

Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan, Connaught Place, New Delhi-110001

CIRP-13011/1/2019-IBBI
11th November, 2019

To
All Registered Insolvency Professionals

Dear Madam / Sir,

Sub: Compliance with the provisions of Section 12 of the Insolvency and Bankruptcy Code, 2016

The Insolvency and Bankruptcy Code, 2016 (Code), in its long title, states that it is an Act for reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time-bound manner. It mandates completion of corporate insolvency resolution process (CIRP) in a time-bound manner, as undue delay is likely to reduce the enterprise value of the corporate debtor (CD). When the CD is not in the pink of its health, prolonged uncertainty about its ownership and control may make the possibility of resolution remote. The Code prescribes timelines for various activities of the CIRP. It is mandatory to complete a CIRP within 180 days, extendable by a one-time extension of up to 90 days [*M/s. Surendra Trading Company v. M/s. Juggilal Kamlapat Jute Mills Company Limited & Ors.*]. The Regulations provide a model timeline for each task in the process, which needs to be followed as close as possible [*Arcelor Mittal India Private Limited v. Satish Kumar Gupta and Ors.*].

2. Time is the essence of the processes under the Code. The Bankruptcy Law Reforms Committee provides the rationale as: *“Speed is of essence for the working of the bankruptcy code, for two reasons. First, while the ‘calm period’ can help keep an organisation afloat, without the full clarity of ownership and control, significant decisions cannot be made. Without effective leadership, the firm will tend to atrophy and fail. The longer the delay, the more likely it is that liquidation will be the only answer. Second, the liquidation value tends to go down with time as many assets suffer from a high economic rate of depreciation. From the viewpoint of creditors, a good realisation can generally be obtained if the firm is sold as a going concern. Hence, when delays induce liquidation, there is value destruction. Further, even in liquidation, the realisation is lower when there are delays. Hence, delays cause value destruction. Thus, achieving a high recovery rate is primarily about identifying and combating the sources of delay.”*

3. The Insolvency and Bankruptcy Code (Amendment) Act, 2019 (Amendment Act), inserted two provisos to section 12(3) of the Code to provide for overall time limit as under:

“Provided further that the corporate insolvency resolution process shall mandatorily be completed within a period of three hundred and thirty days from the insolvency commencement date, including any extension of the period of corporate insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor:

Provided also that where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso, such resolution

process shall be completed within a period of ninety days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.”

4. Section 12 of the Code thus mandates that the CIRP of a CD must conclude within 330 days from the insolvency commencement date. This period of 330 days includes (a) normal CIRP period of 180 days, (b) one-time extension, if any, up to 90 days of such CIRP period granted by the Adjudicating Authority, and (c) the time taken in legal proceedings in relation to the CIRP of the CD. It also mandates that a CIRP, which was pending and not completed within the aforementioned period of 330 days as on the date of commencement of the Amendment Act, that is, 16th August, 2019, shall be completed within a further period of 90 days from such date, that is, by 14th November, 2019. It, therefore, amounts to contravention of section 12 of the Code (a) where the CIRP is not completed within 330 days from the insolvency commencement date, or (b) where a CIRP, which was not complete as on 16th August, 2019 even after expiry of 330 days, is not completed by 14th November, 2019.

5. You are hereby called upon to confirm that as on 14th November, 2019, (a) you do not have an ongoing CIRP, which is not completed within 330 days from the insolvency commencement date (second proviso to section 12 of the Code), and (b) you do not have any ongoing CIRP, which was not complete as on 16th August, 2019 even after expiry of 330 days and is not completed (third proviso to section 12 of the Code). In case, you have any such CIRP, which is not complete under either of the provisos of section 12(3) as stated above, as on 14th November, 2019, you are required to apprise the status of each such CIRP including the present stage at which the CIRP rests, along with reasons for non-completion, and the person(s) responsible for non-completion, if any, to enable the Board to seek appropriate legal remedy permissible under the Code for any contravention causing such non-completion, in the attached Form by mail at proceeding@ibbi.gov.in by 21st November, 2019. Non-submission of the Form by 21st November, 2019 shall be considered as contravention of the provisions of the Code and the regulations made thereunder.

Yours faithfully,

Sd/-

(I. Sreekara Rao)
Chief General Manager

Encl: As above

Copy to:

All Registered Insolvency Professional Agencies
All Recognised Insolvency Professional Entities

Form-1

(Reply in response to letter No.: CIRP-13011/1/2019-IBBI dated 11th November, 2019)

1	Name of Insolvency Professional	
2	Registration Number of the IP	

Part-A (Second Proviso to Section 12)

3. I _____(Name of IP) certify that as on 14th November, 2019, I do not have an ongoing Corporate Insolvency Resolution Process, which is not completed within 330 days from the insolvency commencement date.

or

3. I _____(Name of IP) hereby report that as on 14th November, 2019, I have the following ongoing Corporate Insolvency Resolution Process(s), which is / are not complete within 330 days from the insolvency commencement date:

CIRP - A:

1	Name of Corporate Debtor	(As in MCA Database)
2	CIN Number/ LLP Number	
3	Insolvency Commencement Date	(DD/MM/YYYY)
4	Bench of Adjudicating Authority	
5	Present Status of Process	
6	Reasons for non-completion of the process by 14 th November, 2019	
7	Details of persons responsible for non-completion, if any	

CIRP - B:

1	Name of Corporate Debtor	(As in MCA Database)
2	CIN Number/ LLP Number	
3	Insolvency Commencement Date	(DD/MM/YYYY)
4	Bench of Adjudicating Authority	
5	Present Status of Process	
6	Reasons for non-completion of the CIRP by 14 th November, 2019	
7	Details of persons responsible for non-completion, if any	

(Please add a new table for each CIRP)

Part B (Third Proviso to Section 12)

4. I _____(Name of IP) certify that as on 14th November, 2019, I do not have an ongoing Corporate Insolvency Resolution Process, which was not complete as on 16th August, 2019 even after expiry of 330 days and is not yet complete.

or

4. I _____ (Name of IP) hereby report that as on 14th November, 2019, I have the following ongoing Corporate Insolvency Resolution Process(s), which was / were not complete as on 16th August, 2019 even after expiry of 330 days and is / are not yet complete.

CIRP 1:

1	Name of Corporate Debtor	(As in MCA Database)
2	CIN Number/ LLP Number	
3	Insolvency Commencement Date	(DD/MM/YYYY)
4	Bench of Adjudicating Authority	
5	Present Status of Process	
6	Reasons for non-completion of the CIRP by 14th November, 2019	
7	Details of persons responsible for non-completion, if any	

CIRP 2:

1	Name of Corporate Debtor	(As in MCA Database)
2	CIN Number/ LLP Number	
3	Insolvency Commencement Date	(DD/MM/YYYY)
4	Bench of Adjudicating Authority	
5	Present Status of Process	
6	Reasons for non-completion of the CIRP by 14th November, 2019	
7	Details of persons responsible for the non-completion, if any	

(Please add a new table for each CIRP)

5. I _____ (Name of IP) certify that the above information is true to the best of my knowledge and belief.

(Signature of the Insolvency Professional)

Date:

Place: