

Frequently Asked Questions For Filing Claim under CIRP of Project Elvedor

Company Name: IMPERIA WISHFIELD PRIVATE LIMITED

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. Elvedor Project of Imperia Wishfield Private Limited has been admitted into insolvency on 29th May 2024. What does it mean?

Hon'ble National Company Law Tribunal, Delhi Bench ("NCLT") by its order dated 29th May 2024 and subsequent order dated 14th June 2024 ("Admission Order") ordered the commencement of Corporate Insolvency Resolution Process ("CIRP") in respect of "Elvedor Project" of Imperia Wishfield Private Limited under the provisions of the Insolvency and Bankruptcy Code' 2016. Mr. Chetan Gupta, IBBI Registration number IBBI/IPA-002/IPN01168/2021-2022/13950 has been appointed as Interim Resolution Professional ("IRP") in accordance with the provisions of the Insolvency and Bankruptcy Code ("IBC"), hence, the powers of the Board of Directors of the Imperia Wishfield Pvt Ltd with respect to "ELVEDOR PROJECT" are suspended and be exercised by the IRP effective from the commencement date of CIRP i.e. 29th May 2024.

The CIRP is a process of finding a resolution for the current situation per the provisions of IBC. As IRP, it is my duty to endeavour to protect and preserve the value of the company's property and manage its operations as a going concern. I am conscious of the interests of the key stakeholders.

2. 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) or such other period as per the provisions of the IBC.

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

The Committee of Creditors shall be the body comprising the creditors of "ELVEDOR PROJECT", which will take future decision on the said project in terms of provisions of the IBC. Generally, the Financial Creditors are the members of the CoC. Allottees, being the "financial creditors belonging to class of creditors", are also the members of the CoC.

4. 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.

5. 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 (e.g. Home-Buyers)

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)

6. Whether allottees are required to file the claim under the 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., 29th May 2024.

We encourage you to file your claim through the facility of filing claim arranged from NeSL portal to make claim filing easier and more efficient which is available now. Therefore, 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 – <https://pda.nesl.co.in/#/>

Steps to File Claim is already circulated to the available email IDs of the creditors and also uploaded on the website <https://imperiwishfield.com/cirp.php>

7. Who is authorized representative? Why does Allottees 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 (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 Allottees he represents under the prior voting instructions of such creditors obtained through physical or electronic means.

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

8. 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 allottees may choose to get legal assistance if they so desire.

9. 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 (POA). Attach the notarised copy of the POA along with the claim form.

10. What if, I am a flat/shop/commercial space buyer of “ELVEDOR PROJECT” 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.

11. 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/prove that the buyer had purchased/booked the flat in “ELVEDOR PROJECT” and paid the amount of consideration along with copy of PAN & Aadhar. Generally, the below documents consider appropriate:

- a. the records available with an information utility, if any; or
- b. other relevant documents, including –
 - i. a financial contract supported by financial statements as evidence of the debt;
 - ii. a record evidencing that the amounts committed by the financial creditor to the corporate debtor under a facility has been drawn by the corporate debtor;
 - iii. financial statements showing that the debt has not been paid; or
 - iv. an order of a court or tribunal adjudicated upon the non-payment of a debt, if any.
- c. Calculation sheet showing the calculations of the amount of debt (preferably in MS-excel format);
- d. Copy of Bank Statement showing the payments made;
- e. Any other document, if relevant.

Please note that proof needs to be accompanied by the claim form, and an additional document can be requested to verify the claim, which will be submitted within the given time period.

12. Will deadline for filing the claims be extended?

The last date for submission of proofs of claim is 04th July 2024, as is stated in the public announcement published on 22nd June 2024. The first Committee of Creditors will be constituted based on the claim filed till 04th July 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 i.e. 29th May 2024.