

## FREQUENTLY ASKED QUESTIONS(FAQ) FOR HOMEBUYERS/ALLOTEES

Version 1.0 dated 25 Jun 2024

### **1. Riverbank Developers Private Limited has been admitted into insolvency on 03.04.2024. What does it mean?**

Hon'ble National Company Law Tribunal, Kolkata Bench ("NCLT") by its order dated 03<sup>rd</sup> April 2024 ("Admission Order") ordered the commencement of Corporate Insolvency Resolution Process ("CIRP") in respect of Riverbank Developers Private Limited (hereinafter referred to as "RDPL" or "Company" or "Corporate Debtor") under the provisions of the Insolvency and Bankruptcy Code 2016 ("IBC" or "the Code") vide IA 1086 of 2024 in CP (IB) No. 345 (KB)/2022. The NCLT has appointed Mr. Ashish Chhawchharia (Regn No. IBBI/IPA-001/IP-P00294/2017-18/10538), as the Resolution Professional ("RP"), in place of existing Interim Resolution Professional ("IRP") Mr. Sachin Gopal Jathar.

In accordance with section 17(1)(b) of the IBC, the powers of the board of directors of the RDPL are suspended and be exercised by the IRP/RP. 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 RP, 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 and Homebuyers.

### **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 RDPL has 'defaulted' in payment of its liabilities and obligations towards homebuyers, hence creditors of RDPL have initiated this process through which they will endeavor to find a successful resolution for the company through a new bidder/investor in the Company.

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

As per section 12 of the IBC, the CIRP has to be concluded within one hundred and eighty (180) days, however this can be extended to three hundred and thirty days (330).

### **4. 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 RDPL. Generally, the Financial Creditors, who are not related parties, are the members of the CoC. Homebuyers, being the financial creditors as per IBC, are also the members of the CoC. However, they are represented on the CoC by an elected Authorised Representative ("AR"). In this case, your AR is Mr Partha Kamal Sen (IBBI/IPA-002/IP-N00022/2016-17/10049) whose appointment was also approved by Hon'ble NCLT.

### **5. 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 home buyers obtained through physical or electronic means. Under the current CIRP, Mr. Partha Kamal Sen (IBBI/IPA-002/IP-N00022/2016-17/10049) has been elected by the homebuyers as their Authorized Representative already. For any queries related to the process, you can reach him at [rdpl.hbar@gmail.com](mailto:rdpl.hbar@gmail.com).

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

The CoC has been enabled under the Code, to take the decisions in respect of the Corporate Debtor, during the currency of the CIRP. The role of the CoC is one of a fiduciary duty with an implied covenant of good faith and fair dealing with all stakeholders. In this role, they are expected to preserve and protect the interest of all stakeholders and not just itself. The RP is an administrator of the Code and he is expected to function under the guidance of the CoC and as per the provisions of Insolvency & Bankruptcy Code, 2016. In respect of numerous aspects, the Resolution Professional is bound to take the prior approval of the CoC, as per Section 28 of the Code. Further, key decisions to be taken by the CoC include approval of resolution plan after assessing its feasibility and viability, approval of expenses during the CIRP period and taking other decisions with regards to the functioning of the company, based on its commercial wisdom.

**7. 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**.

**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).

**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/ resolution professional in electronic form in Form CA. This implies that home buyers do not have to submit the form CA in physical form.

You are requested to file your claim through the facility for filing claims arranged on the NESL portal. You can file your claim by accessing the NESL link <https://pda.nesl.co.in/>, and you can also see the video by accessing the link <https://icms-videos.s3.ap-south-1.amazonaws.com/Homebuyer+Claim.mp4> to understand the process of filing on the website. You may also reach out to the helpdesk of NESL for any support required in this connection.

Once your claim is submitted through this portal, the RP team will have access to view your claim and all supporting documents. Any queries the RP team may have will be communicated via email to your email ID as per claim form and you are expected to respond at the earliest. Should you have any queries, you can reach out to the RP or his team on email only – [Riverbank.Homebuyers@gmail.com](mailto:Riverbank.Homebuyers@gmail.com) and we will aim to respond at the earliest opportunity.

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

No

**11. Does the declaration need to be on stamp paper?**

Not required

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**12. 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 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.

**13. 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.

**14. Till when I can claim interest?**

Interest can be claimed till date of commencement of CIRP i.e., 3<sup>rd</sup> April 2024. Beyond 3<sup>rd</sup> April 2024, no interest will be admitted by the IRP/RP.

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

In absence of filing a valid claim with necessary supporting documents, 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.

**16. 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/shop/space in RDPL and paid the amount of consideration. Generally, the following supporting documents are deemed to be sufficient:

- Calculation sheet showing the calculations of amount of debt (preferably in MS-excel format);
- Allotment letter issued by RDPL;
- Payment Receipts issued by RDPL;
- Statement of Account/ledger, if any, issued by RDPL;
- Memorandum of Understanding /Builder Buyer Agreement;
- Bank Statement showing the payments made to RDPL;
- TDS statement, if deducted;
- Copy of cancelled cheque;of your bank account
- 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 it is mandatory to submit atleast one address proof and one identity proof of the allottee along with the claim** (PAN card and Aadhar card are the preferred documents in this regard)

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**17. What if, Statement of Account/ledger issued by RDPL is not available with me?**

Homebuyers may fill Form CA on the basis of other documents available with them, the RP shall try to get the Statement of Account from the management of the Company.

**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 RP shall collate and verify all claims as per the provisions of the Code.

**20. 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 claim was 17<sup>th</sup> April 2024, as is stated in the public announcement by the IRP published on 05<sup>th</sup> April 2024. The first Committee of Creditor has been constituted based on the claim filed till 17<sup>th</sup> April 2024. Any creditor who fails to submit claim and adequate supporting documents within the time stipulated in the public announcement may submit such claim to the RP on or before the 90<sup>th</sup> day of the Insolvency Commencement Date or upto the date of issue of Request of Resolution Plan, whichever is later. Further, if claims are submitted beyond 90 days from insolvency commencement date (3<sup>rd</sup> April 2024), you are required to provide reasons for such delay.

**21. Can a home buyer revise the claim submitted by them, in case it is not rightly submitted?**

Yes, the home buyer can revise its claim within the timelines mentioned above. Such revision of claim should be done on the same NESL portal where the original claim was submitted by the homebuyer.

**22. Why is my claim accepted with lesser amount than my claim amount?**

The RP will collate your claims on the basis of books of accounts and records of the Corporate Debtor provided by the management team of the Company. There can be instances where the admitted amount may be less than the claimed amount because of any difference between your claim and the company records. However, individual concerns may be raised with the RP along with statement of account and other corroborative evidence/documents (receipts of payment etc) to substantiate the amount claimed by you. In such cases, the office of the 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.

**23. Can RP reject my claim if Statement of Account issued by RDPL is not available with me?**

No. In that case please provide other relevant documentary evidence available with you to substantiate his/her claim, RP will consider the same in his verification process.

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

Hon'ble NCLT vide its order dated 03rd April 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 RDPL may file a claim with the RP in this respect. It is also clarified that Homebuyers who have any prior order or decree from any forum including RERA or Consumer Forum don't have any special status during the CIRP under IBC. All Homebuyers in the class will be considered equitably in so far as their respective claims are concerned, irrespective of whether they have any order or decree or not.

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

The Interim Resolution Professional has already published a list of creditors on Company's website (<https://hiland.in/cirp>). For claims submitted subsequent to that date, the IRP was in process of verifying and collating such claims. Further, the IRP has only 'provisionally' admitted the Homebuyer claims received by him until that date. Now the process of verification of claims received by IRP or RP will be handled by the recently-appointed RP with the support of his team. They may reach out to you for additional information and/or clarifications via email. You are requested to provide a response at the earliest based on which the office of the RP will complete the verification process and issue an updated list of creditors. Such list will be published on the website of the Company as well as will be uploaded on the IBBI website (website link - <https://ibbi.gov.in/en/claims/claimprocess/U70101WB2007PTC120037>). Such updation of the creditors list will be done from time-to-time based on additional information received by the RP and his team. You are requested to keep track of updated lists uploaded on company website or IBBI website.

**26. 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 (bidder/investor) may come and resolve the insolvency of the Company. Further way forward shall be discussed in the CoC meeting which is likely to be scheduled once a month. Please read the minutes of CoC meeting carefully.

**27. 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 Homebuyer still need to file claim?**

If registry of a flat or plot has already been done prior to the commencement of the corporate insolvency resolution process of RDPL, and if the homebuyer does not have any outstanding claim against RDPL, then no claim form is required to be filed in respect of the allotment of the flat / plot.

**28. Queries regarding possession, registration, incomplete amenities, MLCP, clubhouse, continuation of construction, CAM, formation of Residents' Association etc**

The RP has only recently taken control of the company and is in process of collating all the documents and obtaining an understanding of the status from the IRP and management. Post discussions with stakeholders, RP will release a separate communications/FAQs to address queries in this regard. You are requested to refrain from sending repeated queries to the RP or his team on these matters. Please be patient and allow them to gather more facts and information following which appropriate steps will be taken to address many of your concerns.

**29. How do I communicate with the RP or his team? Will it be better that I visit his office or call him on his mobile.**

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You are requested to send your queries/concerns **ONLY** via email to **Riverbank.Homebuyers@gmail.com** – exclusively created to correspond with the Homebuyers. Please **DO NOT** copy RP's email ID or the other process ID as it only expands the work of the RP team due to duplication of efforts in seeing multiple copies of same communication. This will further delay responses to your queries.

Please refer to the website of the company (<https://hiland.in/cirp>) from time to time to see further updates or similar FAQs issued from my end.

Also, you are advised **NOT** to visit the RP's own office premises as there is no provision or space to manage scores of homebuyers if they start visiting the RP's office. Moreover, the RP is not always present in his office and needs to travel for business purposes. We would not like to inconvenience you any further by making personal visits to his office.

RP and his team will communicate via email and occasionally through telephone. He will be visiting the Company office from time to time and will endeavor to progress the resolution process as fast as possible. In any case, the regulations also prescribe stringent timelines for running the process.

Please be patient as the RP is committed to do his best to protect the interest of all stakeholders including the Homebuyers.

**Issued by:**

**Ashish Chhawchharia**

(IBBI/IPA-001/IP-P00294/2017-18/10538)

Resolution Professional (RP)

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