

Statement of Best Practices: "Meetings of the Committee of Creditors Under Corporate Insolvency Resolution Process"

(Joint paper by all the IPAs)

(Continued from previous edition...)

8. Conduct of the Meeting

- 8.1 At the commencement of a meeting, the Resolution Professional shall take a roll call when every participant attending through video conferencing or other audio and visual means shall state, for the record, the following -
 - a) his name;
 - b) whether he is attending in the capacity of a member of the committee or any other participant;
 - c) whether he is representing a member or group of members;
 - d) the location from where he is participating;
 - e) that he has received the agenda and all the relevant material for the meeting; and
 - f) that no one other than him is attending or has access to the proceedings of the meeting at the location of that person.
- 8.2 After the roll call, the Resolution Professional shall inform the participants of the names of all persons who are present for the meeting and confirm if the required quorum is complete.
- 8.3 The resolution professional shall ensure that the required quorum is present throughout the meeting.
- 8.4 From the commencement of the meeting till its conclusion, no person other than the participants and any other person whose presence is required by the resolution professional shall be allowed access to the place where meeting is held or to the video conferencing or other audio and visual facility, without the permission of the resolution professional.
- 8.5 Resolution Professional has to provide information

memorandum in electronic form to each member of the CoC along with all other relevant information.

- 8.6 The Resolution Professional also has to take a confidentiality undertaking from the members of the CoC before sharing information and documents relating to Resolution Applicants, valuation, financials and Resolution Plans. The details of valuation are required to be disclosed to every member of the CoC in electronic form, on receiving a confidentiality undertaking. Thus, information and documents need to be disclosed or supplied to entitled persons, in the specified manner, at the specified time, after meeting the specified requirements.
- 8.7 The resolution professional shall ensure that minutes are made in relation to each meeting of the committee and such minutes shall disclose the particulars of the participants who attended the meeting in person, through video conferencing, or other audio and visual means.
- 8.8 The resolution professional shall circulate the minutes of the meeting to all participants by electronic means within forty eight hours of the said meeting.

9. List of Creditors and authorised representatives to be available for inspection

- 9.1 The list of creditors, and authorised representatives shall be available for inspection by the persons who submitted proofs of claim at the first meeting of Committee of creditors
- 9.2 The Resolution Professional may place the updated list of creditors, if any, at every meeting of CoC and shall be available for inspection with required documents, if needed.

- 9.3 The updated list of creditors should also be filed on the electronic platform of the Board for dissemination on its website.

10. Voting by the committee

- 10.1 The resolution professional shall take a vote of the members of the committee present in the meeting, on any item listed for voting after discussion on the same.

- 10.2 The authorised representative of a particular class of financial creditors will vote in the CoC, on behalf of all financial creditors represented by him as per the decision taken by a vote of more than 50 percent of the voting share of the financial creditors of such class, who have cast their vote. Such majority vote within a class of creditors will be counted as a 100 percent vote from that class of creditors in favour or against a voting item.

Illustration: If out of a class of 100 homebuyers, 51 or more homebuyers vote in favour of a resolution plan, then all homebuyers would be considered to have voted in favour of the resolution plan.

- 10.3 At the conclusion of voting at the meeting, the resolution professional shall announce the decision taken on items along with the names of the members of the committee who voted for or against the decision, or abstained from voting.

- 10.4 Where two or more resolution plans are put to vote simultaneously, the resolution plan, which receives the highest votes, but not less than requisite votes, shall be considered as approved: Provided that where two or more resolution plans receive equal votes, but not less than requisite votes, the committee shall approve any one of them, as per the tie-breaker formula announced before voting.

- 10.5 The resolution professional shall-

- a) circulate the minutes of the meeting by electronic means to all members of the committee and the authorised representative, if any, within forty-

eight hours of the conclusion of the meeting; and

- b) seek a vote of the attending members who did not vote at the meeting on the matters listed for voting, by electronic voting system in accordance with Regulation 26 of CIRP Regulations where the voting shall be kept open for at least twenty-four hours from the circulation of the minutes.

- 10.6 The authorised representative shall circulate the minutes of the meeting received to creditors in a class and announce the voting window at least twenty-four hours before the window opens for voting instructions and keep the voting window open for at least twelve hours.

- 10.7 No creditor, whether secured or unsecured, irrespective of its voting power or share, or no pool of creditors such as Joint Lenders' Forum is a substitute of the CoC. A Resolution Professional cannot take directions of a creditor having significant voting power or a pool of creditors.

11. Voting through electronic means

- 11.1 The resolution professional shall provide each member of the committee the means to exercise its vote by either electronic means or through electronic voting system in accordance with the relevant provisions of CIRP Regulations.

- 11.2 The authorised representative shall exercise the votes either by electronic means or through electronic voting system as per the voting instructions received by him from the creditors in the class pursuant to sub-regulation (6) of regulation 25 of CIRP Regulations.

- 11.3 At the end of the voting period, the voting portal shall forthwith be blocked.

- 11.4 At the conclusion of a vote held under this Regulation, the resolution professional shall announce and make a written record of the summary of the decision taken on a relevant agenda item along with the names of the members of the committee who voted for or against the decision, or abstained from voting.

- 11.5 The Resolution Professional shall circulate a copy of the written record made under clause 11.4 above to all participants by electronic means within twenty four hours of the conclusion of the voting.

12. Minutes of the meeting

- 12.1 The Resolution Professional shall keep and preserve minutes of all meetings of COC as per the record retention schedule advised by IBBI from time to time.
- 12.2 The Resolution Professional has to circulate the minutes of the meeting to all participants by electronic means within forty eight hours of the meeting.
- 12.3 Resolution Professional shall maintain its minutes in physical as well as in electronic form.
- 12.4 The Resolution Professional will however follow a uniform and consistent form of maintaining the minutes.
- 12.5 The minutes of all meetings of a particular CIRP will be bound together at the end of the period of CIRP, for safekeeping by the Resolution Professional.
- 12.6 Minutes shall not be tampered in any manner after being finalised post gathering comments from the members of the Committee and must always be circulated in pdf form in order to avoid any tampering.
- 12.7 There shall be a proper locking device to ensure security and proper control to prevent removal or manipulation of the loose leaves.
- 12.8 Minutes shall be kept at the office of Resolution Professional, from where he conducts the CIRP.

13. Contents of Minutes

(a) General Contents

Minutes shall state, at the beginning, the serial number, name of the Corporate Debtor, classes of creditors, name of Resolution Professional, name of authorised representative, day, date, venue and

time of commencement of the meeting.

In respect of a meeting adjourned for want of Quorum, a statement to that effect by the Resolution Professional shall be recorded in the Minutes.

Minutes shall record the names of the members of COC present physically or through electronic mode, the Resolution Professionals, members of suspended Board of Directors, authorised representatives, other participants and invitees, if any, including invitees for specific items.

The names of the participants shall be listed in alphabetical order or in any other logical manner, but in either case starting with the name of the Resolution Professional.

The capacity in which an invitee attends the meeting and where applicable, the name of such invitee and the relation, if any, of that invitee to the company shall also be recorded.

(b) Specific Contents

Minutes shall inter-alia contain the following:

- (i) Minutes shall specifically disclose the particulars of the participants who attended the meeting in person, through video conferencing or other audio and visual means.
- (ii) In case of a member of COC participating through electronic mode, his particulars, and wherever required, the location from where he participated.
- (iii) Views of members of suspended Board of Directors of Corporate Debtor/operational creditors and other participants

The views of the members of suspended Board of Directors/operational creditors and other participants may be recorded in the minutes

- (iv) Views of Dissenting financial creditors

The views of Dissenting financial creditors must be recorded in the minutes.

- (v) Details of financial creditors abstained from voting.

- (vi) Details of financial creditors not participated in the meeting.
- (vii) Details of financial creditors who voted in favour of the Resolution.
- (viii) Details of financial creditors who voted against the resolution.
- (ix) The time of commencement and conclusion of the meeting.
- (x) Apart from the resolution or the decision, minutes shall mention the brief background of all proposals and summarise the deliberations thereof. In case of major decisions, the rationale thereof shall also be mentioned.
- (xi) The decisions shall be recorded in the form of Resolutions, where it is statutorily or otherwise required. In other cases, the decisions can be recorded in a narrative form.
- (xii) IRP/RP should give his/her independent opinion on each matter voted, based on the facts of the matter voted on. This should form part of the meeting. This will ensure that justification for the decision is available at a later date, along with related records, for analysis/verification.

14. Recording of Minutes

- 14.1 Minutes shall contain a fair and correct summary of the proceedings of the meeting.
- 14.2 The Resolution Professional shall record the proceedings of the meetings.
- 14.3 The Resolution Professionals may exclude from the minutes, matters which in his opinion are or could reasonably be regarded as defamatory of any person, irrelevant or immaterial to the proceedings or which are detrimental to the interests of the company.
- 14.4 Minutes shall be written in clear, concise and plain language.
- 14.5 Minutes shall be written in third person and past tense. Resolutions shall however be written in

present tense.

- 14.6 Minutes need not be an exact transcript of the proceedings at the meeting.
- 14.7 Where any earlier Resolution(s) or decision is superseded or modified, minutes shall contain a specific reference to such earlier Resolution(s) or decision or state that the Resolution is in supersession of all earlier Resolutions passed in that regard.

15. Signing and Dating of Minutes

- 15.1 Minutes of the meeting of the COC shall be signed and dated by the Resolution Professional.
- 15.2 The Resolution Professional shall initial each page of the minutes, sign the last page and append to such signature the date and the place where he has signed the minutes.
- 15.3 Any blank space in a page between the conclusion of the minutes and signature of the Resolution Professional shall be scored out.

Annexure A

Illustrative list of items of business for the Agenda for the first meeting of the Committee of Creditors

1. The Interim Resolution Professional to take the Chair.
2. To ascertain the quorum of the Meeting.
3. To reduce the Notice Period.
4. To take note of the List of Creditors prepared by the Interim Resolution Professional.
5. To take note of the steps taken by the IRP for taking control and management of affairs of the Corporate Debtor since the Insolvency Commencement date.
6. To ratify and reimburse expenses incurred/to be incurred by the Applicant as insolvency resolution process costs for the fees to be paid to the Interim Resolution Professional and other expenses such as publication of public announcement, which form a part of CIRP cost. To ratify fees relating to IRP, and to approve the said cost as insolvency resolution

process costs.

7. To ratify cost relating to public announcement and approve reimbursement of the same.
8. To ratify the cost/fee of the legal advisors to the Interim Resolution Professional for Professional services procured since insolvency commencement date.
9. To ratify the cost/fee of the / Professionals appointed by the Interim Resolution Professional for services procured since insolvency commencement date.
10. To appoint a Resolution Professional and to fix the remuneration and expenses to be incurred which shall constitute Insolvency Resolution Process Cost.

Annexure B

Illustrative list of items of business for the Agenda of the subsequent meetings of the Committee of Creditors

1. The Resolution Professional to take the Chair.
2. To ascertain the quorum of the Meeting.
3. To take note of minutes of previous meeting of Committee of Creditors.
4. To take note of the updated List of Creditors prepared by the Resolution Professional.
5. To take note of the steps taken by the Resolution Professional since the last meeting of the CoC till date.
6. To consider, discuss and approve the appointment and fees of Professionals and to ratify the cost of Professional as insolvency resolution process cost.
7. To take note of the Information Memorandum prepared under Regulation 36 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate persons) Regulations, 2016 and matters incidental thereto.
8. To update the CoC on Corporate Debtor's Cash flows and operations.
9. To consider, discuss and approve the eligibility criteria for potential resolution applicants.
10. To ratify the cost/fee of the Registered Valuers appointed by the Resolution Professional for services procured since insolvency commencement date.
11. To take note of the Expression of Interest (EOI).
12. To discuss and approve the Evaluation Matrix as proposed by the Resolution Professional for evaluating the plans as may be received from prospective resolution applicants.
13. To discuss and approve the appointment & remuneration of any professional.
14. To ratify the cost incurred for publication of Expression of Interest (EOI) for inviting Resolution Plan from the prospective Resolution Applicants.
15. To take note of the EOI received from prospective Resolution Applicant.
16. To take note of the Request for Resolution Plan (RFRP).
17. To discuss and approve the extension of time by 90 days for completion of Corporate Insolvency Resolution Process.
18. To replace the Resolution Professional with another Resolution Professional.
19. To reduce the notice period for convening the meeting of Committee of Creditors.
20. To discuss on the resolution plans by respective resolution applicants.
21. To Discuss on the Resolution Plan submitted by
22. To consider and approve the final resolution plan dated submitted by

Form for appointment of Authorised Representative

CIN:

Name of the Corporate Debtor:

Registered office:

Date of the Meeting:

Name of the Member of CoC:

Registered address:

1. Name:

Address:

E-mail Id:

Signature: ,

I/ We being the member of the Committee of Creditors, hereby appoint as my/our Authorised Representative to attend and vote for me/us and on my/our behalf at Meeting of Committee of Creditors, to be held onat the.....,and at any adjournment thereof in respect of such resolutions as are indicated below:

Resolution No.

1

2

3

4

5

Signed this Day of..... 202..

Signature of Member/s of Committee of Creditors:

Signature of Authorised Representative:

Note: This form in order to be effective should be duly completed and deposited at the Registered Office of the Corporate Debtor, before the commencement of the Meeting.