

JAIPRAKASH ASSOCIATES LIMITED

FREQUENTLY ASKED QUESTIONS(FAQ) FOR HOMEBUYERS/ALLOTEES

Disclaimer: *The FAQs below and their responses are our attempt to help potential claimants and are purely for informal guidance. This shall neither construe as a legal nor a professional advice, nor are the responses any statutory/adjudicatory authority's views. Claimants may consult their respective advisers in case of any doubt.*

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

Hon'ble National Company Law Tribunal, Allahabad Bench ("NCLT") 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" or "Corporate Debtor") under the provisions of the Insolvency and Bankruptcy Code' 2016 and subsequent amendments thereof ("IBC"). Mr. Bhuvan Madan as the Interim Resolution Professional ("IRP"), IBBI Registration No. IBBI/IPA-001/IP-PO1004/2017-2018/11655

In accordance with section 17(1)(b) of the IBC, the powers of the board of directors of the JAL are suspended and be exercised by the IRP. The CIRP is not a proceeding for liquidation. It is a process to find a resolution for the current situation in accordance with the provisions of IBC. As IRP, it is my duty to endeavor to protect and preserve the value of the property of the Company and manage its operations as a going concern. I am conscious of the interest of the key stakeholders.

2. What is the meaning of Corporate Insolvency Resolution Process (CIRP)?

As such there is no specific definition of CIRP provided in the Insolvency and Bankruptcy Code' 2016. However, broadly it can be said that JAL has done the "default" in payment of liabilities, hence the financial position of JAL is not very well and CIRP is the process through which creditors of the JAL can detect that whether the company can be revived or go on as a going concern before the liquidation and what are the possibilities of revival of the JAL before its liquidation.

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

As per section 12 of the I & B Code' 2016, the CIRP has to be concluded within one hundred and eighty (180) days, however the period of one hundred and eighty (180) days can be extended to Three Hundred and Thirty days (330).

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

Either the insolvency of JAL will be resolved, or the JAL will go into the liquidation.

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

Committee of Creditors shall be the body comprising the creditors of JAL. Generally, the Financial Creditors are the members of the CoC. Homebuyers, being the "secured financial creditors belonging to any class of creditors", are also the members of the CoC.

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

After the constitution of CoC the CIRP is conducted on the instructions of the CoC and all the voting powers of the Board of Directors of the company are vested in the members of CoC. All the CoC members, except any Related Party to the company and operational creditors, have the right to vote to finalize any decision.

7. Forms required to be filed by the Creditors.

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)

8. Whether flat buyers / allottees are required to file the claim under CIRP process?

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. This implies that real estate allottees are financial creditors and need to file claim in form CA (claim by financial creditors in a class). Homebuyers can add 8% interest in their claim as per Regulation 16A. This 8% interest is to be calculated on each instalment amount from the date of payment till the insolvency commencement date, i.e., 3rd June 2024.

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. **Thereby, we encourage you to use the 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/)**

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.

9. How do I file the claim?

As per regulation 8A(1) of CIRP regulations 2016, a person claiming to be a creditor in a class shall submit claim with proof to the interim resolution professional in electronic form in Form CA. This implies that home buyers do not have to submit the form CA in physical form. The forms submitted by home buyers in electronic form only shall be considered for the purpose of verification. 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/)**

You may send your claim forms to cirpjal.claims@gmail.com.

10. Who is authorized representative? Why does home buyer need authorized representative? How to choose authorized representative?

Authorised representative is a registered insolvency professional who gets highest number of votes by certain class of creditors (Home buyers or real estate allottees) in form CA received by IRP. As per section 25A of Insolvency and Bankruptcy Code, 2016 (“IBC 2016”) read with regulation 16A of CIRP regulations’ 2016, an authorized representative shall have the right to participate and vote in meetings of the committee of creditors

on behalf of the home buyers he represents in accordance with the prior voting instructions of such creditors obtained through physical or electronic means.

The home buyers need to select one authorized representative out of the three names of insolvency professional given in public announcement. While filing the claim form, the home buyers need to provide the name of insolvency professional who he/she chooses as authorized representative in serial number 11 of Form CA. The profiles of Authorized Representatives are uploaded on CIRP section of website <http://jalindia.com/cirp.html>. The option of selecting the Authorized Representative is given while submitting the Form CA.

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

No

12. Does the affidavit need to be on stamp paper?

Not required

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

There is no requirement to file the claim through a lawyer. The allottee fill the claim forms and submit the form on their own. However, the home buyer may choose to get legal assistance if they so desire.

14. 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.

15. Till when I can claim interest.

The interest can be claim till date of commencement of CIRP i.e., 03rd June 2024. Beyond 03rd June 2024, no interest will be admitted by the IRP.

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

Then you will be left out of the Corporate Insolvency Resolution Proceedings. Generally, and broadly, during CIRP, the Hon'ble NCLT, CoC, IRP/RP takes care of interest of the creditors who had filed their respective forms and in absence of your Form CA, you may be left out from their considerations.

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

The general rule is buyer can annex any paper to show/proof that the buyer had purchased/booked the flat in JAL and paid the amount of consideration. Generally, these papers are sufficient:

- 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;
- Any other document, if relevant.

Further, documents that are needed to be uploaded / attached with the claim form includes KYC documents e.g. PAN card, Aadhaar card, Passport, Voter Id etc.,

Please note that proof needs to be accompanied by the claim form please don't not send proofs without the claim forms.

18. Who all need to file the claim?

Any home buyer who has paid an amount to the company under a real estate project and the company has not fulfilled its obligations under the allotment agreement may file a claim under the CIRP process.

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

Any home buyer who has paid an amount to the company under a real estate project and the company has not fulfilled its obligations under the allotment agreement may file a claim under the CIRP process. Merely filing of claim form shall not result in cancellation of possession rights given to those home buyers. The IRP shall collate and verify all claims as per the provisions of the Code.

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

The home buyers who have been allotted a plot / flat / apartment / building as on 03rd June 2024 vide letter of allotment or agreement to lease or agreement of sale or any other agreement and have not been given possession of the property and have filed claim form are to be considered as financial creditors and will be represented in the meetings of committee of creditors through their authorized representative.

21. Which claim form should be used by the Real Estate Allottees (“home buyer”) to file claim?

Regulations require home buyer to file claim in Form CA.

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

The last date for submission of proofs of claim is 17th June 2024, as is stated in the public announcement published on 06th June 2024. The first Committee of Creditor will be constituted based on the claim filed till 17th June 2024. Any creditor who fails to submit claim and proof of claim within the time stipulated in the public announcement may submit such proof to the RP on or before the 90th day of the Insolvency Commencement Date.

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

We will collate your claims on the basis of books of accounts of the Corporate Debtor given by the ex-management. So, there can be cases where the admitted amount may be less than the claimed amount because of any difference between your claim and the books of the company. However, individual concerns may be raised with the IRP/RP along with statement of account and balance/ payment confirmation. In such cases, the office of the IRP/RP will revisit such claims basis the concerns raised on a case-to-case basis. The office of Resolution Professional also reserves the right to revise the admitted claim amount on the basis of additional information received at a later stage.

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

Hon'ble NCLT vide its order dated 03rd June 2024 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. Flat buyers / allottees who have an order of a judicial or regulatory authority for payment by JAL may file a claim with the IRP in this respect.

25. Flat buyers who live in abroad do they need notarization of affidavit in support of Form?

No

26. 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. IRP is making an endeavor to ensure that development of the project continues.

27. Whether construction and allotment would continue?

The IRP will make its best endeavor and the operations of the company is being continued as a going concern.

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

The office of Resolution Professional will be publishing updated list of claimants (for claims received till 17th June 2024) on his website before issuing agenda to next CoC meeting and claimant filed their claims after 17th June 2024 will receive confirmation email as well. Also, the list of creditors will be uploaded on the IBBI website on a time-to-time basis (website link - <https://ibbi.gov.in/en/claims/claim-process/L14106UP1995PLCO19017>).

29. What is the way forward of CIR proceedings?

It is the endeavor of the Resolution Professional to expedite the CIR Process so that a Resolution Applicant may come and resolve the day-to-day problems and insolvency of the Corporate Debtor. Further way forward shall be discussed in the CoC meeting. Please read the minutes of CoC meeting carefully.

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

Then please fill Form CA on the basis of other documents available with you, the IRP shall try to get your Statement of Account from the management of the company.

31. Can I request/write mail to the IRP/RP to issue my Statement of Account from JAL?

The IRP is an outsider appointed by the Hon'ble NCLT. The IRP knows very little about the records, documents, software and files of the company. In such a situation the outcome of your request will depend on the cooperation of the management of the company. Hence, under these circumstances, the IRP will try to arrange the same but cannot promise/assure to provide the same.

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

No. In that case please provide other relevant documentary evidence available with you, IRP/RP will consider the same.

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

Yes

34. Whether the initial deadline for submitting claims can be extended from 17th June 2024?

The initial deadline for claims for forming the Committee of Creditors ("CoC") cannot be extended from 17th June 2024 due to the timelines mandated in the Insolvency and Bankruptcy Code, 2016 ("IBC"). The first CoC formation will be done based on the claims received till 17th June 2024. However, please be assured that any claims coming after 17th June 2024 will be considered and effected in the updated CoC constitutions from time to time.

As per amended Regulation 12 of “IBC”, A creditor shall submit a claim with proof on or before the last date mentioned in the public announcement. **Provided that a creditor, who fails to submit a 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:** Provided further that the creditor shall provide reasons for delay in submitting the claim beyond the period of ninety days from the insolvency commencement date which is 3rd June 2024.

So, all the creditors will have ample time to submit the claim.

- 35. If the registry of a flat or plot has already been done in the name of the allottee (irrespective of possession handed over or not), will the allottee still need to file claim? As per our understanding, as the title deed has already been registered in their name, so there is no further liability lying with the CD for their allotted units/plots.**

If registry of a flat or plot has already been done prior to the commencement of the corporate insolvency resolution process of JAL, and if the homebuyer does not have any outstanding claim against JAL, then no claim form is required to be filed in respect of the allotment of the flat / plot. The issue of possession of the flat / plot, where such possession was not handed over prior to the commencement of the corporate insolvency resolution process, is being analyzed by the Interim Resolution Professional and an update shall be given in due course.

- 36. All the allottees have paid certain additional charges towards advance maintenance charges for 1 year, electricity establishment, water plant, clubhouse etc., which we normally consider as financial claim within the full value of the flat/plot paid by the HB. But incase 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?**

This issue is under consideration. Homebuyers may file their claim in Form CA (Submission of claim by financial creditors in a class) along with proofs as per the public announcement made by IRP dated 6 June 2024. However, after completion of deliberation on this issue and analysis of the various headings/categories of claims and completion of verification. In the event that a revised form is required to be filed or more information is needed, in view of the nature of underlying claim(s), then it shall be intimated to the homebuyers.

- 37. Most of the claimants are claiming 8% interest + 8% penalty, i.e., 16% in total [8% IBC Regulation 16A (7) + 8% as per UP RERA]. They are of the opinion that the 8% entitlement given by RERA are in addition to the 8% interest of Regulation 16A of IBC (for voting purpose). Considering that there is no interest or penalty specified in the BBA, can we only admit 8% interest as per IBC only? As per our understanding, 8% entitlement given by RERA and IBC are same and signifies a standard rate of compensation, so they are not in addition to another. However, on the other side, it is to be remembered also that the 8% of IBC is only for voting share in the CoC, and generally the PRAs do not given any compensation against the same.**

We understand that there is no interest or penalty specified in the BBA with the allottees. Further, Regulation 16A(7) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (**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”

We also note from the FAQs uploaded on JAL’s website already contemplates that *“homebuyers can add 8% interest in their claim as per Regulation 16A”*. Accordingly, allottees are entitled to interest @8 % p.a. under Regulation 16(A)(7) of the CIRP Regulations and all allottees claiming excess of that can be allowed interest @ 8% only, unless a different rate has been agreed to between the parties or is the subject matter of an order passed in favour of the homebuyers.

38. Can AOA file, a society or an SPV file a claim on behalf of the homebuyers? 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.

39. 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.36 above.

40. Home buyers wanting to be treated as secured creditor for club, firefighting system, STP etc.

Please refer to Response 36 above. Claims of security will be verified basis the documents made available and dealt with as per law and relevant contractual documents.