crores
Sai Rayalaseema Paper Mills Limited	IRP / RP	20 Aug 2019	CoC consists of Oriental Commerce of Bank and Edelweiss Total Claims Rs 358 crores
Pavai Alloys & Steels Pvt Ltd	Liquidator	3 rd Dec 2018	

Definitions

corporate applicant means – (a) corporate debtor; or (b) a member or partner of the corporate debtor who is authorised to make an application for the corporate insolvency resolution process under the constitutional document of the corporate debtor; or (c) an individual who is in charge of managing the operations and resources of the corporate debtor; or (d) a person who has the control, and supervision over the financial affairs of the corporate debtor.

Corporate guarantor means - a corporate person who is the surety in a contract of guarantee to a corporate debtor.

Dispute includes - a suit or arbitration proceedings relating to– (a) the existence or the amount of debt; (b) the quality of goods or service; or (c) the breach of a representation or warranty;

Definitions

Corporate Person – Company under the Companies Act, LLP under LLP Act and any person incorporate with the limited liability Excluding provider of financial services.

Corporate debtor - means a corporate person who owes a debt to any person.

Financial service provider - means a person engaged in the business of providing financial services in terms of authorisation issued or registration granted by a financial sector regulator.

Financial creditor and financial debt

“financial creditor” means any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to.

“financial debt” means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes—

- (a) money borrowed against the payment of interest;
- (b) any amount raised by acceptance under any acceptance credit facility or its dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;
- (e) receivables sold or discounted other than any receivables sold on non-recourse basis;
- (f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;
 - [Explanation. -For the purposes of this sub-clause, - (i) any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing; and (ii) the expressions, “allottee” and “real estate project” shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);]
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;
- (h) any **counter-indemnity obligation** in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;
- (i) the amount of any liability in respect of any of the **guarantee or indemnity** for any of the items referred to in sub-clause (a) to (h) of this clause;

Definitions

Operational creditor means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred.

Operational debt means a claim in respect of the provision of goods or services including employment or a debt in respect of the payment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority.

Definitions

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

Insolvency resolution process period means the period of one hundred and eighty days beginning from the insolvency commencement date and ending on one hundred and eightieth day

Definitions

Voting share means the share of the voting rights of a single financial creditor in the committee of creditors which is based on the proportion of the financial debt owed to such financial creditor in relation to the financial debt owed by the corporate debtor.

evaluation matrix means such parameters to be applied, as approved by the committee, for consideration of resolution plans for its approval.

“fair value” means the estimated realizable value of the assets of the corporate debtor, if they were to be exchanged on the insolvency commencement date between a willing buyer and a willing seller in a transaction, where the parties have acted rationally & prudently.

“liquidation value” means the estimated realizable value of the assets of the corporate debtor, if the corporate debtor were to be liquidated on the insolvency commencement date.

Who can file for CIRP

- Where any corporate debtor commits a default
 - a financial creditor,
 - an operational creditor or
 - the corporate debtor itselfmay initiate corporate insolvency resolution process in respect of such corporate debtor.

Application by Financial Creditor u/s 7

- Minimum amount of default has to be Rs. 1.00 lac to any creditor.
- A financial creditor either by itself or jointly with other financial creditors may file an application
- The Financial creditor is required to file an application *in Form 1* of [Insolvency and Bankruptcy \(Application to Adjudicating Authority, rules, 2016\)](#).
- The Financial Creditor along with the application file *a Demand Draft of Rs. 25,000/- in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs"* payable at Delhi.
- The Financial Creditor is required to propose the name of *'Interim Resolution Professional' at the time of filing Application.*
- Written Consent of *Insolvency Resolution Process in Form 2* of [Insolvency and Bankruptcy \(Application to Adjudicating Authority, rules, 2016\)](#)
- Verifying Affidavit by Financial Creditor in *Form No.- NCLT 6.*

Who CANT make application for CIRP



a corporate debtor undergoing a corporate insolvency resolution process.



a corporate debtor having completed corporate insolvency resolution process twelve months preceding the date of making of the application.

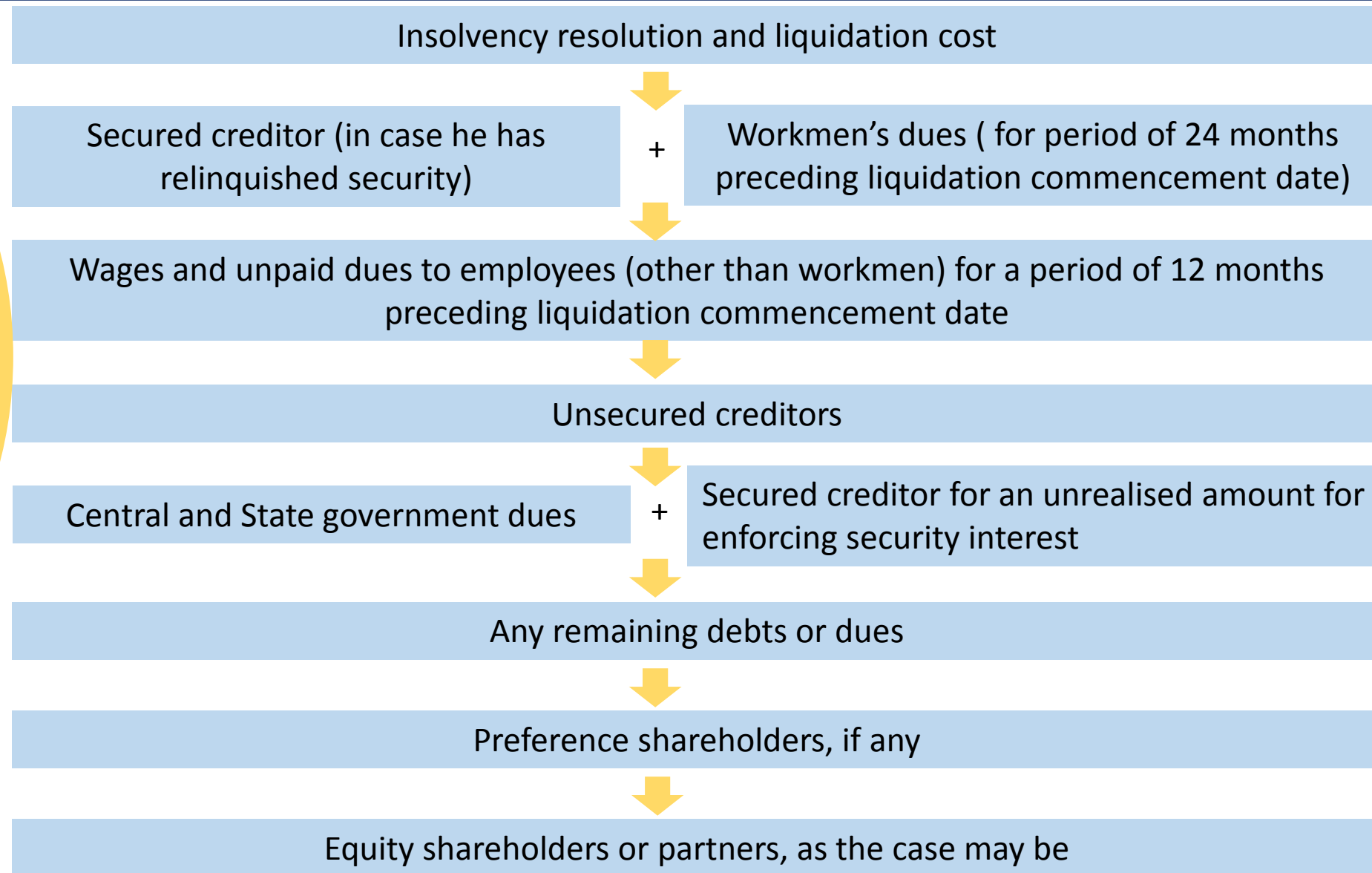


a corporate debtor or a financial creditor who has violated any of the terms of resolution plan which was approved twelve months before the date of making of an application under this Chapter

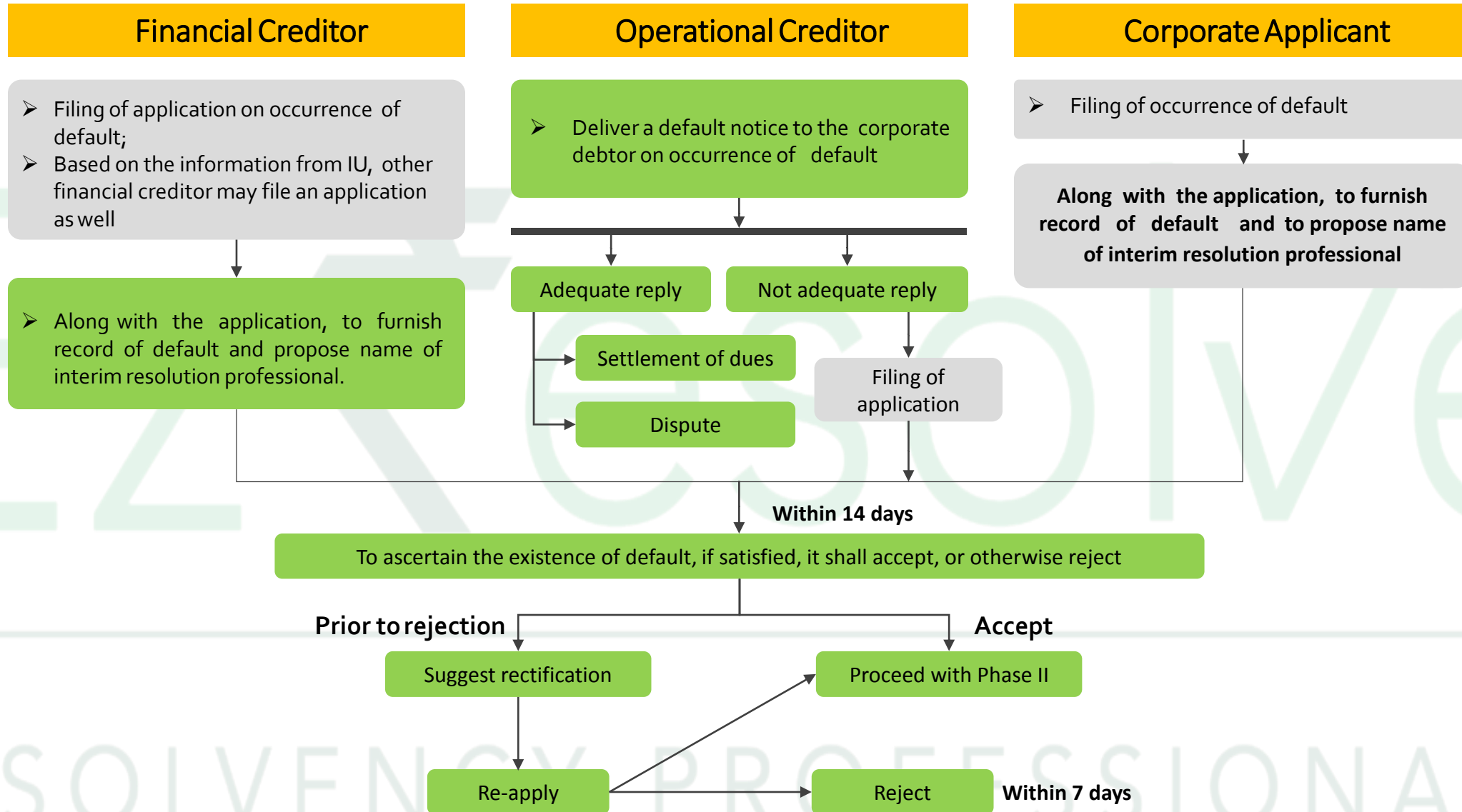
a corporate debtor in respect of whom a liquidation order has been made.

Waterfall Mechanism

In case of liquidation, the asset of the corporate debtor will be sold and the proceeds will be distributed amongst the creditors in the following order of priority:



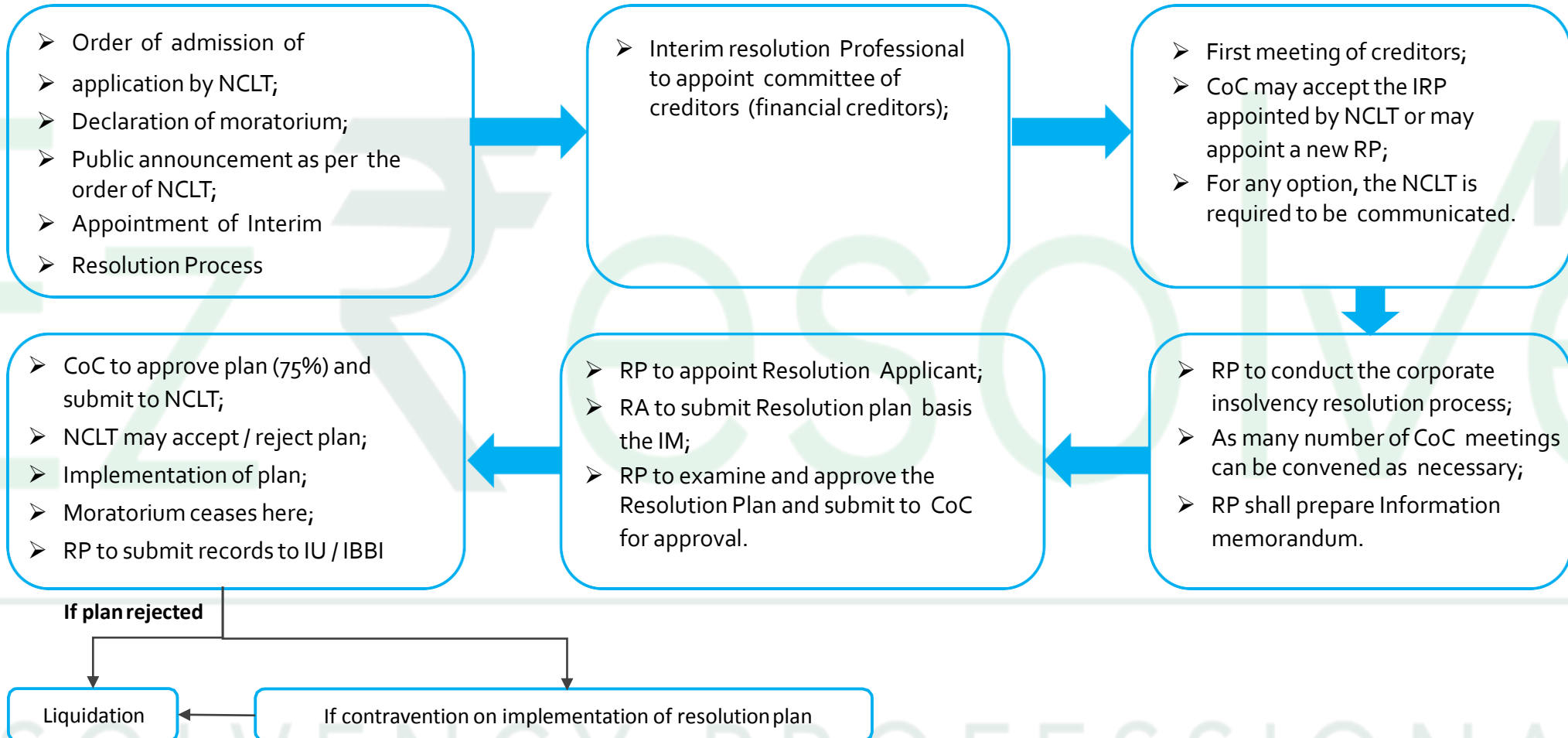
CIRP – Corporate Insolvency Resolution Process - 1



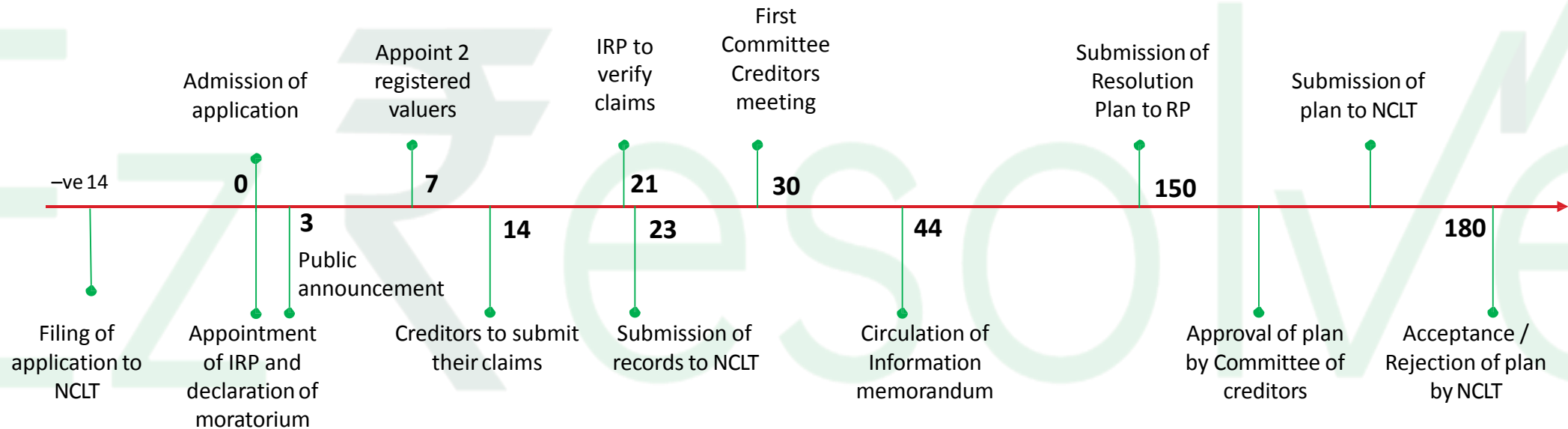
CIRP – Corporate Insolvency Resolution Process -2



The entire process shall be completed within Resolution Period (180 days; extendable by 90 days)



CIRP-3 – Time Chart



Withdrawal u/s 12A

- 116 CIRPs have been withdrawn
- Application of withdrawal by Applicant of CIRP petition – Sec.12A and Reg.30A
- Bank Guarantee for CIRP expenses
- 90% approval of CoC
- RP shall file the approved application with NCLT
- Reasons for withdrawal
 - Full settlement with applicant
 - Full settlement with other creditors
 - Agreement to settle in future
 - CDs not traceable
 - Other settlement with creditors
 - CD struck off from RoC

Moratorium

- **What does Moratorium include:**
 - **institution/continuation of suit or proceedings against the corporate debtor;**
 - **transferring or disposing off any asset by the corporate debtor;**
 - **any action to foreclose/recover any security interest created by corporate debtor vis-à-vis property including any action under SARFAESI, 2002; and**
 - **recovery of any property by an owner where property is occupied/ is in possession of corporate debtor.**
- **Moratorium shall cease to be in effect:**
 - **on completion of CIRP; or**
 - **when resolution plan is approved by NCLT during the CIRP period; or**
 - **where liquidation order is passed**

Public Announcement

- An insolvency professional shall make a public announcement **in Form A within 3 days** from the date of his appointment as an IRP.
- The public announcement shall be published –
 - In one English and one regional language newspaper with wide circulation at the location of the registered office and principal office;
 - On the website of corporate debtor
 - On the website, if any, designated by the Board for the purpose

Details in Information Memorandum

Assets and Liabilities on Insolvency Commencement Date

Audited Financial Statements("FS") for last 2 FY's and provisional FS up to not earlier than 14 days from application

list of creditors with names, claim and security interest

Related party debts due to/from corporate debtor

details of guarantees

details of partners/members holding at least 1% stake in corporate debtor

details of material litigation and ongoing investigation initiated by government and statutory authorities

number of workers/employees and liability towards them

the liquidation value

the liquidation value due to operational creditors

other information which RP deems relevant to the COC

Interim Resolution Professional (“IRP”)

NCLT shall appoint an IRP within fourteen days from the insolvency commencement date.

Role of IRP

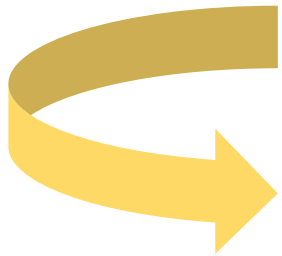
From the date of appointment of the IRP-

the management of the affairs of the corporate debtor shall vest in the IRP;

the powers of the board of directors or the partners of the corporate debtor, shall stand suspended and be exercised by the IRP;

the officers and managers of the corporate debtor shall report to the IRP and provide access to documents of the corporate debtor as may be required by IRP

the financial institutions maintaining accounts of the corporate debtor shall act on the instructions of IRP in relation to such accounts and furnish all information relating to the corporate debtor available with them to the interim resolution professional.



The interim resolution professional shall make every endeavor to protect and preserve the value of the property of the corporate debtor and manage the operations of the corporate debtor as a going concern.

Duties of IRP

From the date of appointment of the IRP-

→ collect all information relating to the assets, finances and operations of the corporate debtor for determining the financial position of the corporate debtor

→ receive and collate all the claims submitted by creditors to him, pursuant to the public announcement made;

→ constitute a committee of creditors

→ file information collected with the information utility.

→ take control and custody of any asset over which the corporate debtor has ownership rights as recorded in the balance sheet of the corporate debtor, or with information utility or the depository of securities or any other registry that records the ownership of assets

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

The personnel of the corporate debtor, its promoters or any other person associated with the management of the corporate debtor shall extend all assistance and cooperation to IRP

Powers of IRP

IRP has been vested with the powers to-

→ Appoint accountants, legal counsels who may provide specialist advice to the IRP;

→ Enter into contracts on behalf of the corporate debtor or to amend/ modify the contracts which were entered into before the commencement of the CIRP;

→ Raise interim finance;

→ Issue instructions to the personnel of the corporate debtor to keep the corporate debtor as a going concern;

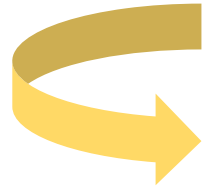
→ Take all such actions as are necessary to keep the corporate debtor as a going concern.

The IRP may sell unencumbered assets 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 realization of value.

IRP has to manage the operations of the corporate debtor as a going concern to enable him to protect and preserve the value of the property of the corporate debtor.

Resolution Professional (“RP”)

The committee of creditors, may, in the first meeting, by a majority vote of not less than 75% of the voting share of the financial creditors, either resolve to appoint IRP as RP or to replace IRP by another RP.



RP shall conduct the entire Corporate Insolvency Resolution Process (“CIRP”) and manage the operations of the corporate debtor during CIRP period;

The RP shall give notice of each meeting of the committee of creditors to— (a) members of Committee of creditors; (b) members of the suspended Board of Directors or the partners of the corporate persons (c) operational creditors or their representatives if the amount of their aggregate dues is not less than ten per cent of the debt.

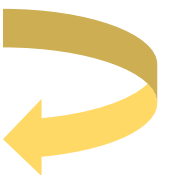
Duties of RP

Preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor

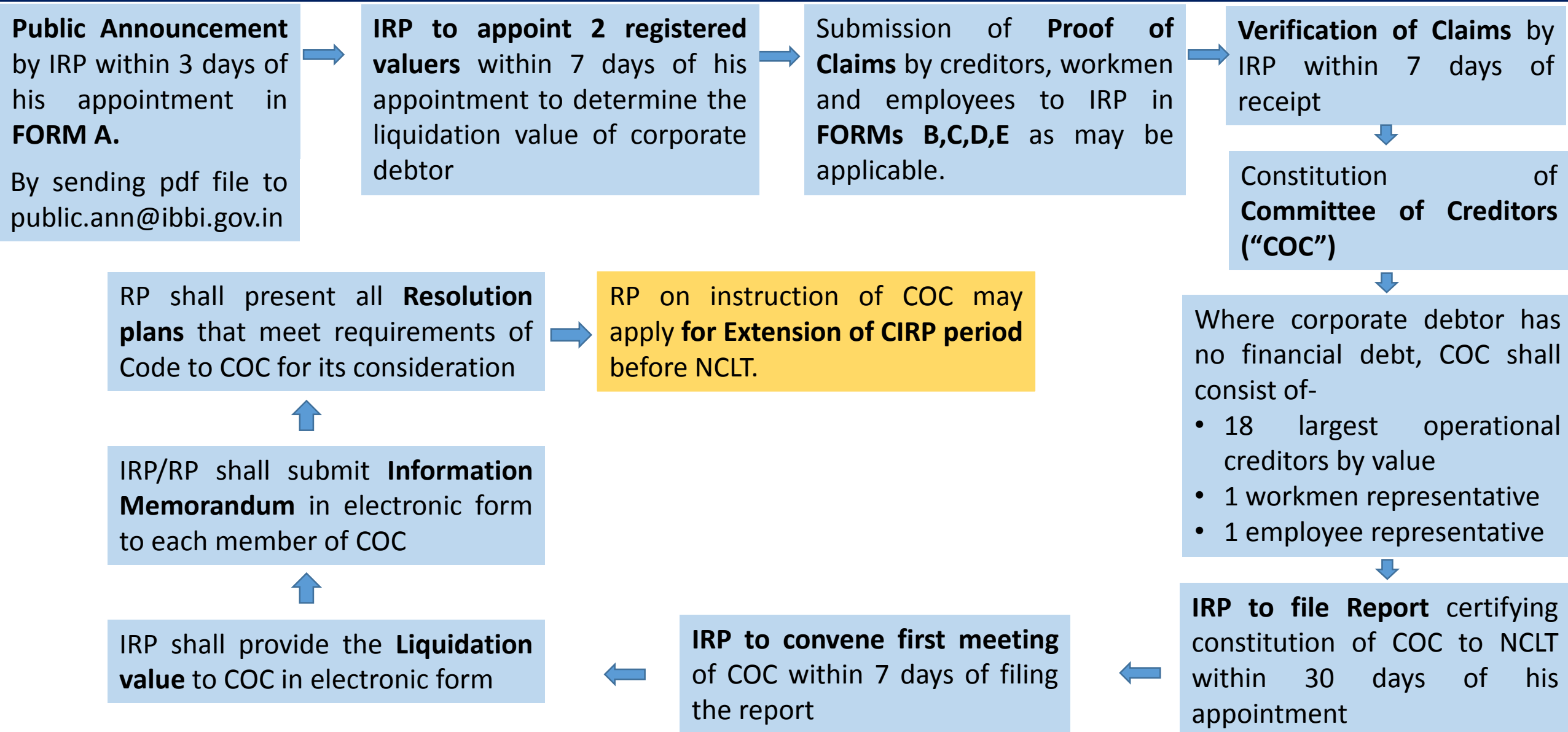
The RP shall prepare an information memorandum containing relevant information as specified by IBBI for formulating a resolution plan.

The RP shall submit the resolution plan as approved by the committee of creditors to the Adjudicating Authority.

Initiation of Liquidation



Role of IRP/RP in Insolvency Resolution Process for Corporate Persons



Verification of Claims

Conflicts between CoC and RP on Related party issues where equity + Financial

Issues arising from Assignment of Debt

Late submission of big claims by operational / unsecured creditors.

CoC Voting power changes after majority of time elapsed

Non-provision of Interest in the Books of CD

Rate of Interest, Penal Interest differs from Banks and CD

Lot time for reconciliation for assessing the right claim / right claim amount

Interest claim by operational creditors where no clauses in PO/Agreements.

Subsequently, CD approves the interest claim.

Committee of Creditors

- 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.
- The committee of creditors shall comprise all financial creditors of the corporate debtor.
- Each consortium members shall be part of CoC to the extent of their voting share.
- Where person is a financial and operational creditor, to the extent of financial creditor it becomes part of CoC.
- Assignee of operational creditor cant become part of CoC
- Trustee representing syndicated members.
- Related party excluded from voting; does not apply to FC regulated by financial sector regulator.
- Authorised representative – Securities or deposits; IRP shall appoint through approval.

Voting by CoC

- Only FC are entitled to vote
- all decisions of the committee of creditors shall be taken by a vote of not less than 51% of voting share of the financial creditors.
- 66% approval of COC
 - Extension of CIRP period beyond 180 days.
 - Appointment of RP
 - Approval of Resolution Plan
 - Approval for Liquidation before CIRP
 - Approval of certain transactions under sec.28
- 90% approval of COC – withdrawal of CD from CIRP.

Meetings - CoC

- CoC members may meet in person or through VC.
- All meetings of the committee of creditors shall be conducted by the resolution professional.
- RP shall notice to
 - To all Financial Creditors including to authorised representatives.
 - Operational Creditor whose debt is more than 10% of total debt.
 - Members of the suspended Board or partner of LLP.

Activity	Statutory Timeline	Targeted Timeline (No. of days)
Appointment of valuer	Within 7 days of appointment of RP, but not later than 40th day of commencement	*X = Date of commencement of CIRP X + 47
Verification of claims	Within 7 days from the receipt of claim	Within 7 days from the receipt of claim
Submission of IM to CoC	Within 2 weeks of appointment of RP, but not later than 54th day of commencement	X+54

Targeted Timeline for CIRP

Activity	Statutory Timeline	Targeted Timeline (No. of days)
Invitation of Eol	Within 75 days of commencement	X+ 75
Submission of Eol	At least 15 days from issue of Eol (Assume 15 days)	X+90
Provisional List of RAs by RP	Within 10 days from the last day of receipt of Eol	X+100
Submission of objections to provisional list	For 5 days from the date of provisional list	X+105
Issue Request for Resolution Plan (RFRP) including Evaluation Matrix and IM	Within 5 days of the issue of the provisional list	X + 105

Targeted Timeline for CIRP (contd.)

Activity	Statutory Timeline	Targeted Timeline (No. of days)
Final List of RAs by RP	Within 10 days of the receipt of objections	X + 115
Receipt of Resolution Plan	At least 30 days from issue of RFRP (Assume 30 days)	X + 135
Verification of Resolution Plan	within 10 days of receipt of Resolution Plan	X + 145
Submission of Resolution Plan to CoC	With in 5 days of verification	X + 150
Submission of CoC approved Resolution Plan to AA	As soon as approved by the CoC	X + 165

Targeted Timeline for CIRP (contd.)

Eligibility of Resolution Applicant (Sec.29A)

Ineligible

- Undischarged Insolvent
- Wilful defaulter
- NPA
- Convicted for any offence
- disqualified to act as director
- prohibited by SEBI
- promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code
- executed an enforceable guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code
- Has been subject to any disability, corresponding to clauses above, under any law in a jurisdiction outside India
- Has a connected person not eligible under above

Eligibility of Resolution Applicant (Sec.29A)

- NPA ineligibility is not applicable to the financial entity which is not a related party
- Financial entity which becomes related party only because of debt conversion is not treated as related party
- MSMEs are excluded from the applicability of 29A (excepting wilful defaulter)

Resolution Plan

- Invitation to EoI from Resolution Applicants
- Eligible Applicant
- Verification of compliance requirements of Resolution Plan
- Mandatory contents of Resolution Plan
 - Source of fund for – Insolvency resolution process cost; liquidation value due to operational creditors and liquidation value to dissenting creditors
 - Statement as to how it has dealt with the interests of all the stakeholders
 - Details of Resolution applicant and its connected persons
- Selection of the best Resolution Plan
- Aspects that attract CoC to approve the Plan
 - Settlement is higher than liquidation value
 - Minimal hair cut
 - Low timelines for payments

Resolution Plan

- Statutory Approvals
- Waiver of outstanding
- Waiver of liabilities or retention of liabilities by CD
- Staggered Payments
- Implementation of Resolution Plan
- Consequences of failure of implementation
- Rights of CoC post approval of Plan

Resolution Plan – What it can provide



Statutory Approvals



Waiver of outstanding



Waiver of liabilities or retention of liabilities by CD



Staggered Payments



Implementation of Resolution Plan



Consequences of failure of implementation



Rights of CoC post approval of Plan



Number of Plans approved so far by AA – about 69 Resolution Plans

Related party transactions

Sec 43 – Preferential Transactions – Disclosure

- Transfer of property or interest therein for a benefit of a creditor or a surety or a guarantor or on account of antecedent financial debt or operational debt or other liabilities owed by the corporate debtor.
- Relevant period – 2 years before the admission date.
- Submit report on this to COC.

Sec 45 – Undervalued Transactions – Report to Adjudicating Authority and get the transactions declared as void and reverse the effect of such transactions - one year look back period and two years if it was between related parties. Ex: Gift to a person, transfer of assets at less than fair value

Sec 50 – Extortionate Credit Transactions – Receipt of Financial Debt or Operational Debt at an exorbitant levels – 2 year look back period.

Process Advisor Role



Information Memorandum : IM as per section 29 of IBC 2016, read with Regulation 36 of IBBI



Virtual data room : Third Party application (such as Merrill Datasite, Ideal, Drop Box etc.,). To facilitate the data / information on real time basis to the potential resolution applicants, on Finance & Accounts, Taxes, Legal, Information and Memorandum etc.,



Resolution Plan : creating, drafting and finalising in consultation with Resolution Professional and CoC,



Qualifying requirement of Resolution Applicants (RA)



Evolution criteria

Process Advisor Role

Running the process from EoI to shortlisting the RA for sharing the offer

document

Issuing of letter of Intent to the successful RA

Committee of Creditors (CoC) : Attending CoC meeting and presenting the status from time to time

National Company Law Board : If required to attend the NCLT hearings and update the status of various process under taken by the process advisor.

Evaluation Metrics

Sl No	Orchid Pharma	Deccan Chronicle
1	<p>Upfront cash payment as part of resolution plan – to be paid with in 30 days from NCLT approval of the resolution plan</p> <p>Two additional bonus points (without weightage) shall be awarded for every 1% increase in Upfront Cash over and above 35% of resolution Debt.</p> <p>$\geq 35\%$ of the resolution debt = 10 & $< 1\%$ = 0</p> <p>Weightage = Max 40</p>	<p>Upfront cash recovery as per resolution plan</p> <p>This shall refer to the up front amount being paid to the financial creditors within 30 days of NCLT approval (i.e. Receipt of certified copy of the order).</p> <ul style="list-style-type: none"> •Resolution Plan involving upfront cash recovery should be backed by letter of commitment from a bank or cheque. •If up front cash in fusion by way of equity, the sources should be laid out in the plan <p>Weightage : Max 20</p>

SI No	Orchid Pharma	Deccan Chronicle
2	<p>Cash on deferred Payment basis / Assumed term loan liability on company – NPV – discount rate 1m – 1 year 5%, 1-3 Yrs 8%, 3-5 Yrs 10%, Above 5 yrs 15% One Additional bonus point(without weightage) shall be awarded for every 2% increase in NPV >25 %</p> <p>>=25% of the resolution debt = 10 & 3% = 0 Weightage = Max 20</p>	<p><i>NPV factoring in upfront cash recovery (tiered rate of discount)</i></p> <p>This shall refer to the discounted value of all cash flows (including interest, repayment and upfront cash) using tiered discounting.</p> <p>Annual discount rate</p> <p><=5 years 10% >5 & <=10 years 15% >10 years 30%</p> <p>Weightage : Max 35</p> <p><i>“Resolution Debt Amount” to equal the amount of claims in relation to financial creditors admitted by the resolution professional as on the resolution plan submission date (or any value revised after that date if so deemed necessary by the RP). Based on the Resolution Plans received, the CoC reserves the right to rescale the scores for one or more quantitative parameters. Such rescaling, if any, will be done for all Resolution Plans and the maximum score permissible for each criteria shall remain the same</i></p>

Evaluation Metrics

Sl No	Orchid Pharma	Deccan Chronicle
3	<p>Equity in the company, post money to financial creditors (As a percentage of the total paid up equity of the company)</p> <p>Expected allotment of equity (Post money)</p> <p>>20% < 24 % - 10</p> <p>>1% <5% - 2</p> <p>Weightage – Max 5</p>	<p><i>Equity upside</i></p> <p>This shall refer to the equity stake offered to financial creditors multiplied by fresh equity infusion for improving operations.</p> <p>Weightage : Max 5</p>

Evaluation Metrics

Sl No	Orchid Pharma	Deccan Chronicle
4	<p>Fresh Equity infusion for improving the operations only if the lenders are continuing < 6 months – 100%, > 6 months <12 months – 50%, > 12months – 0%</p> <p>>15% of the Resolution Debt - 10 >1% < 5% - 2 Weightage – Max 10</p>	<p><i>Fresh equity infusion for improving operations</i></p> <p>This shall refer to fresh capital infusion within 6 months from NCLT approval (i.e. receipt of certified copy of the order).</p> <ul style="list-style-type: none"> • Sources of funds to be laid out in the plan, and to be unsecured i.e. no charge on assets to be created on account of these funds. • In addition to infusion by way of equity, it may also include quasi-equity subject to: <ul style="list-style-type: none"> • Approval being required from existing lenders for redemption of such quasi-equity instrument; and • Coupon payment for such quasi-equity instrument to accrue, but remain unpaid until continuing debt is fully repaid; and • Such quasi-equity instrument being subordinate in all respects to the continuing debt. <p>Weightage : Max 10</p>

Evaluation Metrics

SI No	Orchid Pharma	Deccan Chronicle
5	<p>Reasonableness of financial projections I.e. Sales, EBITDA etc minimum three years Certainty/Likelihood/Feasibility/Eventuality of honoring proposed commitments etc.</p> <p>Range – 0 -10 Weightage –Max 5</p>	<p><i>Reasonableness of financial projections/ Certainty / Likelihood/ Feasibility / Eventuality of honoring proposed commitment</i></p> <p>This shall be assessed based on, but not limited to the assumptions in the financial projections (including but not limited to, revenue growth, profitability, market share and net working capital), treatment of other stakeholders (including payment made to operational creditors, statutory creditors, employee and workmen) and conditions precedent (if any submitted as a part of the plan).</p> <p>Weightage : Max 10</p>

Evaluation Metrics

SI No	Orchid Pharma	Deccan Chronicle
6	<p>Ability to turnaround distressed companies – Managerial competence and technical abilities, Key managerial personnel, track record in implementing turnaround the stressed asset etc</p> <p>Range 0-10 Weightage – Max 10</p>	<p><i>Ability to turnaround distressed companies – Managerial competence and technical capabilities, key managerial personnel, track record in implementing turnaround of stressed assets</i></p> <p>This shall be assessed based on, but not limited to, the experience of the Resolution Applicant in turning around distressed assets, experience in acquiring companies/ businesses, technical experience and abilities in the media sector and the managerial team.</p> <p>Weightage : Max 10</p>

Evaluation Metrics

Sl No	Orchid Pharma	Deccan Chronicle
7	<p>Standing of Bidder/group in sector/external rating/adherence to financial discipline/Financial strength/ record of regulatory compliance/whether NPA, including group companies</p> <p>Range 0-10 Weightage –Max 10</p>	<p><i>Standing of RA/ External Rating/adherence to financial discipline/ record of regulatory compliance/ whether NPA, including group companies <12 months</i></p> <p>This shall be assessed based on various financial metrics related to the Resolution Applicant and group, but not limited to, net-worth, assets under management, external credit ratings and quality of third party security interest offered (corporate guarantee or pledge of shares).</p> <p>Weightage – Max 10</p>

A blue speech bubble graphic with the word "Stakeholders" written in white. The bubble has a tail pointing downwards and to the right. The background of the slide features decorative curved lines in the top-left and bottom-right corners.

Stakeholders

- Corporate Debtor
- Committee of Creditors
- Resolution Professional
- Promoters / Suspended Board of Directors
- Valuers
- Process Advisor
- Forensic Auditors
- Investment Banker
- Legal Counsel for RP and CD
- National Company Law Tribunal

EzResolve
Framework
for CIRP



INTERIM
MANAGEMENT



REVIVAL OR
RESOLUTION



LEGAL &
COMPLIANCE

Factors influencing interim management

Nature of business – manufacturing | trading | service; B2B | B2C

Regulatory environment for business – Pharma | Hospitals | Software | Infra

Number of locations

Number and Profile of Financial Creditors – Asset Reconstruction Companies | Public Sector | NBFCs

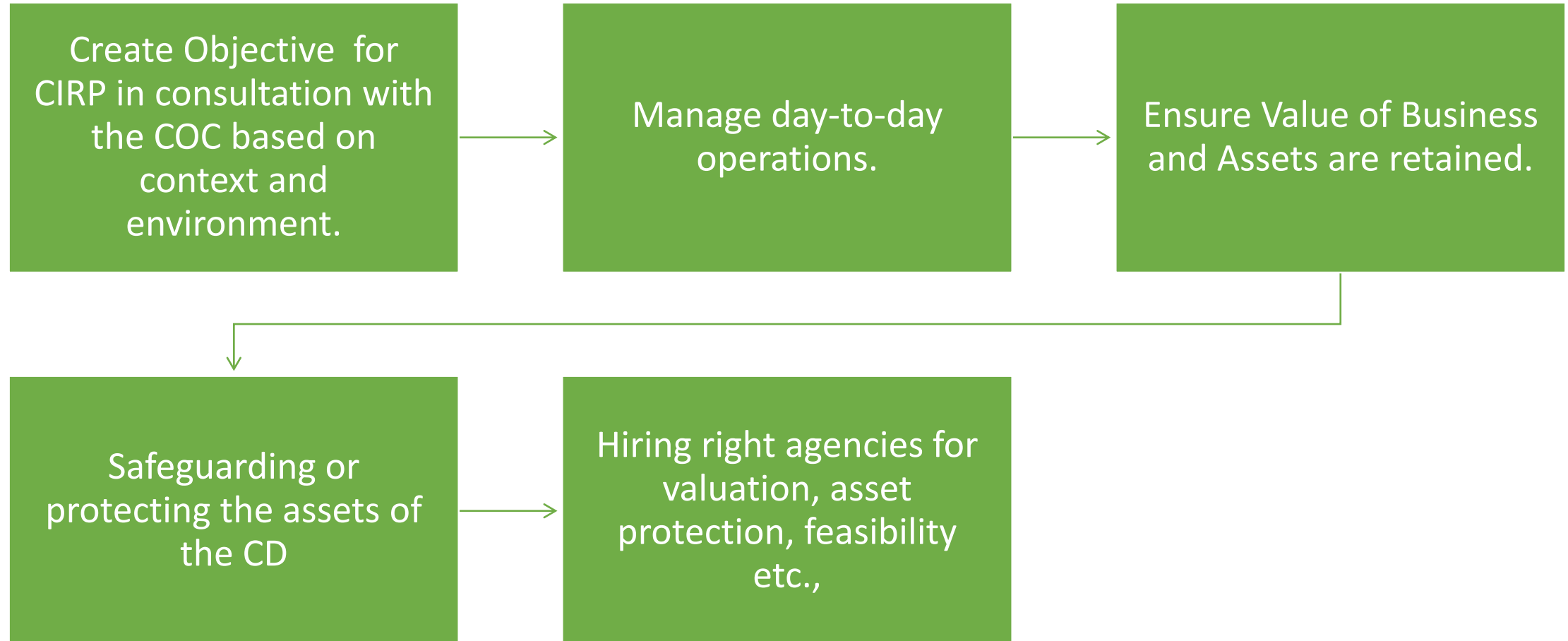
Role of Central or State Governments

Public Interest

Scale of operations

Ownership Profile

EzResolve Framework for CIRP – Interim Management



Managing business – Day one



- Take control of Cash
- Let all senior management is aware of CIRP / Liquidation and have meeting with them.
- Record status of operations as on first date and have it signed by all the senior management.
- Draw financials as on the date and signed by the senior management. This becomes base line.

Managing business



- Engage with Key Managerial personnel and understand operations of the company
- Create Managing committee – RP and Senior Management.
- Meet and interact with all the services providers, consultants, internal and statutory auditors etc.,
- Diagnose financial performance for the last three years.
- Cash Flow - Close monitoring and control of cash flow
- Interim Finance

Managing business



- Inventory - Take a deep dive into inventory – Disposal of obsolete inventory.
- Receivables – study and put in place plan for recovery
- Review contracted payment obligations / fixed overhead and rationalise it.
- Control Mechanism - acceptance of purchase / sales order, Moment of Inventory / goods
- Insurance coverage
- Security and Surveillance

Study the CD's business and industry and come out with road map for CD.

Get the feasibility report from Industry expert

Explore various options for revival

assist in identification of prospective investor

Ways to maximize the value of assets of CD

Bring out resolution plan.

EzResolve Framework for CIRP – Revival or Resolution

EzResolve framework for CIRP – Compliance & Legal

Ensuring
Compliance with
IBC code and
regulations

Honouring
Adjudicating
Authority orders.

Ensuring CD
complies with all
the applicable laws
and regulations.

Build trusted
partnership with
COC.

Appoint
Compliance Officer
and entrust
responsibility

Personal Guarantors



Moratorium is not applicable to Personal Guarantors



Insolvency can be initiated against Personal Guarantors (SBI Vs Ramakrishna)



No lenience on Personal Guarantors



Cannot be resolution applicant if CIRP is initiated against the CD in whose favour guarantee is given and guarantee is invoked and remains unpaid

Whether Criminal or Civil?

Shah Brothers Ispat Pvt Ltd vs P. Mohanraj & Ors-NCLAT – Cheque Bounces come under criminal proceedings under sec.138 of NI Act, 1881

- Penal in nature
- Company cannot be imprisoned
- Imposition of fine cannot be held to be money claim
- Sec.138 empowers courts to pass order for imprisonment or fine
- Does not come under moratorium – sec.14 of IBC

Cheque bounces are criminal in nature and directors of CD under CIRP can be sued / penalised.

Directors' Liability is not protected under Moratorium

Cheque Bounce cases



Is IBC Successful?

Challenges ahead

Undesirable
liquidation

Applicability of 29A
to all promoters
may hinder the
purpose of IBC

Meeting the
Timelines

Approvals from
creditors /
authorised
representatives

Support of Team of
Corporate Debtor

Funds for meeting
the CIRP expenses

Thank you

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