

JAIPRAKASH ASSOCIATES LIMITED

FREQUENTLY ASKED QUESTIONS(FAQ) FOR ALLOTEES

Disclaimer: The FAQs below and their responses are our attempt to assist claimants in the process of filing claims and are purely for informal guidance. This shall neither construe as a legal nor a professional advice, nor are they the views of any statutory/adjudicatory authority. Allottees may consult their respective advisers/legal advisors in case of any doubts/queries.

1. Jaiprakash Associates Limited has been admitted into insolvency on 03.06.2024. What does it mean?

The Hon'ble National Company Law Tribunal, Allahabad Bench ("NCLT" / "Adjudicating Authority") by its order dated 03rd June 2024 ("Admission Order") ordered the commencement of Corporate Insolvency Resolution Process ("CIRP") in respect of Jaiprakash Associates Limited (hereinafter referred to as "JAL" or "Company" / "Corporate Debtor" / "CD") under the provisions of the Insolvency and Bankruptcy Code, 2016 and subsequent amendments thereof ("Code"). The NCLT *vide* the Admission Order appointed Mr. Bhuvan Madan as the Interim Resolution Professional ("IRP") and he was subsequently confirmed as the Resolution Professional ("RP") by the Committee of Creditors ("CoC") of JAL. Pursuant to the Admission Order the RP has been vested with the management of the affairs of the Corporate Debtor and the powers of the Board of Directors stand suspended and are being exercised by the RP. In terms of the Code, the RP shall make every endeavour to protect and preserve the value of the property of the CD and manage the operations of the Company as a going concern.

2. How long the Corporate Insolvency Resolution Process (CIRP) will run?

As per section 12(1) of the Code, the CIRP is required to be completed within a period of 180 days from the date of admission of the application to initiate such process. An application for extension may be filed by the RP with the Adjudicating Authority, and the Adjudicating Authority may grant a one-time extension of 90 days. While the Code prescribes that the maximum time within which the CIRP has to be completed, including any extension or litigation period, is 330 days, however, this time period may vary from case to case considering various factors such as the complexity of the case, time spent in litigations, etc.

3. What will happen after the expiry of CIRP period?

The Company will either achieve a resolution through the approval of a resolution plan by the Adjudicating Authority or in case the CIRP is not successful, the Company will proceed to liquidation and follow the process as laid down under the Code.

4. What is the meaning of Committee of Creditors (CoC) and who are its members?

The IRP/RP receives and collates all claims submitted by creditors pursuant to the public announcement and thereafter constitutes the CoC comprising of financial creditors, who are not a related party of the Company.

5. What is the role/function of Committee of Creditors (CoC)?

After the constitution of the CoC, all major decisions concerning the Corporate Debtor are made in consultation with, and with the approval (as required under the Code) of the CoC, including approval of a resolution plan for the CD.

6. Forms required to be filed by the Creditors.

The following Forms are required to be filled by the Creditors, in terms of the Code read with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“CIRP Regulations”):

Form B: Proof of Claim by operational creditors except workmen and employees

Form C: Submission of claim by financial creditors

Form CA: Submission of claim by financial creditors in a class

Form D: Proof of claim by a workman or an employee

Form E: Proof of claim submitted by authorised representative of workmen and employees

Form F: Proof of claim by creditors (other than financial creditors and operational creditors)

7. Whether allottees are required to file the claim under CIRP process?

Yes, in terms of Section 5(8)(f) of the Code, 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. For the purposes of the Code, the expressions, “allottee” and “real estate project” shall have the meanings respectively assigned to them under the Real Estate (Regulation and Development) Act, 2016 (“RERA”).

Therefore, real estate allottees may submit their claims under Form CA (claim by financial creditors in a class) and the same shall be duly verified by the RP.

We encourage you to file your claim through the facility of filing claim arranged an online claim filing option to make claim filing easier and more efficient which is available now. **You may click on the following link to access the portal – [http://www.jalindiaclaim.in./](http://www.jalindiaclaim.in/)**

For filing your claim, you will have to register yourself in the portal for the first time. The detailed process of filing claim through the portal is also available in the portal itself.

The claim forms can be downloaded from the IBBI website link <https://ibbi.gov.in/en/home/downloads> (Sr No. 1 - Forms under the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016).

In case you have already submitted / shared your claim files through email to the email id “cirpjal.claims@gmail.com”, still we encourage you to resubmit your claim through the portal also.

8. How do I file the claim?

Regulation 8A(1) of the CIRP Regulations provides that, a person claiming to be a creditor in a class such as an allottee must submit their claim with proof to the RP in an electronic form in Form CA. Accordingly, the claims shall be considered for verification by the RP.

You can use **online portal for filing your claim as the same is much simpler and faster. You may click on the following link to access the portal – [http://www.jalindiaclaim.in./](http://www.jalindiaclaim.in/)** or you may send your claim forms and documents to cirpjal.claims@gmail.com.

9. Who is authorized representative? Why does the allottee need authorized representative? How to choose authorized representative?

An authorized representative is a registered insolvency professional (“IP”) who is appointed for the purpose of facilitating representation of creditors belonging to a class. Section 25A of the Code read with Regulation 16A of the CIRP Regulations provides that an authorized representative shall have the right to act as a representative to a class of creditors (being allottees) and attend and vote in meetings of the committee of creditors on behalf of the allottees.

All allottees were given the option to select an Authorized Representative from a list of a registered insolvency professionals provided by the RP while submitting their claim under Form CA. The votes of all allottees were compiled and Mr. Amarpal, (IBBI/IPA-001/IP-P-01584/2018-2019/12411) received the highest number of votes. Subsequently, the Hon’ble NCLT *vide* order dated 9 July 2024 allowed the application for appointment of Mr. Amarpal as the Authorised Representative of creditors in class (i.e., allottees).

Profile of Mr. Amarpal is available on the CIRP section of the website at <http://jalindia.com/cirp.html>.

10. Do foreign resident need to get the claim form attested by Indian embassy?

No, there is no mandatory requirement for attestation by the Indian embassy. However, during the process of verification of claims, relevant proof of claim and supporting documents may be sought for by the RP.

11. Does the declaration need to be on stamp paper?

Not required.

12. Is there a need to submit the claim with the help of an advocate?

There is no requirement for allottees to file their claims through a lawyer; an allottee may complete and submit the claim forms independently. However, they may choose to seek legal assistance if they wish.

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

Yes, a claimant can appoint a representative to sign the Form on his behalf if the representative has a valid authority/Power of Attorney.

14. Till when I can claim interest.

For the purpose of claim submission and verification, interest may only be claimed up to the date of commencement of the CIRP, i.e., 3 June 2024.

15. What if, I am a flat/shop/commercial space buyer of JAL and don’t file the Form CA?

The Code contemplates that all claims of the creditors will be collated, verified and ultimately treated in accordance with the principles of the Code. In this regard the RP published the public announcement on 6 June 2024 wherein the last date for receipt of proofs of claim was 17 June 2024. Regulation 12(1) of the CIRP Regulations, provides that any creditor, who has failed to submit a claim with proof within the time stipulated in the public announcement, may submit his claim with proof to the RP, up to the date of issue of request for resolution plans or ninety days from the insolvency commencement date, whichever is later. Such creditor must additionally provide reasons for delay in submitting the claim beyond the period of ninety days from the insolvency commencement.

Further, as per Regulation 13(1B) of the CIRP Regulations, in the event the claims are received after the period specified under Regulation 12(1) and up to seven days before the meeting of creditors for voting on the resolution plan or the initiation of liquidation as the case may be, the RP shall verify all such claims and categorise them as acceptable or non-acceptable for collation.

Pertinently, it is *inter alia* on the basis of the claims that the resolution plan is proposed for the CD. Therefore, we encourage you to file a claim.

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

Please note the IRP/RP is required to verify the claim basis all supporting documents. Following is an indicative list of the documents that may be submitted by the claimants in support of their claims:

- The records available with an information utility, if any; or
- Other relevant documents, including any –
 - Agreement for sale;
 - Letter of allotment;
 - Receipt of payment made; or
 - Such other document, evidencing existence of debt, such as:
 - Calculation sheet showing the calculations of amount of debt (preferably in MS-excel format);
 - Allotment letter issued by JAL;
 - Payment Receipts issued by JAL;
 - Statement of Account, if any, issued by JAL;
 - Memorandum of Understanding /Builder Buyer Agreement;
 - Bank Statement showing the payments made to JAL;
 - TDS statement, if deducted;
 - Copy of cancelled cheque.

Additionally, the documents that must be uploaded or attached with the claim form include KYC documents, such as a PAN card, Aadhaar card, Passport, or Voter ID. Please ensure that the KYC document provided is an acceptable and valid proof of address.

Kindly note that proof documents must be submitted together with the claim form. Please do not send proof documents without the accompanying claim form.

18. Who all need to file the claim?

Please refer to Response No. 7 above.

19. I have obtained the possession of the flat, but the registry is not done yet. Do I need to file the claim?

We understand that only the registry remains to be undertaken and no other payments are due to the Company. Since the registry of the unit is still pending to be executed by the Company, even though possession has been handed over, such HBs would be classified as a financial creditors as they continue to remain an ‘allottee’ as per RERA.

20. Which allottees are eligible for the purpose of constituting the Committee of Creditors?

All creditors in Response No. 7 above who have filed claims are CoC members. As stated in Response No. 9 above, an AR has been appointed for the allottees who participate in the CoC meetings on behalf of the allottees.

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

Please refer to Response No. 15 above. Code does not contemplate extension of deadline for persons staying outside India.

22. Why is my claim accepted with lesser amount than my claim amount?

Please note the Code read with the Regulations 13 and 14 of the CIRP Regulations require the RP to collate and verify the claims submitted by allottees basis the documents and records available with him and the supporting documents provided by the allottees while submitting their claims. Further, the RP may request the creditor to provide clarifications/ any other relevant documents or evidence in support of his claim. Accordingly, to the extent the RP is able to verify the claim, such verified amount is admitted by the RP. Further, if the amount claimed by a creditor is not precise, the RP can make the best estimate of the amount of claim based on available information, and then revise the amounts of claims admitted, as and when the RP comes across additional information warranting such revision.

23. What about court cases, if any, filed by flat buyers/ allottee?

Please note that by virtue of the provisions of Section 13 read with Section 14(1) of the Code, a moratorium has been declared *vide* the Admission Order for prohibiting *inter alia* the following:

“(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority, ...”

Even the Hon’ble NCLT *vide* the Admission Order has directed that:

“102. As a necessary consequence of the moratorium in terms of Section 14, the following prohibitions are imposed, which must be followed by all and sundry:

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; ...”

The moratorium imposed by the NCLT on the Company is intended to provide a calm period to the Company to ensure its successful resolution, and any institution or continuation of proceedings by the allottees before any authority is accordingly barred by the moratorium. Accordingly, the provisions of the Code read with the Admission Order prohibit institution of suits or continuation of pending suits or proceedings against the Company.

Please note even during pendency of a court case, an allottee may file a claim as per Response No. 7 above.

24. What if the claim of allottee is for possession of flat and not refund?

Please refer to Response No. 7 above. Once you are an allottee, irrespective of whether the claim is for possession or refund, the allottee will be treated as a financial creditor and will be treated as per the provisions of the Code.

25. Whether construction and allotment would continue?

As the Company is undergoing CIRP, the RP shall make the endeavour to protect and preserve the value of the property if the CD and manage the operations of the CD as a going concern. The construction and allotment of units during the CIRP is subject to availability of resources, funds and adequate cash flow in the project. However, the same may not be taken as an undertaking or commitment to complete the construction of the units, and the construction and allotment will be subject to provisions of the Code.

26. How can a claimant check the status of their claim?

The RP will publish an updated list of creditors on its website (<http://jalindia.com/cirp.html>) from time to time and claimants who have submitted their claims will also begin receiving confirmation emails.

Also, the list of creditors will be uploaded on the IBBI website from time to time. (<https://ibbi.gov.in/en/claims/claimprocess/L14106UP1995PLC019017>).

27. What if, Statement of Account issued by JAL is not available with me?

Please refer to our Response No. 16 above where we have provided an indicative list of documents.

28. What if, Receipt issued by JAL is not available with me?

Please refer to our Response No. 16 above where we have provided an indicative list of documents.

29. Can RP reject my claim if Statement of Account issued by JAL is not available with me?

Please refer to our Response No. 16 above where we have provided an indicative list of documents.

30. Can I revise the claim submitted by them, in case it is not rightly submitted?

Yes, for any claim submitted, the allottee can submit a revised claim form in case it is submitted in the wrong form or incorrect and the same would be considered by the RP in accordance with the Code. However, as regards the timeline for submission of claims, please see our Response No. 15 above.

31. If the registry/SLD of a flat or plot has already been executed in the name of the allottee will the allottee still need to file claim?

If the registry of a flat or plot has already been done in favour of the allottee, then such allottee will no longer be considered as a financial creditor with respect to amount paid in respect of allotment of the registered unit. Claims for any other amounts will have to be separately examined by the RP.

32. In case someone has got his flat or plot already registered in his name, and has no right to file claim for his flat/plot, but wants to file claim for the portion of the above-mentioned additional charges paid by him since the same has not been established/arranged yet by the CD, can the same be admitted as financial claim in Form CA? If so, how such claim will be covered in the resolution plan expecting that the SRA will complete all the existing facilities in per their resolution plan?

As these claims are in relation to services to be provided by the CD, these claims will be in the nature of operational creditor claims.

33. What is the amount of interest that the claimants are entitled to under the Code?

Regulation 16A(7) of the CIRP Regulations states as under:

“(7) The voting share of a creditor in a class shall be in proportion to the financial debt which includes an interest at the rate of eight per cent per annum unless a different rate has been agreed to between the parties”

Accordingly, the financial debt claimed by a creditor in a class may include interest @8 % p.a. in terms of Regulation 16(A)(7) of the CIRP Regulations, unless a different rate has been agreed to between the parties (in which case, such agreed rate would be considered).

34. Can AOA file, a society or an SPV file a claim on behalf of the allottee ? Also, what will happen in case the society/AOA is not registered?

From a perusal of Form CA (*Submission of claim by financial creditors in a class*) which is included in the CIRP Regulations, we note that submission of claim and proof of claim in the said form can be made by the financial creditor or person authorized to act on its behalf.

However, the authority needs to be enclosed if the form is submitted on behalf of the financial creditor. Thus, Association of Allottees / Home Buyers Association can file a claim on behalf of the allottees, and the allottees can appoint representatives to sign the Form on their behalf with valid authority / Power of Attorney which will need to be annexed to the Form.

35. Infrastructure maintenance, interest free deposits and 1 year advance club charges have been paid and no services have been provide kindly let us know the next action step.

Please refer to Response No.32 above.

36. Allottee wanting to be treated as secured creditor for club, firefighting system, STP etc.

Please refer to Response No. 32 above. In respect of such claims, there is no security interest created in favour of the claimant and hence, the claimant cannot claim to be treated a secured creditor.