

Pre-packaged Insolvency Resolution Process

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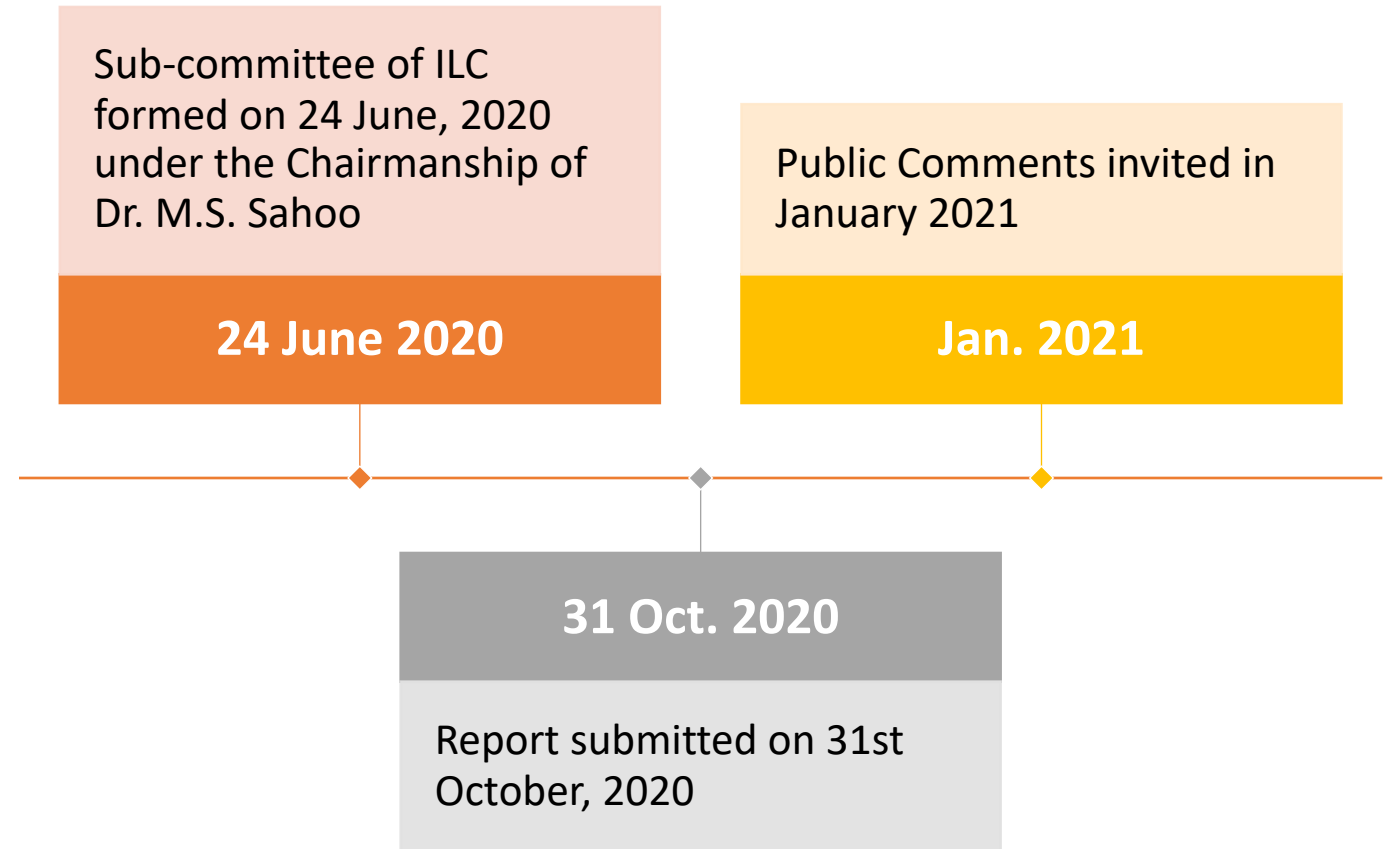
LLM (India), LLM (USA), FCA, FCMA





ILC Sub-Committee Recommendations

Background



Pre-
Packaged
Insolvency
Resolution
Process

Out of Court

Speedier Resolution

Checks & Balances

Option of Resolving Insolvency



Court Monitored

Options
Available

Recommendations

Hybrid Formula



Amendment Ordinance 2021

Amendment
Ordinance
2021

Applicable w.e.f. 4th
April, 2021

19 Sections added – 11A,
54A to 54P, 67A, 77A

IBC now has 282
Sections

Amendment Ordinance 2021

Pre-Packaged Rules notified w.e.f.
9th April, 2021

Pre-Packaged Regulations notified
w.e.f. 9th April, 2021

Notification u/s 4 issued on 9th
April, 2021 for minimum amount of
default



Overview of Process

3 Stages of Process

1st Stage

- PRE PPIRP

2nd Stage

- PPIRP without Management Vesting

3rd Stage

- PPIRP with Management Vesting

Process

Check Default Amount
Threshold (S. 4)

Check Eligibility
Conditions (S.54A)

Duties of RP Before
Initiation of PPIRP (S. 54B)

Process

Application for Initiation
of PPIRP (S. 54C)

Time Limit for
completion (S. 54D)

Moratorium/Public
Announcement (S. 54E)

Process

Duties & Powers of RP
during PPIRP (S. 54F)

List of Claims & Prelim
IM (S. 54G)

Management of Affairs
of CD (S. 54H)

Process

Committee of Creditors (S. 54I)

Vesting of Management with RP (S. 54J)

Consideration & Approval of Resolution Plan (S. 54K)

Process

Approval of Resolution
Plan (S. 54L)

Appeal Against Order u/s
54L (S. 54M)

Termination of PPIRP (S.
54N)

Process

Initiation of CIRP in
PPIRP (S. 54O)

Application of CIRP
Provisions (S. 54P)

Grounds of Appeal (S.
61)

Process

Fraudulent or Malicious
Proceedings (S. 65)

Fraudulent Management
during PPIRP (S. 67A)

Punishment for False
Information (S. 77A)

Definitions

Definitions in PPIRP

Pre-Packaged Insolvency Commencement Date (PP-ICD)

- Date of Admission of Application by AA

Pre-Packaged Insolvency Resolution Process Costs

Definitions in PPIRP

Pre-Packaged Insolvency Resolution Process Costs

Definitions in PPIRP

Preliminary Information Memorandum

Definitions in PPIRP

PPIRP Period

- Period beginning from PP-ICD and ending with Approval, Termination or CIRP



Process in Detail

Process

Check Default Amount Threshold

Minimum Amount of Default
Notified as Rs. 10 Lakh

Central Government can increase
minimum default amount to Rs. 1
Crore

Process

Check Classification as MSME

Is Registration under MSME Act mandatory?

Udyam Registration not mandatory as per Form 1

Process

Check whether CD has committed default above threshold limit

Not undergone PPIRP or completed CIRP during 3 years preceding initiation date



Not Undergoing CIRP

Not under Liquidation

Process

Process

Eligible to submit Resolution Plan
u/s 29A

Unrelated FCs to propose the name
of IP as RP

FCs having 10% or more of the
Total Financial Debt may propose
names

Process

CD to convene meeting of unrelated FCs for appointment of RP during Pre-PPIRP

Minimum notice of 5 days unless shorter notice is agreed

Notice in Form P2

Process

Date, Time and Venue with List of Creditors and Amount Due

Unrelated FCs to approve the name with minimum 66% majority in value of financial debt

If no unrelated FCs, then unrelated OCs to propose and approve

Process

Declaration by Majority of
Directors – Form P6

Declaration 1

CD will file Application for PPIRP
in definite time period not
exceeding 90 days

Process

Declaration 2

PPIRP is not to defraud any person

Declaration 3

Name of IP has been proposed and approved

CD has passed special resolution or 3/4th of total partners approving the filing of application for PPIRP



CD to provide

Process

Process

Same Process of Meeting
to be followed

Job of RP starts from his
approval

Prepare Report in Form
P8

Process

Report to confirm that CD meets requirements and BRP conforms to requirements

Reports to be filed on e-platform

Duties of RP continue till period to file PPIRP application expires or PPIRP application is admitted or rejected

Process

Application by CD in Form
1 (Rules)

Declarations, Special
Resolution, Approval of FCs

Name and consent of RP

Process

Declaration regarding existence of Avoidance Transactions – Form P 7

Information relating to books of CD

AA to approve or reject within 7 days
(7 days for defect removal)

Process

Date of Admission is PP-ICD

PPIRP completion period
120 days from PP-ICD

Process

RP to submit approved resolution plan within 90 days

RP to file application for termination of PPIRP after expiry of 90 days

Moratorium

S 14(1) and (3) apply in similar manner

Process

Appoint RP

Cause Public Announcement
in Form P9

Moratorium Period

PPICD to End of PPIRP

Process

RP to conduct PPIRP

Duties of RP

Powers of RP



Role of RP

Duties of RP in PPIRP

Confirm the list of claims submitted by CD (Form P10) within 2 days of PP-ICD

Inform creditors – Manner not specified

Creditor may submit objection to RP within 7 days

Duties of RP in PPIRP

RP to call for evidence, consider every objection and update list of claims – Form P10

Duties of RP in PPIRP

Monitor

Monitor management of affairs of CD

Attend

Attend Board Meetings and Committee Meetings

Inform

Inform committee of creditors of any breach under IBC

Duties of RP in PPIRP

Constitute

Constitute
committee of
creditors

Prepare

Prepare IM based
on Preliminary IM

File

File Applications
for Avoidance
Transactions – 30-
45-60 Days

Duties of RP in PPIRP

Disclosure at the
time of
appointment

Disclosure of Costs
– Item wise
process costs

Preservation of
Records – Physical
plus electronic
copy

Filing of Reports
and Forms

Duties of RP in PPIRP

Make Public
Announcement
within 2 days of PP-
ICD

Hold CoC meetings

Appoint Two
Registered Valuers

Invitation for
Resolution Plans –
Form P11

Application to AA –
Form P12

For termination of
process - Form P13

Powers of RP in PPIRP

Access

Access all books of account, records and information

Access

Access records with IU

Access

Access books of account etc with Government Authorities

Attend

Attend Board and Committee Meetings

Powers of RP in PPIRP

Appoint

Appoint accountants, legal or other professionals

Collect

Collect information relating to assets, finances and operations of CD

Collect

Collect information about existence of Avoidance Transactions

Collect

Collect information about fraudulent and wrongful trading

Expressions in PPIRP

BRP – Base Resolution Plan – Submitted by CD

IBRP – Impaired Base Resolution Plan

ERP – Evaluated Resolution Plan

SBRP - Significantly Better Resolution Plan

ARP - Approved Resolution Plan

Steps in Approval Process

CD to submit Base Resolution Plan within 2 days of PP-ICD



RP presents it to CoC

Committee of creditors May Provide
opportunity to revise BRP

Approve it if no impairment to
debts of OC

Steps in Approval Process

RP to Invite PRA's

IF BRP not approved

If BRP impairs any OC claim



RP presents Plans to Committee of Creditors for Evaluation

Steps in Approval Process

CoC to Select One Resolution Plan (ERP)
(Evaluated Resolution Plan – ERP/S1)



If ERP is Significantly Better than BRP
(Significantly Better Resolution Plan – SBRP/S2)

CoC May Select SBRP for Approval

Steps in Approval Process

If SBRP (S2) is not there, then ERP (S1) will compete with BRP



Based on Competition, ERP or BRP will be Selected (FARP/S3) for Approval

CoC May Approve the Plan (ARP)

Let's Understand Acronyms

Plan by CD

- Base Resolution Plan or Revised BRP

First Selection Process (S1)

- Evaluated Resolution Plan – ERP

Second Selection Process (S2)

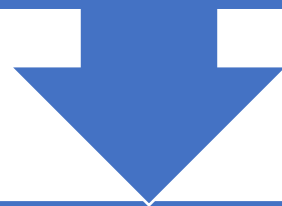
- Significantly Better Resolution Plan – SBRP

Let's Understand Acronyms

Third Selection Process (S3)

Steps in Approval Process

If BRP becomes ARP and contains impairment of any claim owed by CD



CoC **may** require dilution of shareholding, voting or control of promoters over CD

Steps in Approval Process

Committee of creditors may still approve without dilution for reasons to be recorded



RP to submit approved Plan to AA

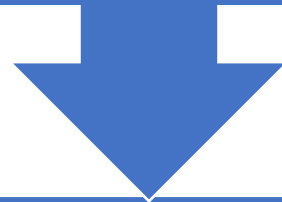
Explanations to Section 54K

Expl I – CD may submit the BRP either individually or jointly with any other person

Expl II – Claims to be considered as impaired where Resolution Plan does not provide for full payment of confirmed claims as per updated list of claims

Steps in Approval Process

AA may approve within 30 days



AA to ensure effective implementation

Steps in Approval Process

**AA shall Reject, Terminate PPIRP &
Order Liquidation**

If Vesting Order was Passed
and

If ARP does not result in
change in management
or control of CD

Termination of PPIRP (S. 54N)

Expiry of 90 days and Plan not approved by CoC

CoC decides to terminate with 66%

Avoidance Applications can continue

Termination of PPIRP (S. 54N)

CD to bear PPIRP cost on termination

If AA has passed order for vesting of management to RP

Steps in Approval Process

AA shall Order Liquidation and order PPIRP cost to be part of Liquidation Cost

If Vesting Order was Passed
and

If PPIRP is terminated
for any reason

CIRP in PPIRP (S. 540)

CoC with 66% vote can pass resolution for CIRP before approval of plan, if eligible

AA will

Let's Recapitulate

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Approval Process Recapitulated

BRP or Revised BRP

Approval Process Recapitulated

BRP or Revised BRP

Approval Process Recapitulated

Approval Process

Approval Process Recapitulated

Approval Process

Thank You for
Your
Patience!

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