

FORM B

PROOF OF CLAIM BY ADITYA BIRLA MONEY LIMITED (OPERATIONAL CREDITOR) AGAINST ARKAY INTERNATIONAL FINSEC LIMITED (CORPORATE DEBTOR)

[Under Regulation 7 of the Insolvency and Bankruptcy Board of India
(Insolvency Resolution Process for Corporate Persons) Regulations, 2016]

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SCHEDULE**FORM B****PROOF OF CLAIM BY OPERATIONAL CREDITORS EXCEPT WORKMEN AND EMPLOYEES**

(Under Regulation 7 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

05.11.2020

To

The Interim Resolution Professional / Resolution Professional
Mr. Vijendra Bangar
103A, Shyam Anukampa, O-11,
Ashok Marg, C-Scheme, Jaipur,
Rajasthan – 302 001, India

From

Aditya Birla Money Limited
Having its registered office at
Indian Rayon Compound, Veraval,
Gujarat - 362 266, India

SUBJECT: SUBMISSION OF PROOF OF CLAIM

Dear Sir,

Aditya Birla Money Limited, hereby submits this proof of claim in respect of the corporate insolvency resolution process in the case of Arkay International Finsec Limited. The details for the same are set out below:

PARTICULARS			
1.	NAME OPERATIONAL CREDITOR	OF	Aditya Birla Money Limited
2.	IDENTIFICATION NUMBER OPERATIONAL CREDITOR (IF	OF AN	CIN: L65993GJ1995PLC064810 Copy of the Certificate of Incorporation of the Operational Creditor is enclosed herewith as <u>ANNEXURE-A</u> .

	INCORPORATED BODY PROVIDE IDENTIFICATION NUMBER AND PROOF OF INCORPORATION. IF A PARTNERSHIP OR INDIVIDUAL PROVIDE IDENTIFICATION RECORDS* OF ALL THE PARTNERS OR THE INDIVIDUAL)	
3.	ADDRESS AND EMAIL ADDRESS OF OPERATIONAL CREDITOR FOR CORRESPONDENCE	<p>Registered Office: Indian Rayon Compound, Veraval, Gujarat - 362 266, India</p> <p>Corporate Office: SAI SAGAR 2nd & 3rd Floor, Plot No. M7, Thiru-Vi-Ka (SIDCO), Industrial Estate, Guindy, Chennai 600 032</p> <p>Email Address: murali.lr@adityabirlacapital.com Lalit.Gola@adityabirlacapital.com</p>
4.	TOTAL AMOUNT OF CLAIM (INCLUDING ANY INTEREST AS AT THE INSOLVENCY COMMENCEMENT DATE)	<p>INR 44,14,792.40 (Rupees forty four lakhs fourteen thousand seven hundred and ninety two only)</p> <p>i.e., INR 28,83,058.80 towards principal along with INR.15,31,733.60 on account of interest @24% per annum from the date of default till 14 February 2020, the Insolvency Commencement Date</p> <p>The tabular form working for computation of amount of debt from the date of default i.e., 28 November 2017 up to the Insolvency Commencement Date is annexed hereto and marked as ANNEXURE-B.</p>
5.	DETAILS OF DOCUMENTS BY REFERENCE TO	(i) ANNEXURE-A Copy of the Certificate of Incorporation of the Operational Creditor

WHICH THE DEBT CAN BE SUBSTANTIATED	<p>(ii) <u>ANNEXURE-B</u> The tabular form working for computation of amount of debt up to the Insolvency Commencement Date</p> <p>(iii) <u>ANNEXURE-C (COLLY)</u> Copy of the Application No. 22091995 (account no. 1070913), along with relevant KYC Form and documents and email dated 15 September 2017</p> <p>(iv) <u>ANNEXURE-D (COLLY)</u> Copy of the Contract Note along with trade confirmation email dated 28 November 2017</p> <p>(v) <u>ANNEXURE-E</u> Copy of the SMS Log maintained by the Operational Creditor confirmation of sale by the Corporate Debtor</p> <p>(vi) <u>ANNEXURE-F</u> Copy of Email Log maintained by the Operational Creditor of emails being delivered to the Corporate Debtor</p> <p>(vii) <u>ANNEXURE-G</u> Copy of the Contract Note dated 30 November 2017</p> <p>(viii) <u>ANNEXURE-H</u> Copy of the Contract Note dated 8 December 2017</p> <p>(ix) <u>ANNEXURE-I (COLLY)</u> Copies of Legal Notices dated 21 December 2017</p> <p>(x) <u>ANNEXURE-J</u> Copy of the mail dated 30 November 2017 alongwith cheque images</p> <p>(xi) <u>ANNEXURE-K (COLLY)</u> Copies of Cheque No. 926382 dated 9 February 2018 along with cheque return memo dated 12 February 2018</p> <p>(xii) <u>ANNEXURE-L (COLLY)</u> Copies of Cheque No. 926383 dated 20 February 2018 along with cheque return memo dated 22 February 2018</p> <p>(xiii) <u>ANNEXURE-M (COLLY)</u> Copies of Cheque No. 926384 dated 20 March 2018 along with cheque return memo dated 21 March 2018</p> <p>(xiv) <u>ANNEXURE-N (COLLY)</u> Copies of Legal Notices dated 7 March 2018</p> <p>(xv) <u>ANNEXURE-O</u> Copy of Demand Notice dated 15 March 2018</p> <p>(xvi) <u>ANNEXURE-P</u> Copy of the Reply dated 5 April 2018 issued by the Corporate Debtor along with English translation</p>
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		<p>(xvii) <u>ANNEXURE-Q</u> Copy of the Operational Creditor's Rejoinder dated 02 May 2018 issued in response to the Reply dated 5 April 2018</p> <p>(xviii) <u>ANNEXURE-R</u> A copy of the Application filed by the Operational Creditor under Section 9 of the Code</p> <p>(xix) <u>ANNEXURE-S</u> A copy of the Order dated 14 February 2020 passed by the Ld. National Company Law Tribunal, Jaipur Bench</p> <p>(xx) <u>ANNEXURE-T (COLLY)</u> A copy of the Statement of Account and Bank Statement of the Operational Creditor until issuance of the Demand Notice</p> <p>(xxi) <u>ANNEXURE-U</u> A copy of the Certificate of the Financial Institution of the Operational Creditor confirming non-payment of the debt</p> <p>(xxii) <u>ANNEXURE-V</u> A copy of the Aadhar Card of the Authorised Representative and Signatory of the Operational Creditor</p> <p>(xxiii) <u>ANNEXURE-W(COLLY)</u> A copy of the Management Sub Delegation dated 02.05.2018 issued by Mr.Vishwanath Raman, Head, IT & Operations of the Operational Creditor authorizing Mr. Lalit Gola, alongwith a copy of the Board Resolution dated 29 April 2013 authorising Mr.Vishwanath Raman</p> <p>(xxiv) <u>ANNEXURE-X</u> Copy of PAN Card of the Operational Creditor</p>
6.	DETAILS OF ANY DISPUTE AS WELL AS THE RECORD OF PENDENCY OR ORDER OF SUIT OR ARBITRATION PROCEEDINGS	NA
7.	DETAILS OF HOW AND WHEN DEBT INCURRED	1. The Operational Creditor is a listed company on the Bombay Stock Exchange ("BSE") and National Stock Exchange ("NSE") and is engaged in the business of securities broking and is registered as a stock broker with

Securities and Exchange Board of India.

2. The Corporate Debtor availed the services of the Operational Creditor and opened a trading account with the Operational Creditor through its branch office at Jaipur by executing the Know Your Customer ("KYC") form, Rights and Obligations, Additional Rights and Obligations, Policies and Procedures, Risk Disclosure Documents etc. In the said KYC Form, at S.No. 5 titled "Status", the Corporate Debtor itself placed a tick mark next to Private Limited Company, and not against "FI" (Financial Institution) or "Bank".
3. The Corporate Debtor was allotted trading account no: 1070913 and the Corporate Debtor started trading in its account from September 2017 and continued to trade till November 2017. A welcome email dated 15 September 2017 was also sent by the Operational Creditor to the registered email ID of the Corporate Debtor wherein copies of the said account opening documents executed were shared with the Corporate Debtor. Copy of the Application No. 22091995 (account no. 1070913), along with relevant KYC Form and documents and email dated 15 September 2017 are annexed herewith and marked as **ANNEXURE-C (COLLY)**.
4. On 28 November 2017, the Corporate Debtor purchased 1,00,000.00 shares of Steel Exchange of India Limited ("SEIL") through the said trading account at the average rate of Rs.130.055 per share and a total purchase value debited to the Corporate Debtor's account was INR 1,30,38,956.27 (together with applicable brokerage and other charges). That several Voice logs evidence the order placement by the authorised person of the Corporate Debtor and confirmation on trades effected was received from the Corporate Debtor from its registered email id. Further, SMS Log confirms dissemination of trade confirmation to the registered mobile number of the Corporate Debtor. Further, Contract Notes were also disseminated to the registered email-id of the Corporate Debtor. Copy of the Contract Note along with trade

confirmation email dated 28 November 2017 is annexed herewith and marked as **ANNEXURE-D**.

Copy of the SMS Log maintained by the Operational Creditor confirmation of sale by the Corporate Debtor is annexed herewith and marked as **ANNEXURE-E**.

Copy of Email Log maintained by the Operational Creditor of emails being delivered to the Corporate Debtor is annexed herewith and marked as **ANNEXURE-F**.

5. As per the books of the Operational Creditor, a sum of INR 90,24,817.40 became due and payable, post adjustment of available credits / debit in the account as on 30 November 2017.
6. The value of said SEIL shares started reducing drastically day by day which in turn resulted in freezing of the share on a regular basis from the date of purchase by the Corporate Debtor, i.e., 28 November 2017.
7. That the Corporate Debtor failed to effect payment of the remaining purchase value of the said shares i.e., INR 90,24,817.40 within the timelines specified in Exchange Regulations.
8. As the shares of SEIL were on a downward spiral, the value per share of SEIL got reduced to INR 83.40. Left with no other option, in view of the downward spiral of share price and as per Regulation 3.10 of the Exchange Regulations, the Operational Creditor sold 30873 shares for a total sale consideration of INR 25,70,364.42 (together with applicable brokerage and other charges). Copy of the Contract Note dated 30 November 2017 is annexed herewith and marked as **ANNEXURE-G**.
9. Further, the share value of the said SEIL shares continued to go into a downward freeze and finally got released on 8 December 2017, by which time the value of SEIL shares got reduced to INR 52.25. The Operational Creditor thereafter, being left with no other option and owing to

the Corporate Debtor's failure to pay, sold 69127 shares out of the remaining shares purchased by the Corporate Debtor and the Corporate Debtor's account was accordingly credited with an amount of INR 36,05,249.28 by reducing the debit balance to INR 28,83,058.80. Copy of the Contract Note dated 8 December 2017 is annexed herewith and marked as **ANNEXURE-H**.

10. That as on 20 December 2017, there was a debit balance in the trading account of the Corporate Debtor of INR 28,90,835.10 and demanding payment of the same, the Operational Creditor issued Legal Notices dated 21 December 2017 claiming the outstanding amount of INR 28,90,835.10 together with interest at the rate of 24% per annum thereon, within 7 days from the date of receipt of the notice. Even though the notice was delivered to the Corporate Debtor on 27 December 2017, no reply or payment was made by the Corporate Debtor to the Operational Creditor. Copies of Legal Notices dated 21 December 2017 are annexed herewith and marked as **ANNEXURE-I (COLLY)**.

11. It is submitted that towards partial payment of the debt amount of INR 90,24,817.40 accrued in the trading account of the Corporate Debtor as on 30 November 2017, the Corporate Debtor had given three cheques in favour of the Operational Creditor amounting to INR 22,00,000.00 each drawn upon Punjab National Bank Adarsh Nagar, Jaipur, the details thereof being:


- Cheque No. 926382 dated 09 February 2018;
- Cheque No. 926383 dated 20 February 2018; and
- Cheque No. 926384 dated 20 March 2018

12. The Operational Creditor on the same day i.e. 30 November 2017 had confirmed the receipt of the said cheques (alongwith cheque images) towards debit in the trading account of the Corporate Debtor through mail to the registered mail of the Corporate Debtor. Copy of the mail alongwith cheque images are annexed herewith and marked as **ANNEXURE-J**.

13. That upon presentation, the Cheque No. 926382 dated 9 February 2018 for Clearance, the same was returned to the Operational Creditor as dishonoured for the reason "Payment Stopped by Drawer" on 12 February 2018. Copies of Cheque No. 926382 dated 9 February 2018 along with cheque return memo dated 12 February 2018 are annexed herewith and marked as **ANNEXURE-K (COLLY)**.
14. That upon presentation, the Cheque No. 926383 dated 20 February 2018 for Clearance, the same was returned to the Operational Creditor as dishonoured for the reason "Payment Stopped by Drawer" on 22 February 2018. Copies of Cheque No. 926383 dated 20 February 2018 along with cheque return memo dated 22 February 2018 is annexed herewith and marked as **ANNEXURE-L (COLLY)**.
15. That upon presentation, the Cheque No. 926384 dated 20 March 2018 for Clearance, the same was returned to the Operational Creditor as dishonoured for the reason "Payment Stopped by Drawer" on 21 March 2018. Copies of Cheque No. 926384 dated 20 March 2018 along with cheque return memo dated 21 March 2018 is annexed herewith and marked as **ANNEXURE-M (COLLY)**.
16. The Operational Creditor, thereafter, has issued Legal Notices dated 7 March 2018 to the Corporate Debtor under Section 138 of the Negotiable Instruments Act, 1881 for dishonour of the above mentioned cheques. Copies of Legal Notices dated 7 March 2018 are annexed herewith and marked as **ANNEXURE-N (COLLY)**.
17. That thereafter, the Operational Creditor issued the statutory Demand Notice to the Corporate Debtor on 15 March 2018 demanding the payment of INR 28,83,058.80 (Rupees Twenty Eight Lacs Eighty Three Thousand Fifty Eight and Eight Paise Only) as operational debt plus interest @ 24% per annum from the date the debt fell due till the issuance of the said demand notice.
18. Copy of Demand Notice dated 15 March 2018 is annexed herewith and marked as **ANNEXURE-O (COLLY)**.

19. That, despite service of the Demand Notice dated 15 March 2018, there has been no repayment of the unpaid operational debt by the Corporate Debtor to the Operational Creditor.
20. That no "notice of dispute" in terms of Sections 8 and 9 of the Insolvency and Bankruptcy Code 2016 has been received in response to the Demand Notice dated 15 March 2018 within the prescribed period of ten (10) days from the receipt of the Demand Notice, or at all.
21. That a Reply dated 5 April 2018 to the Demand Notice dated 15 March 2018 was issued by the Corporate Debtor and received by the Operational Creditor on 9 April 2018, however, the same was neither issued within the prescribed period of ten days from receipt of the Demand Notice, nor does it amount to a "notice of dispute" in terms of Sections 8 and 9 of the Insolvency and Bankruptcy Code 2016. However, without prejudice to the above and to the rights and contentions of the Operational Creditor, the Operational Creditor responded to the Reply received from the Corporate Debtor vide a Rejoinder dated 2 May 2018. Copy of the Reply dated 5 April 2018 issued by the Corporate Debtor is annexed herewith and marked as **ANNEXURE-P** and copy of the Operational Creditor's Rejoinder dated 02 May 2018 issued in response to the Reply dated 5 April 2018 is annexed herewith and marked as **ANNEXURE-Q**.
22. That thereafter, in May, 2018, the Operational Creditor filed an Application under Section 9 of the Code against the Corporate Debtor before the National Company Law Tribunal, New Delhi Bench, being Company Petition No. IB/596/(PB)/2018. A copy of the Application filed by the Operational Creditor is annexed herewith and marked as **ANNEXURE-R**. The said Application was later on transferred to the National Company Law Tribunal, Jaipur Bench, which, vide Order dated 14 February 2020 was pleased to allow and admit the said Application and initiate the corporate insolvency resolution process under the Code against the Corporate Debtor. A copy of the Order dated 14 February 2020 is annexed herewith and

		<p>marked as ANNEXURE-S.</p> <p>23. The debt fell due on 28 November 2017 and continues thereafter when the Corporate Debtor defaulted in making payment.</p> <p>A copy of the Statement of Account and Bank Statement of the Operational Creditor until issuance of the Demand Notice is annexed herewith and marked as ANNEXURE-T (COLLY) and a copy of the Certificate of the Financial Institution of the Operational Creditor confirming non-payment of the debt is annexed herewith and marked as ANNEXURE-U.</p>	
8.	<p>DETAILS OF ANY MUTUAL CREDIT, MUTUAL DEBTS, OR OTHER MUTUAL DEALINGS BETWEEN THE CORPORATE DEBTOR AND THE CREDITOR WHICH MAY BE SET-OFF AGAINST THE CLAIM</p>	NA	
9.	<p>DETAILS OF</p> <p>a) any security held, the value of security and its date, or</p> <p>b) any retention of title arrangement in respect of goods or properties to which the claim refers</p>	NA	
10.	<p>DETAILS OF THE</p>	BANK NAME: HDFC	

	BANK ACCOUNT TO WHICH THE AMOUNT OF THE CLAIM OR ANY PART THEREOF CAN BE TRANSFERRED PURSUANT TO A RESOLUTION PLAN	BRANCH: ITC CENTRE, ANNA SALAI ACCOUNT: 00040340000710 IFSC CODE:HDFC00000004	
11.	LIST OF DOCUMENTS ATTACHED TO THIS PROOF OF CLAIM IN ORDER TO PROVE THE EXISTENCE AND NON-PAYMENT OF CLAIM DUE TO THE OPERATIONAL CREDITOR		
Signature of operational creditor or person authorised to act on his behalf			
			
Name in BLOCK LETTERS: LALIT GOLA			
Position with or in relation to creditor: ZONAL HEAD, NORTH			
Address of person signing: Working for gain at Aditya Birla Money Limited, E-1, Baluja House, Jhandewalan extension, New Delhi- 110055; Residing at E-9, Shaman Vihar Apartments, Sector 23, Dwaraka, New Delhi – 110 075.			

A copy of the Aadhar Card of the Authorised Representative and Signatory of the Operational Creditor is annexed herewith and marked as **ANNEXURE-V**.

A copy of the Management Sub Delegation dated 02.05.2018 issued by Mr.Vishwanath Raman, Head, IT & Operations of the Operational Creditor authorizing Mr. Lalit Gola, along with a copy of the Board Resolution dated 29 April 2013 authorising Mr.Vishwanath Raman in that regard are annexed herewith

and marked as **ANNEXURE-W (COLLY)**. A copy of the PAN Card of the Operational Creditor is annexed herewith and marked as **ANNEXURE-X**.

DECLARATION

I, Lalit Gola, the Authorised Representative of Aditya Birla Money Limited, having its registered office at Indian Rayon, Compound, Veraval, Gujarat-362 266, presently at New Delhi, hereby declare and state as follows:-

1. Arkay International Finsec Limited, the corporate debtor was, at the insolvency commencement date, being the 14th day of February 2020, actually indebted to Aditya Birla Money Limited in the sum of INR 44,14,792.40.
2. In respect of the Operational Creditor's claim of the said sum or any part thereof, I have relied on the documents specified below:
 - (i) **ANNEXURE-A**
Copy of the Certificate of Incorporation of the Operational Creditor
 - (ii) **ANNEXURE-B**
The tabular form working for computation of amount of debt up to the Insolvency Commencement Date
 - (iii) **ANNEXURE-C (COLLY)**
Copy of the Application No. 22091995 (account no. 1070913), along with relevant KYC Form and documents and email dated 15 September 2017
 - (iv) **ANNEXURE-D**
Copy of the Contract Note along with trade confirmation email dated 28 November 2017
 - (v) **ANNEXURE-E**
Copy of the SMS Log maintained by the Operational Creditor confirmation of sale by the Corporate Debtor
 - (vi) **ANNEXURE-F**
Copy of Email Log maintained by the Operational Creditor of emails being delivered to the Corporate Debtor
 - (vii) **ANNEXURE-G**
Copy of the Contract Note dated 30 November 2017
 - (viii) **ANNEXURE-H**
Copy of the Contract Note dated 8 December 2017

- (ix) **ANNEXURE-I**
Copies of Legal Notices dated 21 December 2017
- (x) **ANNEXURE-J**
Copy of the mail dated 30 November 2017 alongwith cheque images
- (xi) **ANNEXURE-K**
Copies of Cheque No. 926382 dated 9 February 2018 along with cheque return memo dated 12 February 2018
- (xii) **ANNEXURE-L**
Copies of Cheque No. 926383 dated 20 February 2018 along with cheque return memo dated 22 February 2018
- (xiii) **ANNEXURE-M**
Copies of Cheque No. 926384 dated 20 March 2018 along with cheque return memo dated 21 March 2018
- (xiv) **ANNEXURE-N (COLLY)**
Copies of Legal Notices dated 7 March 2018
- (xv) **ANNEXURE-O**
Copy of Demand Notice dated 15 March 2018
- (xvi) **ANNEXURE-P**
Copy of the Reply dated 5 April 2018 issued by the Corporate Debtor
- (xvii) **ANNEXURE-Q**
copy of the Operational Creditor's Rejoinder dated 02 May 2018 issued in response to the Reply dated 5 April 2018
- (xviii) **ANNEXURE-R**
A copy of the Application filed by the Operational Creditor under Section 9 of the Code
- (xix) **ANNEXURE-S**
A copy of the Order dated 14 February 2020 passed by the Ld. National Company Law Tribunal, Jaipur Bench
- (xx) **ANNEXURE-T(COLLY)**
A copy of the Statement of Account and Bank Statement of the Operational Creditor until issuance of the Demand Notice
- (xxi) **ANNEXURE-U**
A copy of the Certificate of the Financial Institution of the Operational Creditor confirming non-payment of the debt
- (xxii) **ANNEXURE-V**
A copy of the Aadhar Card of the Authorised Representative and Signatory of the Operational Creditor

(xxiii) **ANNEXURE-W(COLLY)**

A copy of the Management Sub Delegation dated 02.05.2018 issued by Mr.Vishwanath Raman, Head, IT & Operations of the Operational Creditor authorizing Mr. Lalit Gola, alongwith a copy of the Board Resolution dated 29 April 2013 authorising Mr.Vishwanath Raman

(xxiv) **ANNEXURE-X**

Copy of PAN Card of the Operational Creditor

3. The said documents are true, valid and genuine to the best of my knowledge, information and belief, based on the record of the Operational Creditor made available to me and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither the Operational Creditor nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever.

Date: 05.11.2020

Place: New Delhi

.....
(Signature of the claimant)

FOR AND ON BEHALF OF THE OPERATIONAL CREDITOR

VERIFICATION

I, Lalit Gola, the Authorised Representative of the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at New Delhi on this 05th day of November, 2020.

.....
(Signature of the claimant)

FOR AND ON BEHALF OF THE OPERATIONAL CREDITOR