

## **FAQs on Submission of Claims under CIRP**

Date: 05.05.2018

By Resolution Professional : Abhay N Manudhane

Email Id: [anm.sknl@gmail.com](mailto:anm.sknl@gmail.com)

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

Kindly refer to the FAQs below for any clarification with respect to your claims and submission thereof. Please note that claims which are not in accordance with the requirements of the Code and the Regulations are liable to be ignored/rejected.

**1. I am an Operational Creditor of SKNL, a Company under Corporate Insolvency Resolution Process (hereinafter referred to as 'the Corporate Debtor'). Which Form should I use to file my claim?**

An Operational Creditor, other than a workman or employee, will have to fill in Form B along with the Affidavit and Verification, provided under the Schedule of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016) (hereinafter known as 'CIRP Regulations') and submit it to the Resolution Professional (hereinafter referred to as 'RP') of the Corporate Debtor.

**2. How should an Operational Creditor, (other than workmen and employee) submit the Form (proof of claim) to the RP?**

An Operational Creditor shall submit the Form to the IRP/RP in person, by post or by electronic means.

**3. I am Financial Creditor of the Corporate Debtor. Which Form should I use to file my claim?**

A Financial Creditor will have to fill in Form C, along with the Affidavit and Verification, provided under the Schedule of CIRP Regulations and submit it to the RP of the Corporate Debtor.

**4. How should a Financial Creditor submit the Form (proof of claim) to the RP?**

A Financial Creditor shall submit the Form to the IRP/RP only by electronic means.

**5. I am a workman/employee of the Corporate Debtor and want to submit my claim. How should I submit my proof of claim to the RP of the Corporate Debtor?**

You shall submit your claim in Form D along with the Affidavit and Verification, provided under the Schedule of CIRP Regulations and submit it to the RP of the Corporate Debtor, in person, by post or by electronic means.

**6. I, Mr. X, is authorized by workmen and/employees of the Corporate Debtor to file a proof of claim on their behalf. How should I file the claim?**

You are an Authorised Representative of workmen and/employees of the Corporate Debtor. You shall file proof of claim in Form E along with the Affidavit and Verification, provided under the Schedule of CIRP Regulations and submit it to the RP of the Corporate Debtor, in person, by post or by electronic means.

**7. A creditor other than an Operational Creditor, Workman/Employee and Financial Creditor wants to file his/its proof of claim. Which Form should be used to file the claim?**

Such creditor may submit his/its proof of claim in Form F along with the Affidavit and Verification, provided under the Schedule of CIRP Regulations and submit it to the RP of the Corporate Debtor in person, by post or by electronic means.

**8. Should a Form for filing proof of claim accompany any documentary evidence?**

Yes. Every Form for filing proof of claim of a creditor shall be supported by documentary evidence.

For Eg:

- An Operational Creditor may support his/its claim with invoice/bill of supply of goods/services.
- A Financial Creditor may support its claim by financial statements evidencing debt due/unpaid, etc.
- A Workman or Employee may support their claim by a proof of employment such as contract of employment, etc.
- Any other claimant may support his/its claim with a bank statement showing unpaid debt along with an affidavit to validate such statement, etc.

In any of the above cases, claim may also be supported by an order of a court or tribunal adjudicating upon non-payment of debt due.

For detailed list of documents that may be used to support a claim by a creditor, kindly refer to Regulation 7, 8, 9 and 9A of CIRP Regulations.

**10. What is the format of the Affidavit required to be filed along with the proof of claim?**

The format of Affidavit is provided in Schedule in respect of each Form for filing proof of claim. (Forms as per Annexure)

**11. Each Form for submission of proof of claim by a creditor requires particulars of mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim made by the creditor. What is meant by such particulars?**

There might be instances where debt may also be owed by the creditor towards the Corporate Debtor. Such debts may be referred to as mutual debts/credits between the Corporate Debtor and creditor, which may be set off against the debt/claim of the creditor. In such case, the creditor shall mention the particulars of such mutual debt in the specified space provided in the respective Form for filing proof of claim.

**12. I am a supplier of goods to the Corporate Debtor, which category of creditors will I fall in?**

A supplier of goods and/services to the Corporate Debtor will be an Operational Creditor.

**13. I have lent money to the Corporate Debtor at an interest of 12% p.a. Which category of creditors will I fall in?**

Money disbursed against time value of money shall be a financial debt as per the Code and a person to whom such financial debt is owed will be a Financial Creditor. Therefore, you having lent money to the Corporate Debtor against payment of interest will fall under the category of Financial Creditors.

**14. What is the last date for filing/submitting my claim to the IRP?**

Public announcement in Form A as available on the website of IBBI and the Corporate Debtor, which mentions the last date of submission of claims. Any claimant must refer the same, for the purpose of timely submission of their claims.

**15. What will happen if I don't file the claim by the last date of submission as mentioned in the public announcement?**

In case the claimant is unable to file/submit his/its claim to the IRP by the last date mentioned in the public announcement, the same can be filed later.

However, in case of Financial Creditors, claims received up to the date of first meeting of the Committee of Creditors will be considered for the purpose of calculating voting share in the meeting.

**16. Once I file my claim is the IRP/RP bound to admit it?**

No, the IRP/RP has to right to reject or partially admit the claim.

**17. Does filing of claim means that the Corporate Debtor or the IRP/RP is going to pay me money?**

A successful submission of claim by a creditor is not a confirmation/assurance of receipt of debt due. It is merely a representation that a debt is due of respective amount and nature. Acceptance of such claim is subject to the discretion of the IRP/RP, who may admit or reject the claim, in whole or in part as the case may be.

Furthermore, claims are subject to valuation by the IRP/RP. The payment, if any to the creditor will be subject to the order of priority of distribution of the liquidation assets provided under relevant section of the Code.

**18. Having filed the claim, when can I expect the payment to be credited or made?**

The priority of payments will be as per the Resolution Plan to be prepared and sanctioned by the Committee of Creditors, and further as per orders of NCLT, including any modifications thereof.

**19. Can I withdraw/modify my claim which is already submitted?**

You may withdraw/modify your claim within a period of 14 days of original date of submission.

**20. What if I submit a wrong claim or inflate the claim amount, or write wrong particulars?**

The submission of a claim is supported by your Affidavit, wherein you are swearing on oath that the particulars are true and correct. Please evaluate the serious implications of doing so.

Your claim forms the basis of the RP computing the liquidation value of the assets and liabilities of the Corporate Debtor. Therefore, you must ensure that the particulars submitted by you are true and correct.

**21. My claim was disputed by the Corporate Debtor. Can I still submit the claim?**

Yes, but then you must make it clear in your submission, that the Corporate Debtor has disputed the claim.

**22. I have a contingent claim. Can I submit such claim?**

Yes, but then you must make it clear that the claim is contingent, and clarify the contingency as well.

**23. I am holding some securities/assets of the Corporate Debtor against my claim. Should I still submit the claim?**

Yes. The assets of the Corporate Debtor form part of its liquidation estate, and your claim ranks as per priority order. Therefore, you must submit the claim and disclose the particulars of the assets/securities you are holding.

**24. I have money to receive from the Corporate Debtor, and I have money to pay. Can I set off the two, and therefore, file a claim only for the net amount, or not file a claim if the net amount is negative?**

No. You cannot by yourself do any such set off. The set off will be based on set-off rules, and therefore, is subject to evaluation and determination by the RP.

**25. OC Ltd. is a supplier of goods to the Corporate Debtor and is therefore an Operational Creditor. FC Ltd. has lent money to the Corporate Debtor and is therefore a Financial Creditor. FC Ltd. assigns its debt to OC Ltd., on account of which OC Ltd. becomes the Financial Creditor of the Corporate Debtor in addition to being an Operational Creditor. Now OC Ltd. wants to file its claim. How should it proceed?**

OC Ltd. which is partly an Operational Creditor and partly a Financial Creditor shall submit its claim to the IRP/RP in Form B to the extent the debt is Operational Debt and Form C to the extent the same is Financial Debt.

**26. H Ltd. is under Corporate Insolvency Resolution Process. S Ltd. is a subsidiary of H Ltd. Can H Ltd. make a payment on behalf of S Ltd. during Moratorium?**

No, the same being a related party transaction shall not be allowed.

**27. How do I contact the RP of the Corporate Debtor?**

Please send email to [anm.sknl@gmail.com](mailto:anm.sknl@gmail.com)

**28. Can I call the RP?**

Yes, communication with IRP in context of CIRP is always possible.