

From Chairperson's Desk

The Information Memorandum

The Information Memorandum (IM) is a key document prepared by the Resolution Professional (RP) that contains complete and detailed information about the financial, legal, and operational position of the corporate debtor (CD). The main purpose of the IM is to provide prospective resolution applicants (PRAs) with the information they need to assess the viability of the CD and submit well-informed and competitive resolution plans.

Just as an IPO prospectus reveals a company's fundamentals for public investment, the IM presents a transparent and data-backed profile of a distressed corporate debtor - outlining assets, operations, legal risks, financial performance, and the path to revival.

For PRAs, the IM is not just a document - it's a deal originator, a risk-mapper, and a value guide, rolled into one. Whether a strategic buyer seeking operational synergies or a financial investor exploring turnaround potential, the IM equips prospective bidders with the insights needed to assess viability, structure competitive bids, and chart a roadmap for business revival. By bridging information asymmetry, it serves as the foundation for market-driven resolution — where transparency fosters trust, and informed bidding unlocks value from distress.

A well-drafted IM also enables the Committee of Creditors (CoC) members to understand the CD's financial and business position clearly, helping them make timely and informed decisions. Its completeness and accuracy can have a major impact on the outcome of the resolution process.

Benefits of the Information Memorandum (IM)

- **Informed Decision-Making** : The IM provides prospective resolution applicants (PRAs) and the CoC with comprehensive financial, legal, and operational data. This allows them to evaluate the viability of the corporate debtor (CD) and make informed decisions regarding resolution plans.
- **Transparency and Fairness** : By disclosing all material information, including related party transactions, litigations, and tax attributes, the IM promotes transparency and ensures a level playing field among all resolution applicants.
- **Efficient Price Discovery** : Detailed disclosures such as business performance, intangible assets and tax losses, of the corporate debtor enable better assessment of the CD's worth. This improves the accuracy of price discovery and the competitiveness of bids.
- **Maximization of Value** : By enabling resolution applicants to factor in synergies, potential tax benefits, and going concern value, the IM supports the submission of plans that aim to maximize value for stakeholders.
- **Risk Identification and Mitigation** : Inclusion of information on pending litigation, and contingent liabilities help the applicants and creditors to identify legal or financial risks associated with the CD and address them in their plans.
- **Facilitates Faster Resolution** : A well-prepared and accurate IM reduces delays caused by information gaps, minimizes disputes, and helps in timely submission and approval of resolution plans.
- **Improves Quality of Resolution Plan** : The more detailed

and structured the IM, the higher the confidence among applicants. This leads to better quality, higher-value resolution plans being submitted.

The IM must include an overview of the company's operations, business performance, key contracts, and investment highlights. It should also contain value-enhancing elements such as carried-forward tax losses, unused GST credits, key employees, long-term customer, vendor relationships, utility connections, and other features that make the business viable as a going concern. These disclosures make the process more transparent and help in better price discovery, leading to more competitive resolution plans.

Recent regulatory changes require the IM to include more detailed disclosures in specific areas:

- **Tax Losses**: The IM must show the amount of carried-forward tax losses under the Income Tax Act, 1961, their classification under different heads, and the time limits for utilising them.
- **Avoidance Transactions**: Any transactions identified as preferential, undervalued, extortionate, or fraudulent, or cases of wrongful trading, must be disclosed, including details of filings made before the Adjudicating Authority. These transactions must be made known to PRAs before submission of resolution plans.

The IM should be discussed in the CoC meetings. Any CoC member may also request more information and the RP must share it with all members in a timely manner. To help the RP prepare an accurate IM, creditors are required to provide important data related to the CD's assets and liabilities. This includes relevant extracts of valuation reports, stock and receivables statements, audit reports, property inspection records, title search reports, financial statements, bank account details etc. Creditors must also share extracts from any audits they have carried out, such as stock audits, transaction audits, or forensic audits. These inputs help in preparing application for avoidance transactions, ensure correct asset valuation thereby, leading to a complete and reliable IM.

The Hon'ble Supreme Court in *Ebix Singapore Pvt. Ltd. v. CoC of Educomp Solutions Ltd. & Anr.* emphasized that the RP has a duty to ensure that the IM contains accurate and complete information. The Court noted that the RP must clarify if any information is incomplete or subject to change. This makes it important to include all relevant litigation, including arbitration cases, in the IM. The IM should also disclose related party transactions as shown in the financial statements. This helps the CoC and PRAs identify parties who may be disqualified from submitting a resolution plan under Section 29A of the IBC and check whether the exemptions under Section 32A apply. Including this information improves transparency and helps maintain the integrity of the resolution process.

To conclude, it is critical that PRAs have access to complete, reliable, and timely information about the corporate debtor. Disclosures about financial condition, tax benefits, business operations, and strategic assets help shape the valuation and bidding strategy. A high quality IM builds trust among resolution applicants, encourages more participation, and leads to stronger and more competitive resolution plans. By reducing information gaps and encouraging informed participation, the IM helps ensure that the resolution process is transparent, efficient, and focused on maximizing value, as intended under the IBC.

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