FAQs on the Insolvency and Bankruptcy Code (Amendment) Act, 2026

Introduction

The Insolvency and Bankruptcy Code (Amendment) Act, 2026 ("**Amendment**") marks significant amendments to India's insolvency framework, the Insolvency and Bankruptcy Code, 2016 ("**Code**"). The proposed amendments are designed to minimize procedural delays, enhance value creation for all stakeholders participating in the insolvency process, and substantially strengthen the governance framework under the Code. These FAQs are intended to set out how the amendments made to the Code are likely to impact the resolution process and timelines.

1. **When was the Amendment to Code introduced and when does it come into force?**

   While the Amendment to the Code was introduced as a bill in the Lok Sabha on 12 August 2025, the same received presidential assent on 6 April 2026 leading to its publication in the Gazette as Insolvency and Bankruptcy Code (Amendment) Act, 2026. However, different dates may be appointed for different provisions of this Amendment to come into force.

   The Central Government, vide notification dated 22 May 2026, has notified majority of the provisions of the Amendment with effect from 26 May 2026.

New Definitions and Concepts

2. **What is the newly introduced definition of 'service provider' and who does it cover?**

   By way of the Amendment, the definition of 'service provider' has been introduced which acts as a single umbrella term and includes insolvency professional, insolvency professional agency, information utility, registered valuer, and any other person notified by the Central Government, provided they are registered with the Insolvency and Bankruptcy Board of India ("**IBBI**").

   The definition of 'registered valuers' has also been inserted by way of the Amendment, which states that it will have the same meaning as under Companies Act, 2013 which brings in much required uniformity across statutes.

3. **What addition has been made to the definition of resolution plan under the Amendment?**

   The resolution plan earlier only included provisions for restructuring of the corporate debtor by way of merger, amalgamation, demerger. However, by way of the Amendment, the provision for restructuring shall also include sale of one or more assets of the corporate debtor through one or more plans proposed by one or more resolution applicants subject to such conditions as may be specified.

4. **What are the other relevant definitions which have been introduced by the Amendment?**
   The definitions for "avoidance transaction" and "fraudulent or wrongful trading" have been introduced by way of the Amendment as it was not specifically provided for in the Code.

Initiation of Corporate Insolvency Resolution Process ("CIRP")

5. **Whether the timeline for the Adjudicating Authority to admit or reject applications under Sections 7, 9 and 10 remains directory in lieu of the Amendment?**

While the Code provided for timelines for the Adjudicating Authorities to admit or reject applications under Section 7(5), Section 9 (5) and Section 10(4), the Supreme Court in '*Surendra Trading Company v. Juggilal Kamlapat Jute Mills Co. Ltd. & Ors*' held that these timelines are procedural in nature and not mandatory.

Through the Amendment, provisos are inserted in Sections 7(5), 9(5), and 10(4) of the Code, will mandate the Adjudicating Authority to pass an order within the prescribed timeline, failing which it shall record the reasons for the delay.

6. **What is the impact of the amendment made to Section 7(5) of the Code?**

The Supreme Court in *Vidarbha Industries Power Ltd. v. Axis Bank Ltd.* held that Section 7(5) of the Code provided discretion to the Adjudicating Authority to admit applications under Section 7. However, by way of the Amendment, this discretionary approach is removed by adding that the Adjudicating Authority 'shall' admit the application if it is satisfied that there is a default and the application is complete and there are no disciplinary proceedings pending against the proposed resolution professional. Further, Explanation I which shall be inserted vide the Amendment will clarify that if the requirements are complied with, the Adjudicating Authority shall not have any ground to reject an application.

Appointment of Interim Resolution Professional ("IRP") and Duties of IRP/Resolution Professional ("RP")

7. **Who will be appointed as IRP in case of application filed under Section 10 Code?**

Under the Code, the Adjudicating Authority had to appoint the IRP as proposed in the application filed under Section 10 of the Code, provided no disciplinary proceedings were pending against him. However, by way of the Amendment, the Adjudicating Authority shall make reference to IBBI to recommend an insolvency professional who may act as the IRP and not appoint the IRP proposed in the application.

8. **From which date shall the IRP be deemed to be appointed as RP?**

By way of Amendment, it shall be clarified that the IRP will be deemed to be appointed as RP from the date on which the Committee of Creditors ("**CoC**") resolves to continue the IRP as the RP and this decision shall be communicated to the IRP, the Corporate Debtor, and the IBBI.

By inserting this deemed appointment provision in the Code, it removes the ambiguity regarding the period between the decision taken by the CoC and the formal communication sent to the relevant parties/authorities.

9. **Can the IRP verify and determine the value of verified claim of the creditors?**

In the Code, there was no specific duty of the IRP to verify the claim while collating the same, yet the IRP used to verify the same. By way of the Amendment, an insertion shall be made to clarify that while the IRP collates the claim, he/she shall verify them and if required, also determine the value of such verified claims.

Withdrawal of CIRP Applications

10. **When can CIRP application be withdrawn and what are the thresholds for withdrawal?**

By way of Amendment to Section 12A of the Code, the withdrawal application would need to be filed by the RP for withdrawal of admitted applications under Sections 7, 9 or 10 after approval of 90% voting share of the Committee of Creditor.

Further, the withdrawal shall only be permitted: (i) after the constitution of the CoC; and (ii) before the first invitation for submission of a resolution plan has been issued by the RP.

11. **What is the timeline for Adjudicating Authority to pass an order on the application for withdrawal of the CIRP?**

By way of the Amendment, the Adjudicating Authority shall have to pass an order on the application for withdrawal of the CIRP within 30 days from receipt of the same. If such order is not passed, the Adjudicating Authority needs to record the reasons in writing for the delay.

Guarantors — Transfer of Assets

12. **Whether a creditor can transfer an asset of a guarantor during the CIRP which had come to the possession of the creditor during the CIRP?**

By way of the Amendment, Section 28A shall be introduced in the Code by which a creditor who has taken possession of a guarantor's asset, can transfer that asset as a part of the CIRP of the corporate debtor, provided it obtains prior approval of the CoC.

However, if the guarantor itself is undergoing CIRP or liquidation, an additional approval of that guarantor's CoC of at least 66% voting share is required, and the sale proceeds shall go into the guarantor's insolvency / liquidation estate. Where the secured creditor intends to realise the security interest, he shall inform the liquidator of such interest and identify the asset to be realised. If he fails to do so, the security interest shall be deemed to be relinquished to the liquidation estate as provided under Section 52 of the Code. Where the personal guarantor is undergoing insolvency/bankruptcy proceedings and the creditor has forfeited or surrendered its right in relation to the asset, the transfer requires approval by a majority of more than three-fourths (i.e., 75%) in value of the creditors of the personal guarantor.

Once transferred, the buyer gets clean title to the asset as if the owner had sold it, the proceeds are adjusted against the guarantor's debt (after deducting preservation costs), and any surplus is returned to the guarantor.

A report was published by the Select Committee on the Insolvency and Bankruptcy Code (Amendment) Bill, 2025 ("**Select Committee Report**"). Under the Select Committee Report, it was observed that introduction to this new Section 28A to the Code addresses the practical challenge of asset fragmentation. For example, where the corporate debtor owns the business but the guarantor owns the underlying land or critical assets. This insertion will now enable a consolidated resolution to maximize value of the asset.

Resolution Plan

13. **What minimum amount is required to be provided to dissenting financial creditors under the resolution plan who vote against approval of the plan?**

By way of Amendment, Section 30(2)(ba) shall be inserted in the Code, which states that a dissenting financial creditor (who does not vote in favour of the resolution plan) must be paid an amount not less than the lower of:

(i) the amount they would receive in liquidation of the corporate debtor under Section 53, or
(ii) the amount they would have received if the amount to be distributed under the resolution plan had been distributed in accordance with the priority order under Section 53(1).

14. **Who should be part of the committee for implementation of the resolution plan and supervise it?**

    Under Section 30(2)(d) the Code, the resolution plan had to include provisions for the implementation and supervision of the plan. By way of the Amendment, this section shall be elaborated to state that a committee shall be constituted for implementation and supervision of the resolution plan which shall consist of:
    (i) the RP or any other insolvency professional;
    (ii) representatives of a class or classes of creditors; and
    (iii) the resolution applicant, subject to such conditions and in such manner as may be specified.

15. **Can the Adjudicating Authority approve the implementation and distribution aspects of a resolution plan in two separate stages?**

    Yes. By way of Amendment to Section 31(1) of the Code, a proviso shall be inserted stating that the Adjudicating Authority, on an application made by the RP with CoC approval of not less than 66% voting share, may first approve the implementation of the resolution plan and thereafter separately approve the manner of distribution provided therein, within a period of 30 days from the date of approval of implementation of the resolution plan.

16. **Whether resolution plan can be rectified once it is filed before the Adjudicating Authority for approval?**

    By way of Amendment to Section 31(2) of the Code, a proviso shall be inserted stating that the Adjudicating Authority, before rejecting a resolution plan, may give notice to the CoC to rectify any defects in the resolution plan.

    This means rectification of resolution plan is permitted at the stage of adjudication, before an order of rejection is passed. Prior to this Amendment and in the absence of such power given to the Adjudicating Authority, the Adjudicating Authority had no other option, but to reject the resolution plan as per the provisions of the Code, even in cases of minor non-material errors.

17. **Within how many days is the Adjudicating Authority required to pass an order for approval or rejection of the resolution plan?**

    By way of the Amendment, Section 31(2A) shall be inserted to the Code, whereby the Adjudicating Authority is required to pass an order under Section 31(1) or 31(2) (i.e., approval or rejection of resolution plan) within 30 days from the date of receipt of the resolution plan. If no order is passed within this period, it must record the reasons for such delay in writing.

18. **Whether the successful resolution applicant is required to seek specific reliefs from the Adjudicating Authority for continuation of valid licence, permit, registration, grant, etc. given by any authority or government or local body to the corporate debtor?**

    No. By way of the Amendment, Section 31 (5) shall be inserted in the Code which states that once a resolution plan is approved under Section 31(1), any licence, permit, registration, quota, concession, clearance or similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority associated with the resolution plan shall not be suspended or terminated during the remaining period of such grants or rights, provided the corporate debtor or the resolution applicant complies with the obligations in respect of such grants

or rights. There is no requirement to seek specific relief before the Adjudicating Authority as the protection operates automatically by virtue of the statute.

19. **Whether a creditor can initiate or continue any legal proceedings against the corporate debtor for any claims which are not included in the resolution plan once it is approved?**

    By way of the Amendment, Section 31 (6) shall be inserted in the code which states that once the Adjudicating Authority approves the resolution plan, any claim against the corporate debtor and its assets under any other law, prior to the date of approval, shall stand extinguished (unless otherwise provided for in the resolution plan), and no proceedings shall be continued or instituted against the corporate debtor or its assets on the basis of such claims, including proceedings for assessment of such claims.

    This amendment codifies the clean slate principle laid down in *Vaibhav Goel & Anr. v. Deputy Commissioner of Income Tax & Anr. and Ghanashyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Ltd. and Ors.* and saves the trouble for Adjudicating Authority from repeating the same ruling every time while passing an order for approval of the resolution plan.

    However, it is important to note that as per Explanation I to Section 31(6) which shall be introduced by way of the Amendment, this protection does not affect claims or proceedings against promoters, guarantors, persons in management/control of the corporate debtor, or persons having joint and/or several liability with the corporate debtor.

<u>Liquidation Process</u>

20. **What happens to the CoC on commencement of liquidation process after the Amendment comes into force?**

    By way of the Amendment, Section 21(11) shall be inserted in the Code, whereby it has been stated that the CoC constituted during CIRP shall continue and also supervise the conduct of the liquidation process by the liquidator, and the provisions of Section 21 and Section 24 of the Code shall apply to the liquidation process as the context may require. The IBBI may specify any other class or classes of creditors who may attend CoC meetings during liquidation, but such creditors shall have no voting rights.

    This provision shall apply to: (a) liquidation processes initiated after the Amendment comes into force and (b) ongoing liquidation processes as on the date of commencement where the liquidator has not yet made an application under Section 54 of the Code for dissolution.

21. **How long of an extension can the Committee of Creditors get if no resolution plan was received by the CoC or the Adjudicating Authority rejects the resolution plan? And on how many occasions can such extension can be sought?**

    By way of the Amendment, Section 33(1A) shall be inserted in the Code, which gives an opportunity to seek an extension of CIRP in the scenario that no resolution plan was received during the CIRP by the CoC or the resolution plan was rejected for non-compliance of the requirements under Section 31 by the Adjudicating Authority.

    On an application by the CoC with not less than 66% of the voting share, the Adjudicating Authority may: (a) where no resolution plan were received, restore the CIRP and directing the same be completed within such duration as it deems fit but not exceeding 120 days; and

(b) where the resolution plan was rejected for non-compliance, restore the CIRP to the stage of invitation for submission of resolution plans and it shall be completed within such duration as the Adjudicating Authority deems fit, not exceeding 120 days.

The CIRP can be restored in this manner only once.

22. **Within how many days is the Adjudicating Authority required to pass an order for liquidation?**

By way of the Amendment, the Adjudicating Authority shall be required to pass a liquidation order under Section 33 (Initiation of liquidation) within 30 days from the date of receipt of the intimation or application to initiate the liquidation process. If no order is passed within this period, it must record the reasons for such delay in writing.

23. **Can CIRP be reinstated if the approved resolution plan is contravened by the concerned corporate debtor?**

By way of the Amendment, Section 33(4) shall be introduced in the Code, which states that where an application for a liquidation order is made by any person under Section 33(3) on account of contravention of the approved resolution plan by the corporate debtor, the Adjudicating Authority may pass a liquidation order as provided in Section 33(1)(b) or, if it deems fit, reinstate the CIRP and pass appropriate orders. This amendment addresses situations where the resolution plan though approved is unable to be implemented due to the actions of the successful resolution applicant.

24. **Whether the Adjudicating Authority can appoint the RP as the liquidator?**

By way of the Amendment, Section 34 (4) shall be introduced in the Code, which states that an insolvency professional appointed as a RP shall neither be appointed as liquidator nor be considered as replacement liquidator at a later stage for the liquidation process of the corporate debtor. The Adjudicating Authority shall instead make a reference to IBBI for recommendation of an insolvency professional to be appointed as the liquidator, and the IBBI is required to propose the name of an insolvency professional other than the RP of the CIRP, within 10 days of such reference. On receipt of the IBBI's proposal, the Adjudicating Authority shall appoint the insolvency professional as the liquidator.

25. **Whether the Committee of Creditors can replace a liquidator during the liquidation process?**

By way of the Amendment, Section 34A shall be introduced in the Code, which states that the CoC, at any time during the liquidation process, may by a vote of not less than 66% of the voting share, resolve to replace the liquidator with another insolvency professional, subject to written consent from the proposed liquidator, in such form as may be specified. The CoC shall then apply to the Adjudicating Authority, which shall, if no disciplinary proceedings are pending against the proposed liquidator, pass an order replacing the existing liquidator and appoint the proposed liquidator.

26. **Whether liquidator is required to verify claims of the creditors again for the liquidation process initiated after the Amendment comes into force?**

By way of the Amendment, the liquidator shall now not be required to reverify the claims as the same would be done by the RP. Sections 38 to 42 of the Code, which dealt with collation, verification and determination of claims during liquidation, shall be omitted for the liquidation process.

Therefore, the duplication of verification of claim by RP and liquidator is curtailed. The liquidator is now only required to maintain an updated list of claims of creditors as verified by the RP in such manner as may be specified.

27. **Whether Stakeholder Consultation Committee continues to function after the Amendment comes into force?**

The Amendment shall substitute the role of Stakeholder Consultation Committee by replacing it with the CoC to supervise the conduct of the liquidation process by the liquidator.

28. **What is the deadline for a secured creditor to notify the liquidator that it intends to realise its security interest on a particular asset?**

By way of the Amendment to Section 52(2) of the Code, a secured creditor who intends to realise its security interest outside the liquidation estate shall have to inform the liquidator and identify the specific asset within 14 days from the liquidation commencement date. If the secured creditor fails to do so within this period, the security interest shall be deemed to be relinquished to the liquidation estate.

This Amendment shall not apply to the liquidation processes initiated on or before the date of notification of this Section.

29. **What happens if multiple secured creditors have security interest over the same asset and they wish to realise it?**

By way of the Amendment, where more than one secured creditor has a security interest over the same asset of the corporate debtor, no secured creditor shall be entitled to realise its security interest unless the realisation is agreed upon by secured creditors representing not less than 66% of the value of all claims secured by such security interests over that asset. This prevents unilateral enforcement by any single secured creditor where multiple creditors share security over the same asset.

As this amendment does not distinguish between the secured creditor having first or second charge over an asset, it is presumed that all secured creditors for that particular asset would be on the same pedestal. In the Select Committee Report, it is mentioned that during the consultation stage, many stakeholders pushed for the amendment to include that the 66% consent must be calculated after the liquidator, in consultation with valuers, should provide a report to all secured creditors on that asset, detailing the estimated value, the hierarchy of charges (first, second, etc.), and the expected distribution of proceeds from realization, to ensure all parties vote with full information.

However, as noted in the Select Committee Report, the ministry of law and justice stated that the proposed insertion of proviso to sub-section (2) of section 52 states that when multiple secured creditors have claims secured by a security interest over a specific asset of the corporate debtor, the decision shall be based on 66% of the total value of all claims that are secured by such security interest holders. It does not consider whether a person has a first or second charge on the secured assets. Since realization of secured assets is outside the liquidation, all secured creditors holding security interests over the asset will receive a lower priority and this approach will be more equitable and shall provide an opportunity for everyone affected by the decision to participate.

30. **Whether government dues pertaining to a period of 2 years prior to liquidation commencement date can be given same treatment as those dues pertaining to beyond 2 years?**

By way of the Amendment, an Explanation shall be inserted in Section 53(1)(e)(i) of the Code**,** government dues (whether or not secured by a security interest, whether created by agreement or by operation of law) pertaining to the 2 years immediately preceding the liquidation commencement date shall be distributed in the rank alongside debts owed to secured creditors for any amount unpaid following the enforcement of security interest. However, any remaining government dues beyond this 2-year period shall be distributed at a lower priority as unsecured creditors under Section 53(1)(f) i.e. any remaining debts and dues. The two categories thus receive different priority treatment in the waterfall under Section 53.

31. **What is the timeline imposed upon the liquidator to complete liquidation and apply for dissolution?**

By way of the Amendment to Section 54 of the Code, the liquidator shall have to completely liquidate the assets of the corporate debtor and make an application for dissolution to the Adjudicating Authority within 180 days from the liquidation commencement date. The Adjudicating Authority may, on an application by the liquidator with sufficient reasons, extend this period by such time as it deems fit, not exceeding 90 days.

32. **Within how many days is the Adjudicating Authority required to pass an order for dissolution?**

By way of the Amendment, Section 54(4) shall be inserted which states that the Adjudicating Authority is required to pass a dissolution order within 30 days from the date of receipt of the application for dissolution from the liquidator or the intimation of the CoC's decision to dissolve the corporate debtor. If no order is passed within this period, it must record the reasons for the delay in writing.

<u>Avoidance transaction or fraudulent or wrongful trading Applications</u>

33. **Whether applications filed for avoidance transaction or fraudulent or wrongful trading come to an end after completion of CIRP or liquidation process?**

No. By way of the Amendment, the filing of an application in respect of an avoidance transaction or fraudulent or wrongful trading or under Section 47 shall not affect the proceedings of the CIRP or the liquidation process. Further, the explanation to Section 26 shall expressly clarifies that the completion of the CIRP or the liquidation process shall not affect the continuation of proceedings in respect of an avoidance transaction or fraudulent or wrongful trading or under Section 47. Such proceedings, initiated by a creditor, member, or partner of a corporate debtor, would thus be independent and shall survive the conclusion of the main insolvency process.

34. **Who can file an application against preferential or undervalue or fraudulent transaction, if the RP or liquidator has failed to do so?**

By way of the Amendment, Section 47(1) of the Code shall be substituted which states that where a preferential transaction under Section 43, an undervalued transaction under Section 45, an extortionate credit transaction under Section 50, or fraudulent or wrongful trading under Section 66 has occurred and the liquidator or RP has not reported it to the Adjudicating Authority, a creditor (either by itself or jointly with other creditors), a member, or a partner of the corporate debtor may make an application to the Adjudicating Authority for appropriate orders.

Additionally, Section 47(3) of the Code shall also be substituted, which states that if the Adjudicating Authority is satisfied that the liquidator or RP failed to report such transaction despite having

sufficient information or opportunity, it shall pass an order requiring the IBBI to initiate disciplinary proceedings against such liquidator or RP.

35. **What will happen to avoidance transaction application which are pending as on date of passing an order for dissolution?**

By way of the Amendment, Section 47(1) shall be inserted in the Code, which states that in case a proceeding in respect of an avoidance transaction or fraudulent or wrongful trading or under Section 47 is pending before an application is made for dissolution or before a decision is made to dissolve the corporate debtor, the CoC shall determine the manner of pursuing such proceedings and the distribution of the proceeds arising out of such proceedings, in such manner and subject to such conditions as may be specified. Consequently, the passing of a dissolution order shall not affect the continuation of such pending proceedings.

New Creditor-Initiated Insolvency Resolution Process ("CIIRP")

The Central Government has not notified the provisions regarding the CIIRP under the Amendment, as on date of publication of these FAQs.

36. **What is CIIRP?**

The CIIRP framework which shall enable certain categories of financial creditors to commence the insolvency resolution process without intervention of the Adjudicating Authority, subject to certain conditions. Unlike the traditional adjudication-led CIRP, the CIIRP is a debtor-in-management process and aims to rescue the corporate debtor without disturbing the day-to-day affairs of the company. By way of the Amendment, this framework shall be inserted in the Code as "Chapter VI-A".

37. **Who can initiate CIIRP?**

A financial creditor, belonging to such class of financial institutions as notified by Central Government, in respect of which a default is committed by a corporate debtor, may initiate the CIIRP by appointing a RP, subject to such conditions as may be prescribed.

38. **Against whom can CIIRP be initiated?**

The CIIRP may be initiated against:
(a) a corporate debtor with assets or income or both below such levels;
(b) a corporate debtor with such class of creditors or such amount of debt; or
(c) such other category of corporate debtors, as may be notified by the Central Government.

The level of assets or income of the corporate debtor and the amount of debt mentioned above will be notified by the Central Government at a later date.

Contrarily, the CIIRP cannot be initiated against a corporate debtor
(a) for which an insolvency resolution or liquidation proceeding is already ongoing; or
(b) that has already undergone a CIIRP, pre-packaged insolvency resolution process, or completed a CIRP within the preceding 3 years before the CIIRP commencement date.

39. **What procedural steps must a creditor follow before commencing the CIIRP?**

The eligible financial creditor(s) must follow the below steps before appointing the RP to initiate the CIIRP:

(a) obtain approval of financial creditor(s) of the corporate debtor belonging to the notified class representing not less than 51% in value of the debt due to such financial creditor(s);
(b) inform the corporate debtor of its intention to initiate the CIIRP and give it at least 30 days to make any representation; and
(c) after considering the representation received in (b) above, if the financial creditor(s) continues to pursue initiation, obtain a fresh 51% approval from the same class of financial creditor(s) within 30 days of receipt of the representation.

If no fresh approval is obtained under step (c) above within 30 days, the financial creditor(s) must restart from step (a), if they still wish to initiate the CIIRP.

40. **Whether approval of NCLT is required for appointment of RP in CIIRP?**

No. Once the financial creditor(s) meets the requirements of Sections 58A and 58B i.e. obtaining requisite approvals, it may directly appoint an insolvency professional as the RP, provided no disciplinary proceedings are pending against him.

41. **From which date is the RP appointed in CIIRP?**

The RP, upon appointment shall make a public announcement of the initiation of the CIIRP and communicate the same along with a report to the Adjudicating Authority and IBBI, within such period and in such form and manner as may be specified. The CIIRP shall be deemed to have commenced from the date of such public announcement, which also marks the effective date of the RP's appointment.

42. **Whether the corporate debtor can challenge commencement of CIIRP before Adjudicating Authority?**

Yes. If the corporate debtor has any objection to the commencement of the CIIRP, it may file an application before the Adjudicating Authority within 30 days from the CIIRP commencement date. If the Adjudicating Authority is satisfied that either:

(a) no default has occurred, or
(b) no default has occurred and the process of initiation of CIIRP was not followed,
then the Adjudicating Authority may declare the commencement of CIIRP void ab initio.

However, if a default has occurred but the initiation process was not followed properly, it shall convert the CIIRP into a CIRP and pass appropriate orders.

43. **Within how many days does the Adjudicating Authority have to pass an order on the application filed by the corporate debtor challenging the commencement of CIIRP?**

The Adjudicating Authority shall have to pass an order on such application within 30 days from the date of receipt of the application. If no order is passed within this period, it must record the reasons for the delay in writing.

44. **What is the total time permitted for completing the CIIRP?**

The CIIRP shall have to be completed within 150 days from the CIIRP commencement date. However, the Adjudicating Authority may, on an application by the RP with CoC approval of not less than 66% voting share, extend the period by not more than 45 days.

45. **Whether the board of directors are suspended during the CIIRP?**

During the CIIRP period, the management of the affairs of the corporate debtor shall continue to vest in the Board of Directors or partners, as the case may be.

However, the RP shall attend all meetings of the members, Board of Directors, committees of directors, or partners, and shall have the right to reject any resolutions passed in such meetings, subject to such conditions as may be specified, and once rejected, such resolution shall not be approved.

This is a key distinction from CIRP, where management vests in the RP.

46. **When does moratorium period start in case of CIIRP?**

Unlike in CIRP, the moratorium in a CIIRP is not automatic. The RP may, after obtaining CoC approval, make an application to the Adjudicating Authority for commencement of moratorium.

The moratorium shall commence from the date of the application and continue during the CIIRP, and the Adjudicating Authority may confirm or reject the application.

If such application is made before constitution of the CoC, the RP may file the application with approval of the financial creditors belonging to the notified class representing not less than 51% in value of the debt.

47. **What happens if CIIRP fails?**

If the Adjudicating Authority:

(a) does not receive a resolution plan within the period stipulated under Section 58D;
(b) is satisfied that the corporate debtor or its personnel have failed to assist or cooperate with the RP; or
(c) rejects the resolution plan;

then the Adjudicating Authority shall by an order:
(i) convert the CIIRP into a CIRP;
(ii) decide the stage from which CIRP shall commence after considering CoC recommendations;
(iii) appoint the CIIRP RP as the IRP or RP for the CIRP;
(iv) declare a moratorium under Section 14; and
(v) declare that costs incurred during the CIIRP shall form part of the insolvency resolution process costs for the CIRP.

48. **In what scenario does the CoC have power to convert the CIIRP into CIRP?**

The CoC may, at any time during the CIIRP period, by a vote of not less than 66% of the voting share, resolve to convert the CIIRP into a CIRP. Upon such resolution, the RP shall make an application to the Adjudicating Authority, which shall then pass an appropriate order.

49. **What are the criteria for withdrawal of CIIRP?**

Similar to the provisions of CIRP, the Adjudicating Authority may allow withdrawal of the public announcement and closure of the CIIRP on an application made by the RP with 90% voting share approval of the CoC.

However, the CIIRP cannot be withdrawn:
(a) before the constitution of the CoC; and
(b) after the first invitation for submission of a resolution plan has been issued.

The Adjudicating Authority shall have to pass an order on such application within 14 days of receipt, failing which it must record reasons for delay.

Voluntary Liquidation

50. **When can voluntary liquidation be terminated?**

Under the Code, there was no specific provision for withdrawal/termination of voluntary liquidation process. To fill this gap, by way of the Amendment, a sub-section for termination of voluntary liquidation proceeding will be inserted, which states that if following conditions are satisfied, the voluntary liquidation proceedings can be terminated:

(a) the members of the company pass a special resolution for terminating the voluntary liquidation;
(b) where the company owes debt to any person, creditors representing two-thirds in value of such debt approve the special resolution within 7 days thereof; and
(c) such other conditions as may be specified.

The liquidator must intimate the IBBI and the Registrar of Companies within 7 days of passing the resolution or subsequent creditor approval.

The voluntary liquidation shall be deemed to be terminated from the date of such intimation to the Registrar of Companies.

51. **What is the timeline to complete the voluntary liquidation process?**

By way of the Amendment, the provision under Section 59 shall be modified to state that the voluntary liquidation process must be completed within such period, not exceeding one year, as may be specified by the IBBI.

Previously, no outer time limit was prescribed under the Code, and the process was only required to meet procedural requirements as specified by the IBBI.

Appeals

52. **What is the timeline imposed upon National Company Law Appellate Tribunal to dispose of appeals?**

By way of the Amendment, Section 61(6) shall be inserted in the Code which states that the National Company Law Appellate Tribunal shall have to dispose of appeals within 3 months from the date of receipt.

Insolvency process

53. **Whether interim moratorium will be applicable in case of personal guarantors of corporate debtors?**

By way of the Amendment, the provisions of Section 96 of the Code (which provides for an interim moratorium upon filing of an application for insolvency resolution of an individual or firm) shall be modified to state that it not apply where an application is filed for initiating an insolvency resolution process in respect of a personal guarantor to a corporate debtor. Personal guarantors of corporate debtors will be, thus, specifically excluded from the benefit of interim moratorium.

54. **Within how many days does the RP have to submit a report to the Adjudicating Authority for approval or rejection of the application against an individual debtor?**

By way of the Amendment, Section 99 of the Code shall be modified which states that the RP shall examine the application filed under Section 94 and 95 of the Code (which deals with insolvency resolution process of a personal guarantor initiated through an application filed by a debtor or creditor) and submit a report to the Adjudicating Authority recommending approval or rejection of the application within 21 days of his appointment. This time limit has been increased from the earlier period of 10 days under the Code.

55. **What happens if no repayment plan is submitted within the prescribed period by the debtor for restructuring his debts owed to creditors?**

By way of the Amendment, Section 106 (1A) shall be inserted in the Code which states that in a situation where no repayment plan is submitted within the stipulated period under Section 106, the RP shall submit a report to the Adjudicating Authority, and the Adjudicating Authority shall pass an order terminating the insolvency resolution process of the debtor. Upon such termination, the debtor or the creditors shall be entitled to file an application for bankruptcy.

Group Insolvency and Cross-Border Insolvency

The Central Government has not notified the provisions regarding the Group Insolvency and Cross Border Insolvency under the Amendment, as on date of publication of these FAQs.

56. **What is the Group Insolvency framework?**

By way of the Amendment, Section 59A shall be inserted in the Code which would give power to the Central Government to prescribe the manner and conditions for conducting insolvency proceedings where proceedings are initiated against two or more corporate debtors that form part of a group.

The rules may provide for:

(a) a common Bench for group insolvency proceedings;
(b) coordination between proceedings, CoCs, IRPs/RPs/liquidators of group companies;
(c) appointment of a common insolvency professional;
(d) formation of a combined CoC;
(e) a binding coordination agreement approved by the Adjudicating Authority; and
(f) treatment of coordination costs.

A "group" is defined as two or more corporate debtors interconnected by control or significant ownership, including holding, subsidiary and associate companies as defined under the Companies Act, 2013.

57. **Whether Group Insolvency framework is implemented by way of the Amendment?**

By way of the Amendment, the Code shall only enable the Central Government to prescribe rules for group insolvency under Section 59A. The actual framework will be operationalised through rules to be made by the Central Government, which are yet to be notified.

58. **What is the new cross-border insolvency framework?**

By way of the Amendment, provisions will be inserted in the Code which states that the Central Government may prescribe the manner and conditions for administering and conducting cross-border insolvency proceedings under Code, including the process for recognition of foreign proceedings, granting relief, judicial cooperation, assistance and coordination for such class of debtors or corporate debtors involving such countries or territories outside India as may be notified.

The rules may modify any provisions of the Code or the Companies Act, 2013, as required for implementation, and may designate one or more Benches for dealing with such proceedings.

The Explanation to Section 240C, inserted by way of the Amendment to the Code, clarifies that "corporate debtor" for this purpose also includes any person incorporated with limited liability outside India. Like group insolvency, the framework is enabling in nature and will be operationalised through rules which are yet to be notified.

Penalties, Offences and Enforcement

59. **What civil penalty framework is introduced under the Amendment?**

By way of the Amendment, following comprehensive civil penalty framework will be introduced by replacing criminal penalties with civil penalties and strengthening enforcement:

Section 64A: Any person who initiates a frivolous or vexatious proceeding before the Adjudicating Authority under Part II may be imposed with a penalty of not less than INR 1 lakh, extendable up to INR 2 crore.

Section 67B:

(i) Where a corporate debtor or any of its officers contravenes the moratorium under Section 14, a penalty of not less than INR 1 lakh, extendable up to INR 2 crore may be imposed on the officer who committed, authorised or permitted the contravention;
(ii) where any creditor contravenes the moratorium, a similar penalty applies to persons who authorised or permitted such contravention; and
(iii) where a corporate debtor, officer, creditor or any person contravenes the terms of an approved resolution plan, a penalty of not less than INR 1 lakh, extendable up to INR 1 crore or 20% of the amount to be distributed under the resolution plan, whichever is higher, may be imposed.

Section 67C: If the operational creditor conceals the fact of a dispute notified by the corporate debtor, or conceals full and final payment of the debt, in an application under Section 9 of the Code, a penalty of not less than INR 1 lakh, extendable up to INR 2 crore may be imposed.

Section 183A: Any person who initiates a frivolous or vexatious proceeding before the Adjudicating Authority under Part III (individual insolvency) may be imposed a penalty of not less than INR 1 lakh, extendable up to INR 2 crore.