

## **Frequently Asked Questions (FAQs)**

*These FAQs have been prepared by the IRP to provide answer to the questions being commonly asked by real estate allottees / home buyers on emails/phone. The FAQs will be updated from time to time. Please note the answer to FAQs is not a legal advice by IRP and where necessary flat buyers may seek expert advice.*

### **1. Time period for submission of claims.**

As per CIRP Regulation 6, time for submission of claim is 14 days from the date of appointment of IRP i.e. upto 01.09.2022.

### **2. Status of claims submitted after 14 days from the date of appointment of IRP.**

As per CIRP Regulation 12(2), claim can be submitted upto 90 days from the date of CIRP commencement date. Therefore, all claim duly filed within 90 days (i.e upto 15.11.2022) will be considered and admitted after verification.

### **3. 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).

### **4. What is the meaning of acceptance of the claim provisionally?**

Claim which has been accepted provisionally, without verifying the claim amount from the Books of Accounts of the company. Subsequently, provisionally accepted Claim amount will be verified from books of account and admitted finally.

### **5. Will Claimants be provided opportunity to submit further proof/clarification in connection with their claim?**

Yes. IRP will send communication to claimants, listing out deficiency in their claim, if any, and requesting them to submit further documents / details to remove deficiency.

### **6. Where will list of admitted claims be displayed?**

Admitted claim list will be displayed on website <https://logixzestcirp.in/> & IBBI website.

**7. What is the time period for completion of corporate insolvency resolution process (CIRP)?**

As per Section 12 of IBC, CIRP is to be completed within 180 days from the date of the commencement of CIRP. However, CIRP period can be extended from 180 days, if so approved by the Committee of the Creditors, for a further period of 90 days i.e. total maximum CIRP period is 270 days.

**8. Who will manage affairs of the company?**

As per section 23 of IBC 2016, Resolution professional is to conduct Corporate Insolvency process (CIRP) and manage the operations of the company as going concern.

**9. Will Resolution professional restart construction of flats?**

Resolution Professional intends to restart construction of the flats provided same is approved by Committee of Creditors. Time line would depend upon when Committee of creditors takes decision considering all aspects.

**10. How will new Developer (Resolution Applicant) be selected?**

RP will invite Expression of Interest (EOI) and resolution plan from Prospective Resolution Applicants (PRAs) through public advertisement. Home Buyers, as a body, can also submit resolution plan. The CoC will evaluate the resolution plan submitted by all prospective resolution Applicants including Home Buyers and can accept or reject any plan.

**11. Who will fix eligibility criteria for new developer (Resolution Applicant)**

RP will prepare draft eligibility criteria for prospective resolution applicants (i.e new developer) which will be discussed and approved by Committee of Creditors (CoC) including Home Buyers.

**12. 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 (IRP) 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.

For the purpose of claim submission alongwith documents, kindly go to <https://logixzestcirp.in/submit-your-claim>. The detailed step-by-step guide to file claim is available on the same website.

If, due to any unavoidable reasons, any home buyer is not able to submit the claim

through above portal, such home buyers can submit their claims to IRP over mail at [homebuyers.logix@gmail.com](mailto:homebuyers.logix@gmail.com).

### **13. What all constitute the claim amount for home buyers to be filed under Form CA?**

The claim amount for home buyers primarily falls under various categories, namely as follows:

- **Principal claim:**

The principal amount doesn't mean the total cost/sale price of unit. The principal amount is the amount actually paid up to Insolvency Commencement Date (ICD) by home buyers to the company. This does not include any tax amount including Sales tax, VAT, GST or any other taxes paid by the allottee in respect of the flat.

- **Interest:**

Interest shall be calculated at the rate of **eight per cent per annum** unless a different rate has been agreed to between the home buyer and the company. The calculation of interest shall be done for each payment receipt date upto insolvency commencement date.

The claim management portal shall do the calculation at 8% rate of interest by default. If there is any higher interest rate agreed between the parties, then the home buyers may calculate incremental interest and submit the same under "other amounts". The proof of such agreement of higher interest rate shall also need to be submitted

- **Other Amounts:**

For any other amount due to the home buyers under the allotment agreement, the home buyer should file the same under the other amounts along with submission of proof substantiating such claim.

### **14. Who is an Authorized Representative (AR)? Why does a home buyer need authorized representative? How to choose an Authorized Representative?**

Authorized Representative (AR) 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 (CoC) on behalf of the home buyers 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 homebuyers need to provide the name of insolvency professional who he/she

choose as authorized representative in serial number 11 of Form CA. The profiles of Authorized Representatives are uploaded on CIRP section of website <https://logixzestcirp.in/>

The option of selecting the Authorized Representative is given while submitting the Form CA on claim management portal <https://logixzestcirp.in/submit-your-claim>.

**15. Do foreign resident need to get the claim format tested by Indian embassy?**

No

**16. Does the affidavit need to be on stamp paper?**

Not required

**17. 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 can go to the claims management portal <https://logixzestcirp.in/submit-your-claim> and follow the step by step guide which shall help them to submit the form on their own. However, the home buyer may choose to get legal assistance if they so desire.

**18. 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.

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

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., Builder – Buyer Agreement , Allotment Letter, payment receipts, Banking Details, Power of Attorney (if applicable) and any other document to substantiate their claim.

**20. 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 Builder Buyer Agreement/Allotment Letter 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.

A flat buyer who has got registry done and do not have outstanding claim should not file the claim form.

**21. 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 till 17<sup>th</sup> August 2022 vide letter of allotment or agreement to lease or agreement for sale or any other agreement and have not been given possession of the flat 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. However, aforesaid shall be subject to any further order from NCLT or guidance from IBBI, if any.

**22. Which form should be used by the Real Estate Allottees(“homebuyer”) to file claim.**

Regulations require Home buyer to file claim in Form CA

**23. 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 1<sup>st</sup> September 2022, as is stated in the public announcement published on 18<sup>th</sup> August 2022. The first Committee of Creditor will be constituted based on the claim filed till 1<sup>st</sup> September, 2022, within 23 days from the commencement of CIRP

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 IRP/RP on or before the 90th day of the Insolvency Commencement Date.

**24. Can a flat buyer cancel the booking and ask for refund?**

The IRP is making an endeavor to ensure that development of the project continues. The provisions of agreement / Allotment letter continue to be valid and all rights of parties (including cancellation by Flat buyer) can be exercised subject to provisions of the Insolvency and Bankruptcy Code, 2016.

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

Hon'ble NCLT vide its order dated 17<sup>th</sup> August, 2022 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 Logix city Developers Pvt. Ltd. may file a claim with the

IRP in this respect.

**26. Flat buyer who live abroad do they need notarization of affidavit in support of Form?**

Yes

**27. When will flats be delivered?**

It depends upon decision of CoC including Home buyers. If CoC decides to take up construction during CIRP and quickly finalize its methodology, flats can be delivered fast.

**28. Will home buyer get flat or refund?**

Normally home buyers (except those who have got court order(s) for refund) are given flats.

**29. Will home buyers be required to pay any extra cost for their flats?**

Under IBC 2016, Home buyers have been considered as financial creditors. In the case of Resolution plan, secured financial creditors get priority over unsecured creditors, operational creditors and Govt. dues. Though, home buyers are not a secured financial creditors but generally, in resolution plan, Home buyers are required to pay only their contracted price for their flat . However, it would depend on the terms of the resolution plan, submitted by Successful Resolution Applicant (SRA).

**30. How will liabilities of project be settled in the resolution plan?**

In Section 53 of IBC,2016 (applicable for liquidation), following order of priority for settlement of liabilities has been prescribed.

- a) CIRP cost
- b) Following debts shall rank equally
  - Workmen dues for the period of 24 months preceding liquidation commencement date.
  - Debts owed to a secured creditor
- c) Wages and any unpaid dues to any employees other than workmen for the period of 12 months.
- d) Financial debts owed to unsecured creditors.
- e) Following debts shall rank equally
  - Debts payable to the Central Govt/State Govt.
  - Debts owed to secured creditors for any amount unpaid following the enforcement of

security interest.

f) Any remaining debts and dues.

g) Payments to the shareholders.

More or less, same Water Fall Mechanism is followed in the case of Resolution plan also.

Home Buyers are considered as unsecured creditors (though nothing mentioned in CIRP Regulation / Code) but and, generally given priority in payment, over the unsecured creditors/govt. dues/ operational creditors.

**31. What is the rate of interest allowed to Home Buyers while admitting claims?**

In CIRP Regulation 16A (7), interest rate at the rate Eight percent per annum is allowed unless a different rate has been agreed to between parties or any Judiciary order in place.

**32. What are the documents required for submitting claims by legal heirs of a deceased?**

Copy of Succession Certificate or Probate for Will, Copy of death certificate. No objection from other legal heirs of the deceased in case claim is being made by any one, alongwith other documents as required for submission of claim by the allottee himself.

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