

Insolvency and Bankruptcy Board of India

14th June 2022

Inviting suggestions/inputs from public for effective and expeditious resolution of Real Estate Projects

The Insolvency and Bankruptcy Code, 2016 (Code) was amended in 2018 to clarify the status of allottees of a real state project as Financial Creditors. However, large number of real estate projects are under consideration under IBC. It has been represented to Insolvency and Bankruptcy Board of India (IBBI) that real estate projects require different dispensation than normal projects.

2. It has been the endeavour of the IBBI to effectively engage stakeholders for understanding the need for any intervention by it within the framework of the Code. In a dynamic environment, despite best of intentions, a regulator may not always be able to address the ground realities on its own. On the other hand, the stakeholders may, at leisure, contemplate the important issues in the extant regulatory framework creating hindrance in realisation of the objective of legislation and offer alternate solutions to address them in equitable manner. The universe of ideas made available to the regulator make it possible to bring a regime of conducive regulatory framework in line with objective of the legislation.

3. IBBI invites suggestion from public, including the stakeholders, for need for any separate regulatory framework for Homebuyers in the corporate insolvency resolution process (CIRP) of real estate projects or some modifications in the existing regulations, within the existing framework of the Code. IBBI also invites specific suggestions for bringing improvements, if any, in the process of resolution of real estate projects vis-à-vis homebuyers for better and effective resolution of such real estate project. It is requested to send your views/suggestions in approximately 200 words at feedback@ibbi.gov.in. An indicative list of issues that have come forward during a roundtable hosted by the IBBI and some individual stakeholders is enclosed as Annexure. The comments need not be restricted to these points.

4. The last date for receipt of suggestions on this issue is July 05, 2022. The suggestions received during this period shall be processed and after following the due process, IBBI will contemplate further action, if so required.

Indicative list of issues in a CIRP of a real estate firm

A. Issues related to participation in the process:

1. Need to enhance / modify the role of authorised representative (AR).
2. Need for project wise AR.
3. Effective communication between AR and homebuyers.
4. Provision for replacement of AR.

B. Issues related to claims:

5. Mandating IRP to approach homebuyers for claims based on corporate debtor's (CD's) records.
6. Dealing with claims submitted with delay.
7. Treatment of claims of landowner if the land title is not in the name of CD.
8. Claims/interest of those who have taken possession.
9. Treatment of orders passed by RERA in claims.

C. Issues related to conduct of process:

10. Change in Valuation methodology to capture project wise value. Assessment of the required cost to complete project(s).
11. Means to arrange funding for completion of the process.
12. Monitoring of construction during the process.
13. Accountability of RP towards homebuyers.

D. Resolution:

14. Treatment of land title in in the resolution plan, when the same is in the name of promoters, other person or government agencies.
15. Resolution Projectwise or Towerwise instead of CD as a whole.
16. Possibility of Homebuyers themselves taking up as RA.
17. Means to take up construction of common amenities like sewer, park etc.
18. How to deal with unsold inventory in various projects/towers.
19. How to achieve timely resolution.
20. Treatment of homebuyers who do not vote in favour of resolution plan.

E. Liquidation:

21. Consequences if the CD goes into liquidation. Treatment of those allottees who have taken possession, and those who have not.
