

FAQs ON VERIFICATION OF CLAIMS

Question 1. What is meant by Claim?

Answer. As per Section 3(6) of Insolvency and Bankruptcy Code 2016 (hereinafter referred as “Code”), Claim means -

- (a) a right to payment, whether such right is reduced to judgement, fixed, disputed, undisputed, legal, equitable, secured or unsecured.
- (b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgement fixed, matured, unmatured, disputed, undisputed, secured or unsecured.

Therefore, to qualify as claim, right to payment must be established. If there is no right, there cannot be a claim.

Question 2. Who is responsible for the verification of claims of Creditors in the Resolution/Liquidation Process?

Answer. As per section 18 of the Code, IRP/RP is responsible for the verification of claims of Creditors in the Resolution Process.

As per Regulation 12 of Liquidation Process Regulations Liquidator is responsible for verification of claims in Liquidation Process.

Question 3. By what time, Creditors are required to submit their claims?

Answer. In Case of CIRP, The Creditors are required to submit their claims within the time period stipulated in the Public Announcement, which shall be fourteen days from the date of appointment of Interim Resolution Professional. A creditor who fails to submit

In Case of Liquidation Process, The Creditors are required to submit their claims within the time period stipulated in the Public Announcement, which shall be thirty days from the liquidation commencement date.

Question 4. Which Form is required for filing of proof of claim by Creditors?

Answer. In case of CIRP, Creditors are required to file the following Forms:

Form B of the schedule – For claims by Operational Creditors (except workmen and employees)

Form C of the schedule – For claims by Financial Creditors

Form CA of the schedule- For claims by creditors in a class

Form D of the schedule – For workmen and employees

In case of Liquidation Process, Creditors are required to file the following Forms:

Form C of the schedule II – For claims by Operational Creditors (except workmen and employees)

Form D of the schedule II – For claims by Financial Creditors

Form E of the schedule II – For workmen and employees

Question 5. Whether the claim filed in the wrong Form by a Creditor will be disqualified from being considered?

Answer. No. Claim will not be disqualified just because it has been filed in an incorrect form.

Question 6. If any creditor fails to file proof of claim along with the Form will be disqualified from being considered?

Answer. No. A creditor, who failed to submit proof of claim within the time stipulated in the Public Announcement, may submit such proof to the IRP/RP, as the case may be, till the approval of resolution plan by committee.

Question 7. Whether IP can admit a claim after the period of submission of claims is over, as stated in Public Announcement?

Answer. Yes. A creditor who fails to submit claim with proof within the time stipulated in the public Announcement, may submit claim with proofs to IRP/RP, as the case may be, on or before the 90th day of Insolvency commencement day.

Question 8. Is there any time limit within which IRP/ RP has to verify the claims?

Answer. Yes, IRP/ RP has to verify the claims within 7 days from the last date of the receipt of claims as per Regulation 13(1) of Insolvency Process Regulations.

As per regulation 30 of Liquidation Process Regulations, liquidator shall verify the claims submitted within in 30 days from the last date of receipt of claims.

Question 9. Whether the IRP/ RP can consider those claims which are appearing in the Books of Accounts of the Corporate Debtor, but not submitted the claim?

Answer. Yes, the IRP/ RP can consider those claims and can also ask for proof of claim from those creditors.

Question 10. How these claims can be proved by the Creditors?

Answer. As per Regulation 7,8 and 9 of Insolvency Resolution Regulations, Claims are proved on the basis of:

- i. Records available with the Information Utility.
- ii. Other relevant documents like:
 - a. a contract for the supply of goods and supply with Corporate Debtor
 - b. an invoice demanding payment for the goods and services supplied to the Corporate Debtor
 - c. a financial contract supported by financial statements as evidence of the debt
 - d. documentary evidence demanding satisfaction of claims.
 - e. A proof of employment such as contract of employment or evidence of demanding payment of unpaid dues.
 - f. Bank statements of the creditor showing non-satisfaction of the claim
 - g. An order of court or tribunal that has adjudicated upon non-satisfaction of claims, if any.

The IRP/RP may call for other evidence or clarification for the substantiation of the whole or part of the claim.

As per regulation 16 of Liquidation process regulations, A persons who claims to be a stakeholder, shall prove his claim for debt or dues to him, including interest, if any, as on liquidation commencement date.

Question 11. How to file a claim as a Creditor?

Answer. Creditors are liable to submit the proof of their claims in the prescribed Forms through:

- i) Electronic means only (for financial creditors including creditor in a class)

- ii) In person, by post or by electronic means (for operational creditors including workmen and employee and any other creditor)

Question 12. Who will bear the cost of proving debt?

Answer. A creditor shall bear the cost of proving the debt to such creditor.

Question 13. How will claim amount be determined if amount of claim is not precise?

Answer. Where the amount claimed by a creditor is not precise due to any contingency or other reasons, the IRP or RP, as the case may be, shall make the best estimate of the amount of the claims based on the available information. He will revise the claims as soon as practicable, when he comes across additional information.

Question 14. How will claim amount be determined if debt is in foreign currency?

Answer. The claims denominated in foreign currency shall be valued in Indian currency at the exchange rate as on insolvency commencement date or liquidation commencement date, as the case may be.

Question 15. Is it mandatory for IRP/RP/Liquidator to accept claims of the Creditors?

Answer. No. IRP/RP/Liquidator, as the case may be, may accept or may not accept the claims submitted by recording and intimating the reasons in writing for such rejection

Question 16. Whether Interest forms part of the claims?

Answer. Yes. As given in Form B (Proof of claim by operational creditor) and Form C (Proof of claims by financial creditors), total amount of claim includes any interest as on Insolvency commencement date.

Question 17. How will periodical payments be dealt during the liquidation process?

Answer. In case of periodical payments like Rent, Interest and other payments, a person may claim only for any amount due and unpaid up to the liquidation commencement date.

Question 18. During the liquidation process, can a creditor withdraw his claims?

Answer. Yes. A creditor may withdraw or vary his claims within 14 days of its submission as per Section 38(5) of the Code.

Question 19. If the claim has been rejected by the Liquidator, what remedy do the Creditors have?

Answer. A creditor may appeal to the Adjudicating Authority against the decision of the liquidator rejecting the claims within 14 days of the receipt of such decision.

Question 20. How the debt payable at future time dealt during Liquidation process?

Answer. A person may prove for a claim whose payment was not yet due on the liquidation commencement date and is entitled to distribution in the same manner as any other stakeholder.

Question 21. How the mutual credit and set off are dealt in liquidation process?

Answer. Where there are mutual dealings between the corporate debtor and another party, sums due from one party shall be set off against the sums due from the other to arrive at the net amount payable to the corporate debtor or to the other party.