CA- Final (New)

Access Complete Notes for *FREE* at https://bit.ly/ELawN20

Corporate & Economic Laws

REVISION NOTES FOR NOV., 2020

IBC, 2016 (Economic Laws)

- All Amendments Covered up to 30/04/2020
- November, 2020 Amendments Highlighted
- Covers Entire Applicable Syllabus
- Online Access Free for all students
- Accessible on all Smartphones/PCs
- Print Friendly

By CA. Mohit Bansal

3rd Edition

Telegram/@CAFinalLawNotes

Hey, what's up?

I hope you and your family are fine!

Dear friends, 'these Revision Notes' is a small endeavor from my side to help CA students in quickly revising the CA-Final Law Subject at the exam time, particularly for those doing self-study covering all provisions of law which are relevant for exam or even conceptually.

I started these notes with the intent to provide updated study material of CA-Final Law subject before examination so that student need not refer his main book and amendments separately while revision. These notes become his/her one stop solution for updated provisions applicable and available in suitable time before exams. Now, I am really happy to release the 3rd edition of these revision notes for students of CA-Final (New) Course and hope they will serve the purpose.

Now since, there is no fee being charged for online access of these notes from any student, your feedback is the only earning and motivation for me from these notes.

*So, if you find these notes useful to you, do spare some time to share your feedback at **https://forms.gle/eA3XD4n5QoCoA5EA9**. You can also give your suggestions for improvements and other ideas for betterment.*

*Now, you can also connect with me on Telegram App/**@connect_mohit**.*

And yes, stay safe from Corona (if it's still there at the time of reading this); follow all required precautions, because you can only give exam if you are healthy and COVID-19 situation gets under control.

Best Wishes for your exams and health!
CA. Mohit Bansal

Introduction to the Notes:

- ***THESE NOTES ARE REVISION NOTES AND NOT SHORT NOTES***
  Hence these notes cover all relevant topics applicable of ***Part C Economic Laws for*** *CA-Final (New) Paper 4: Corporate and Economic Laws for November, 2020 Exams.*
  Scan QR on Cover Page to access Notes for Part – A (Company Law) and Part – B (Securities law)

- *These notes (along with other parts) are prepared with intention to help students on the paper day for complete revision of syllabus in around 1.5 day and are meant for* ***revision*** *only and therefore suggested to be referred by only those who have studied the provisions of subject in detail from ICAI Study Material or any other Study Material/Classes.*

- ***At least 2 readings of these notes is suggested, 1st before beginning of exams (in which student may put markings in these notes as per his/her convenience) and 2nd in days just before the Paper.***

- *Interpretation/Analysis of most provision has not been included except for the new amendments, where ever required, in these notes as the same would have defeated the purpose of these notes making them lengthy and difficult to cover in entirety.* ***Although necessary effects such as underlining or by making the font Bold/Coloured have been made at appropriate places for easy interpretation and highlighting importance.***
  (Light coloured text is meant to be skipped in last revision since it has been given for better understanding and linkage of provisions in the initial revision(s).)

- *These notes are fully updated as per the amended relevant provisions of Economic Laws effective on* ***30/04/2020*** *which is cut-off date for November, 2020 Exams. Font of recent amendments (both for May and Nov., 2020) has been made in Italics at relevant places. However, since these notes are released before release of RTP for November, 2020, so going through RTP is recommended for any further updates.*

- ***AMENDMENTS FOR NOVEMBER, 2020 EXAMS HAVE SPECIFICALLY BEEN HIGHLIGHTED AT ALL THE RELEVANT PLACES TO HELP STUDENTS WHO WERE SUPPOSED TO APPEAR FOR JULY, 2020 EXAMS, BUT COULDN'T DUE TO CANCELLATION OF SAME.***

(This is a sample PDF, to access online complete Economic Laws notes for FREE, visit: https://www.bit.ly/ELawN20 and Scan the QR given on cover page for complete subject notes/updates).

Although due care has been taken while preparing these notes, in spite of this if any error (typographical or otherwise) is noticed by you, then you may bring the same into my notice at mentioned feedback link (on page no. 2) so that the same can be taken care of appropriately.

Disclaimer: *In case of any inadvertent error in notes, students themselves will be responsible for referring to the correct provision of Law and the author of these notes shall not be responsible for any loss, if any, incurred.*

The Insolvency and Bankruptcy Code, 2016

(Note: This Chapter has major Amendments for November, 2020 Exams)

QUICK INTRODUCTION

As per the preamble of The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC, 2016"), it is an Act to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximisation of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto.

Structure of Code:

The Act is structured into 5 Parts, but only **Part I** (PRELIMINARY) and **Part II** (INSOLVENCY RESOLUTION AND LIQUIDATION FOR CORPORATE PERSONS) has been made applicable by ICAI for CA-Final Course as of now. Further Part II covers section 4 to 77, but Syllabus only covers section 4 to 59. ***Now, IBC, 2016 extends to the whole of India without an exception (including J&K)***

PART – I (PRELIMINARY)

Section 2 Application

The provisions of this **Code** shall apply to—

(a) **any company** incorporated under the Companies Act, 2013 or under any previous company law;
(b) **any other company governed by any special Act** for the time being in force, except in so far as the said provisions are inconsistent with the provisions of such special Act;
(c) **any LLP** incorporated under the LLP Act, 2008;
(d) **such other body incorporated** under any law for the time being in force, **as the CG may**, by notification, **specify** in this behalf;
(e) **personal guarantors to corporate debtors**;
(f) **partnership firms and proprietorship firms**; and
(g) **individuals**, other than persons referred to in clause (e)

in relation to their **insolvency, liquidation, voluntary liquidation or bankruptcy**, as the case may be.

Section 3 Definitions [Applicable for whole IBC, 2016]

In this Code, unless the context otherwise requires,--

(1) "Board" means the Insolvency and Bankruptcy Board of India established u/s 188(1);

(2) "bench" means a bench of the Adjudicating Authority;

(3) "bye-laws" mean the bye-laws made by the insolvency professional agency u/s 205;

(4) "**charge**" means an interest or lien created on the property or assets of any person or any of its undertakings or both, as the case may be, as security and includes a mortgage;

(5) "Chairperson" means the Chairperson of the Board;

(6) "**claim**" means—

(a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured;
(b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured or unsecured;

(7) "**corporate person**" means a **company** as defined in section 2(20) of the Companies Act, 2013 , **a LLP**, as defined in section 291)(n) of the Limited Liability Partnership Act, 2008, **or any other person incorporated with limited liability under any law** for the time being in force **but shall not include any financial service provider**;

[**As per Jindal Saxena Financial Services v. Mayfair Capital (2008)**: NBFC is engaged in various activities and hence NBFC is not by the very fact or act be excluded (on ground that it is a financial service provider) from definition of 'corporate person' u/s 3(7) of IBC. **NBFC can be a 'Corporate Debtor' (depending upon facts and circumstances).]**

(8) "**corporate debtor**" means a corporate person who owes a debt to any person;

(9) "**core services**" means services rendered by an information utility for—

(a) accepting electronic submission of financial information in such form and manner as may be specified;
(b) safe and accurate recording of financial information;
(c) authenticating and verifying the financial information submitted by a person; and
(d) providing access to information stored with the information utility to persons as may be specified;

(10) "**creditor**" means any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor, an unsecured creditor and a decree-holder;

(11) "**debt**" means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;

(12) "**default**" **means non-payment of debt when** whole or any part or instalment of the amount of debt has **become due and payable and** is not paid by the debtor or the corporate debtor, as the case may be;

(13) "financial information", in relation to a person, means one or more of the following categories of information, namely:--

(a) records of the debt of the person;
(b) records of liabilities when the person is solvent;

(c) records of assets of person over which security interest has been created;
(d) records, if any, of instances of default by the person against any debt;
(e) records of the balance sheet and cash-flow statements of the person; and
(f) such other information as may be specified;

(14) "**financial institution**" means—

(a) a scheduled bank;
(b) financial institution as defined in section 45-I of the Reserve Bank of India Act, 1934 [i.e. NBFC];
(c) public financial institution as defined in clause (72) of section 2 of the Companies Act, 2013; and
(d) such other institution as the CG may by notification specify as a financial institution;

(15) "financial product" means securities, contracts of insurance, deposits, credit arrangements including loans and advances by banks and financial institutions, retirement benefit plans, small savings instruments, foreign currency contracts other than contracts to exchange one currency (whether Indian or not) for another which are to be settled immediately, or any other instrument as may be prescribed;

(16) "**financial service**" includes any of the following services, namely:

(a) accepting of deposits;
(b) safeguarding and administering assets consisting of financial products, belonging to another person, or agreeing to do so;
(c) effecting contracts of insurance;
(d) offering, managing or agreeing to manage assets consisting of financial products belonging to another person;

(e) rendering or agreeing, for consideration, to render advice on or soliciting for the purposes of--
(i) buying, selling, or subscribing to, a financial product;
(ii) availing a financial service; or
(iii) exercisfing any right associated with a financial product or financial service;

(f) establishing or operating an investment scheme;
(g) maintaining or transferring records of ownership of a financial product;
(h) underwriting the issuance or subscription of a financial product; or
(i) selling, providing, or issuing stored value or payment instruments or providing payment services;

(17) "**financial service provider**" means a person engaged in the business of providing financial services in terms of authorisation issued or registration granted by a financial sector regulator;

(18) "financial sector regulator" means an authority or body constituted under any law for the time being in force to regulate services or transactions of financial sector and includes the RBI, SEBI, IRDA, the Pension Fund Regulatory Authority and such other regulatory authorities as may be notified by the CG;

(19) "**insolvency professional**" means a person enrolled u/s 206 with an insolvency professional agency as its member and registered with the Board as an insolvency professional u/s 207;

(20) "**insolvency professional agency**" means any person registered with the Board u/s 201 as an

insolvency professional agency;
(21) "**information utility**" means a person who is registered with the Board as an information utility u/s 210;
(22) "notification" means a notification published in the Official Gazette, and the terms notified and "notify" shall be construed accordingly;
(23) "**person**" includes— (a) an individual; (b) a HUF; (c) a company; (d) a trust; (e) a partnership; (f) a LLP; and **(g)** any other entity established under a statute, **and includes a person resident outside India;**
(24) "person resident in India" shall have the meaning as assigned to such term in section 2(v) of FEMA, 1999;
(25) "person resident outside India" means a person other than a person resident in India;
(26) "prescribed" means prescribed by rules made by the CG;
(27) "**property**" includes money, goods, actionable claims, land and every description of property situated in India or outside India and every description of interest including present or future or vested or contingent interest arising out of, or incidental to, property;
(28) "regulations" means the regulations made by the Board under this Code;
(29) "Schedule" means the Schedule annexed to this Code;
(30) "**secured creditor**" means a creditor in favour of whom security interest is created;
(31) "**security interest**" means right, title or interest or a claim to property, created in favour of, or provided for a secured creditor by a transaction which secures payment or performance of an obligation and includes mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement securing payment or performance of any obligation of any person: Provided that security interest shall not include a performance guarantee;
(32) "specified" means specified by regulations made by the Board under this Code and the term "specify" shall be construed accordingly;
(33) "**transaction**" includes a agreement or arrangement in writing for the transfer of assets, or funds, goods or services, from or to the corporate debtor;

(34) "**transfer**" includes sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien;

(35) "**transfer of property**" means transfer of any property and includes a transfer of any interest in the property and creation of any charge upon such property;

(36) "workman" shall have the same meaning as assigned to it in section 2(s) of the Industrial Disputes Act, 1947

(37) words and expressions used but not defined in this Code but defined in the Indian Contract Act, 1872, the Indian Partnership Act, 1932, SCRA, 1956, SEBI Act, 1992, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the LLP Act, 2008 and the Companies Act, 2013, shall have the meanings respectively assigned to them in those Acts.

PART – II

(INSOLVENCY RESOLUTION AND LIQUIDATION FOR CORPORATE PERSONS)

Section 4 Application of this Part

This Part shall apply to matters relating to the **insolvency and liquidation** of **corporate debtors** where the **minimum amount of the default is ₹ 1 lakh**:

[Proviso] Provided that the **CG may**, by notification, **specify the minimum amount of default** of higher value which shall not be more than ₹ 1 crore.

Notification S.O. 1205(E) dated 24 March, 2020

In exercise of the powers conferred by the proviso to section 4 of the IBC, 2016, CG specified ***₹ 1 Crore as the minimum amount of default*** *for the purposes of the said section.*

(Amendment for Nov., 2020)

Section 5 Definitions [Applicable for Part-II of Code Only]

In this Part, unless the context otherwise requires,--

(1) **Adjudicating Authority**", for the purposes of this Part, means **National Company Law Tribunal** constituted u/s 408 of the Companies Act, 2013;

(2) "auditor" means a CA certified to practice as such by ICAI u/s 6 of the Chartered Accountants Act, 1949;

(3) "Chapter" means a Chapter under this Part;

(4) "**constitutional document**", in relation to a corporate person, includes AOA, MOA of a company and incorporation document of a LLP;

(5) "**corporate applicant**" means—

(a) corporate debtor;

or

(b) a member or partner of the corporate debtor who is authorised to make an application for the Corporate Insolvency Resolution Process **[CIRP]** under the constitutional document of the corporate debtor;

or

(c) an individual who is in charge of managing the operations and resources of the corporate debtor;

or

(d) a person who has the control and supervision over the financial affairs of the corporate debtor;

(5A) "**corporate guarantor**" means a corporate person who is the surety in a contract of guarantee to a corporate debtor;

(6) "**dispute**" includes a suit or arbitration proceedings relating to—
(a) the existence of the amount of debt;
(b) the quality of goods or service; or
(c) the breach of a representation or warranty;

(7) "**financial creditor**" means any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to;

(8) "**financial debt**" means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes—

(a) money borrowed against the payment of interest;
(b) any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent;
(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
(d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Ind AS or such other accounting standards as may be prescribed;
(e) receivables sold or discounted other than any receivables sold on non-recourse basis;
(f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;

Explanation.-- For the purposes of this sub-clause,--
(i) any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing**; and**
(ii) the expressions, "allottee" and "real estate project" shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016;

(g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;
(h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;

(i) the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause;

(9) "financial position", in relation to any person, means the financial information of a person as on a certain date;

(10) "**information memorandum**" means a memorandum prepared by resolution professional u/s 29(1);

(11) "**initiation date**" means the **date on which** a financial creditor, corporate applicant or operational creditor, as the case may be, **makes an application to the Adjudicating Authority** for initiating **Corporate Insolvency Resolution Process** [CIRP];

(12) **insolvency commencement date** means the **date of admission of an application** for initiating CIRP by the Adjudicating Authority u/s 7, 9 or section 10, as the case may be;

~~Provided that where the interim resolution professional is not appointed in the order admitting application u/s 7, 9 or section 10, the insolvency commencement date shall be the date on which such interim resolution professional is appointed by the Adjudicating Authority;~~ ***(Proviso omitted – Amendment for Nov, 2020)***

(13) "insolvency resolution process costs" means—

(a) the amount of any interim finance and the costs incurred in raising such finance;
(b) the fees payable to any person acting as a resolution professional;
(c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern;
(d) any costs incurred at the expense of the Government to facilitate the insolvency resolution process; and
(e) any other costs as may be specified by the Board;

(14) "**insolvency resolution process period**" means the period of **180 days beginning from the insolvency commencement date** and ending on 180th day;

(15) "interim finance" means any financial debt raised by the resolution professional during the insolvency resolution process period *and such other debt as may be notified*; ***(Amendment for Nov, 2020)***

Notification S.O. 1145(E) dated 18/03/2020

*In exercise of the powers conferred by section 5(15) of the IBC, 2016, **CG notified a debt raised from the Special Window for Affordable and Middle-Income Housing Investment Fund I, for the purposes of the said clause**.*

Explanation**.—For the purposes of this notification, the expression "Special Window for Affordable and Middle-Income Housing Investment Fund I" shall mean the fund sponsored by CG for providing priority debt financing for stalled housing projects, as an alternate investment fund and registered with the SEBI, established under SEBI Act, 1992, to provide financing for the completion of stalled housing projects that are in the affordable and middle-income housing sector.* ***(Amendment for Nov, 2020)

(16) "liquidation cost" means any cost incurred by the liquidator during the period of liquidation subject to such regulations, as may be specified by the Board;

(17) "**liquidation commencement date**" means the date on which proceedings for liquidation commence in accordance with section 33 or section 59, as the case may be;

(18) "**liquidator**" means an **insolvency professional appointed as a liquidator** in accordance with the provisions of Chapter III or Chapter V of this Part, as the case may be;

(19) "officer" for the purposes of Chapter VII of this Part, means an officer who is in default, as defined in clause (60) of section 2 of the Companies Act, 2013 or a designated partner as defined in clause (j) of section 2 of LLP Act, 2008, as the case may be;

(20) "**operational creditor**" means a person to whom an operational debt is owed **and includes** any person to whom such debt has been legally assigned or transferred;

(21) "**operational debt**" means a claim in respect of the provision of goods or services including employment or a debt in respect of the payment of dues arising under any law for the time being in force and payable to the CG, any SG or any local authority;

(22) **personal guarantor** means an individual who is the surety in a contract of guarantee to a corporate debtor;

(23) **personnel** includes the directors, managers, key managerial personnel, designated partners and employees, if any, of the corporate debtor;

(24) "**related party**", **in relation to a corporate debtor**, means—

(a) a director or partner of the corporate debtor or a relative of a director or partner of the corporate debtor;
(b) a KMP of the corporate debtor or a relative of a KMP of the corporate debtor;
(c) a LLP or a partnership firm in which a director, partner, or manager of the corporate debtor or his relative is a partner;
(d) a private company in which a director, partner or manager of the corporate debtor is a director and holds along with his relatives, more than two per cent. of its share capital;
(e) a public company in which a director, partner or manager of the corporate debtor is a director and holds along with relatives, more than two per cent. of its paid-up share capital;
(f) any body corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;
(g) any limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;
(h) any person on whose advice, directions or instructions, a director, partner or manager of the corporate debtor is accustomed to act;
(i) a body corporate which is a holding, subsidiary or an associate company of the corporate debtor, or a subsidiary of a holding company to which the corporate debtor is a subsidiary;
(j) any person who controls more than 20 per cent. of voting rights in the corporate debtor on account of ownership or a voting agreement;
(**k**) any person in whom the corporate debtor controls more than twenty per cent. of voting rights on account of ownership or a voting agreement;
(**l**) any person who can control the composition of the BOD or corresponding governing body of the corporate debtor;
(**m**) any person who is associated with the corporate debtor on account of--

(i) participation in policy making processes of the corporate debtor; or
(ii) having more than 2 directors in common between the corporate debtor and such person; or
(iii) interchange of managerial personnel between the corporate debtor and such person; or
(iv) provision of essential technical information to, or from, the corporate debtor;

(24A) "**related party**", in relation to an individual, means—

(a) a person who is a relative of the individual or a relative of the spouse of the individual;
(b) a partner of a LLP, or a LLP or a partnership firm, in which the individual is a partner;
(c) a person who is a trustee of a trust in which the beneficiary of the trust includes the individual, or the terms of the trust confers a power on the trustee which may be exercised for the benefit of the individual;
(d) a private company in which the individual is a director and holds along with his relatives, more than 2 per cent. of its share capital;
(e) a public company in which the individual is a director and holds along with relatives, more than 2 per cent. of its paid-up share capital;
(f) a body corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of the individual;
(g) any LLP or a partnership firm whose partners or employees in the ordinary course of business, act on the advice, directions or instructions of the individual;
(h) a person on whose advice, directions or instructions, the individual is accustomed to act;
(i) a company, where the individual or the individual along with its related party, own more than fifty per cent. of the share capital of the company or controls the appointment of the board of directors of the company.

Explanation.-- For the purposes of this clause,--
(a) "**relative**", with reference to any person, means anyone who is related to another, in the following manner, namely:--

(i) members of a HUF, (ii) husband, (iii) wife, (iv) father, (v) mother, (vi) son, (vii) daughter, (viii) son's daughter and son, (ix) daughters daughter and son, (x) grandson's daughter and son	(xi) granddaughters daughter and son, (xii) brother, (xiii) sister, (xiv) brother's son and daughter, (xv) sister's son and daughter, (xvi) father's father and mother, (xvii) mother's father and mother, (xviii) father's brother and sister, (xix) mother's brother and sister,

and

(b) wherever the relation is that of a son, daughter, sister or brother, their spouses shall also be included;.

(25) "**resolution applicant**" means a person, who individually or jointly with any other person, submits a resolution plan to the resolution professional pursuant to the invitation made u/s 25(2)(h);

(26) "**resolution plan**" means a plan proposed by resolution applicant for insolvency resolution of the corporate debtor as a going concern in accordance with Part II;

Explanation.-- For the removal of doubts, it is hereby clarified that a ***resolution plan may include provisions for***

the restructuring of the corporate debtor, including by way of merger, amalgamation and demerger;

(27) "**resolution professional**", for the purposes of this Part, **means an insolvency professional appointed to conduct the Corporate Insolvency Resolution Process [CIRP] and includes an interim resolution professional**; and

(28) "**voting share**" means the share of the **voting rights of a SINGLE FINANCIAL CREDITOR** in the committee of creditors which is based on the proportion of the FINANCIAL debt owed to such financial creditor in relation to the financial debt owed by the corporate debtor.

Section 6 Person who may initiate CIRP (Corporate Insolvency Resolution Process)

Where any **corporate debtor commits a default**, a **financial creditor**, an **operational creditor** or the **corporate debtor itself** may initiate CIRP in respect of such corporate debtor in the manner as provided under this Chapter.

Section 7 Initiation of CIRP by Financial Creditor [IMPORTANT]

(1) A **financial creditor either by itself or jointly with other financial creditors**, **or any other person on behalf of the financial creditor, as may be notified by the CG** *(see notification on next page)*, may file an application for initiating CIRP against a corporate debtor before the Adjudicating Authority when a default has occurred.

*[1st Proviso] Provided that for the financial creditors, referred to in clauses (a) and (b) of section 21(6A), an application for initiation CIRP against the corporate debtor shall be filed jointly by not less than 100 of such creditors in the same class **or** not less than 10 per cent of the total number of such creditors in the same class, whichever is **less**:*

*[2nd Proviso] Provided further that for financial creditors who are allottees under a real estate project, an application for initiating CIRP against the corporate debtor shall be filed jointly by not less than 100 of such allottees under the same real estate project or not less than 10 per cent of the total number of such allottees under the same real estate project, whichever is **less**:*

[3rd Proviso] Provided also that where an application for initiating the CIRP against a corporate debtor has been filed by a financial creditor referred to in the first or second provisos and has not been admitted by the Adjudicating Authority before the commencement of the IBC (Amendment) Act, 2020 (i.e. 13th March, 2020), such application shall be modified to comply with the requirements of the first or second provisos as the case may be within 30 days of the commencement of the said Act, failing which the application shall be deemed to be withdrawn before its admission. ***(All 3 Provisos newly added - Amendment for Nov, 2020)***

Explanation.--For the purposes of this sub-section, a default includes a default in respect of a financial debt owed not only to the applicant financial creditor but to any other financial creditor of the corporate debtor.

Notification dated 27/02/2019 S.O. 1091(E)

In exercise of the powers conferred by sub-section (1) of section 7 of the IBC, 2016, the CG hereby notifies **following persons who may file an application** for initiating CIRP against a corporate debtor before the Adjudicating Authority, **on behalf of the financial creditor: -**

(i) a guardian;
(ii) an executor or administrator of an estate of a financial creditor;
(iii) a trustee (including a debenture trustee); and
(v) a person duly authorised by the BOD of a Company.

7(2) The financial creditor shall make an application under sub-section (1) in such form and manner and accompanied with such fee as may be prescribed.

7(3) The financial creditor shall, along with the application **furnish**—

(a) record of the default recorded with the information utility or such other record or evidence of default as may be specified;

(b) the name of the resolution professional proposed to act as an interim resolution professional; and

(c) any other information as may be specified by the Board.

(4) The Adjudicating Authority shall, within **14 days of the receipt of the application** under sub-section (2), **ascertain the existence of a default** from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3).

Provided that if the Adjudicating Authority has not ascertained the existence of default and passed an order under sub-section (5) within such time, it shall record its reasons in writing for the same.

(5) Where the Adjudicating Authority is satisfied that--

(a) a **default has occurred and** the **application** under sub-section (2) is **complete**, **and** there is **no disciplinary proceedings pending against the proposed resolution professional**, it may, by order, **admit** such application;

or

(b) **default has not occurred or** the **application** under sub-section (2) is **incomplete or** any **disciplinary proceeding is pending** against the proposed resolution professional, it may, by order, **reject** such application:

Provided that the Adjudicating Authority **shall**, **before rejecting the application** under clause (b) of sub-section (5), **give a notice to the applicant to rectify** the defect in his application **within 7 days** of receipt of such notice from the Adjudicating Authority.

(6) The **CIRP shall commence from the date of admission of the application** under sub-section (5).

(7) The Adjudicating Authority **shall communicate**—

(a) the **order** under **clause (a)** of sub-section (5) **to the financial creditor and the corporate debtor**;

(b) the **order** under **clause (b)** of sub-section (5) to the **financial creditor**,

within **7 days of admission or rejection** of such application, as the case may be.

Section 8 Insolvency Resolution by Operational Debtor

(1) An operational creditor may, on **the occurrence of a default**, **deliver a demand notice** of unpaid operational debtor **copy of an invoice demanding payment** of the amount involved in the default to the corporate debtor in such form and manner as may be prescribed.

(2) The corporate debtor shall, within a period of **10 days** of the receipt of the demand notice or copy of the invoice mentioned in sub-section (1) bring to the notice of the operational creditor:

(a) **existence of a dispute**, if any, **or record of the pendency** of the suit or arbitration proceedings **filed before** the receipt of such notice or invoice in relation to such dispute;
(b) the **payment** of unpaid operational debt
(i) by **sending an attested copy of the record of electronic transfer** of the unpaid amount from the bank account of the corporate debtor;
or
(ii) **by sending an attested copy of record that the operational creditor has encashed a cheque** issued by the corporate debtor.

Explanation.--For the purposes of this section, a "**demand notice" means** a notice served by an operational creditor to the corporate debtor demanding payment of the operational debt in respect of which the default has occurred.

Section 9 Application for initiation of CIRP by Operational Creditor

(1) After the expiry of the period of 10 days from the date of delivery of the notice or invoice demanding payment u/s 8(1), if the operational creditor does not receive payment from the corporate debtor or notice of the dispute u/s 8(2), the operational creditor may file an application before the Adjudicating Authority for initiating a CIRP.

(2) The application under sub-section (1) shall be filed in such form and manner and accompanied with such fee as may be prescribed.

(3) The **operational creditor shall**, along with the application **furnish**—

- (a) a **copy of the invoice demanding payment or demand notice delivered** by the operational creditor to the corporate debtor;
- (b) an **affidavit to the effect that there is no notice given by the corporate debtor relating to a dispute** of the unpaid operational debt;
- (c) a **copy of the certificate from the financial institutions** maintaining accounts of the operational creditor confirming **that there is no payment of an unpaid operational debt** by the corporate debtor; **if available**;
- (d) a **copy of any record with information utility** confirming **that there is no payment** of an unpaid operational debt by the corporate debtor, **if available**;

and

- (e) **any other proof confirming that there is no payment of an unpaid operational debt** by the corporate debtor or such other information, as may be prescribed.

9(4) An operational creditor initiating a CIRP under this section **may propose** a **resolution professional to act as** an **interim resolution professional**.

9(5) The Adjudicating Authority shall, within **14 days of the receipt of the application** under sub-section (2), by an order

(i) **admit the application and communicate** such decision **to the operational creditor and the corporate debtor** if,--

- (a) the **application** made under sub-section (2) is **complete**;
- (b) **there is no payment of** the unpaid **operational debt;**
- (c) the **invoice or notice** for payment to the corporate debtor has been **delivered by** the operational creditor;
- (d) **no notice of dispute has been received by the operational creditor** or there is no record of dispute in the information utility; **and**
- (e) there is **no disciplinary proceeding pending against any resolution professional** proposed under sub-section (4), **if any**;

(ii) **reject the application and communicate** such decision **to the operational creditor and the corporate debtor**, if—

- (a) the **application** made under sub-section (2) is **incomplete**;
- (b) **there has been payment** of the unpaid operational debt;
- (c) **the creditor has not delivered the invoice or notice** for payment to the corporate debtor;
- (d) **notice of dispute has been received** by the operational creditor or there is a record of dispute in the information utility; or
- (e) **any disciplinary proceeding** is **pending** against any proposed resolution professional:

Provided that Adjudicating Authority, **shall** before rejecting an application under sub-clause (a) of clause (ii) **give a notice to the applicant to rectify** the defect in his application **within 7 days** of the date of receipt of such notice from the Adjudicating Authority.

(6) The **CIRP shall commence from the date of admission of the application** under sub-section (5) of this section.

Section 10 Initiation of CIRP by Corporate Applicant

(1) Where a corporate debtor **has committed a default**, a **corporate applicant thereof may file an application** for initiating CIRP with the Adjudicating Authority.

(2) The application under sub-section (1) **shall** be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.

(3) The corporate applicant **shall**, along with the application, furnish-

(a) the **information relating to its books of account** and such other documents for such period as may be specified;

(b) the **information relating to the resolution** professional **proposed** to be appointed as an interim resolution professional;

and

(c) the **SR passed by shareholders of the corporate debtor or the resolution passed by at least 3/4th of the total number of partners** of the corporate debtor, as the case may be, approving filing of the application.

(4) The Adjudicating Authority **shall**, within a **period of 14 days of the receipt** of the application, by an order—

(a) **admit** the application, **if** it is **complete**; **and no disciplinary proceeding is pending** against the proposed resolution professional;

or

(b) **reject** the application, **if** it is **incomplete**; or any **disciplinary proceeding is pending** against the proposed resolution professional:

Provided that Adjudicating Authority **shall**, before rejecting an application, **give a notice to the applicant** to **rectify the defects in his application within 7 days** from the date of receipt of such notice from the Adjudicating Authority.

(5) **The CIRP shall commence from the date of admission of the application** under sub-section (4) of this section.

Section 11 Persons not entitled to make an application

The **following persons shall not be entitled to make an application to initiate CIRP** under this Chapter, namely:--

(a) a corporate debtor undergoing a CIRP;

or

(b) a corporate debtor having completed CIRP 12 months preceding the date of making of the application;

or

(c) a corporate debtor or a financial creditor who has violated any of the terms of resolution plan which was approved 12 months before the date of making of an application under this Chapter;

or

(d) a corporate debtor in respect of whom a liquidation order has been made.

Explanation I -- For the purposes of this section**, a corporate debtor includes a corporate applicant in respect of such corporate debtor.**

***Explanation II**.- For the purposes of this section, it is hereby clarified that **nothing** in this section **shall prevent a corporate debtor referred to in clauses (a) to (d) from initiating CIRP** against another corporate debtor.*

(Explanation II newly Added - Amendment for Nov, 2020)

Section 12 Time Limit for completion of Insolvency Resolution Process

(1) Subject to sub-section (2), the CIRP **shall be completed within a period of 180 days** from the date of admission of the application to initiate such process.

(2) The **resolution professional shall file** an application to the Adjudicating Authority **to extend the period of the CIRP** beyond 180 days, **if instructed to do so by a resolution passed at a meeting of the committee of creditors** by a vote of **66** per cent of the voting shares.

(3) On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that CIRP cannot be completed within 180 days, it **may by order extend** the duration of such process beyond 180 days by such further period as it thinks fit**, but not exceeding 90 days**:

Provided that any extension of the period of CIRP under this section shall not be granted more than once.

Provided further that the CIRP shall mandatorily be completed within a period of 330 days from the insolvency commencement date, including any extension of the period of CIRP 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 90 days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.

Section 12A Withdrawal of Application admitted u/s 7,9 or 10

The Adjudicating Authority **may allow** the withdrawal of application admitted u/s 7 or section 9 or section 10, **on an application made by the applicant** with **the approval of 90 per cent voting share of the committee of creditors**, in such manner as may be specified.

Section 13 Declaration of Moratorium and Public Announcement

(1) The **Adjudicating Authority**, after admission of the application u/s 7 or section 9 or section 10, **shall, by an order**—

(a) **declare a moratorium** for the purposes referred to in section 14;
(b) **cause a public announcement** of the initiation of CIRP and call for the submission of claims u/s 15;

and

(c) **appoint an interim resolution professional** in the manner as laid down in section 16.

(2) The **public announcement** referred to in clause (b) of sub-section (1) **shall be made immediately after the appointment of the interim resolution professional**.

Section 14 Moratorium

(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, **the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following**, namely:—

(a) the **institution of suits or continuation of pending suits or proceedings against the corporate debtor** including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) **transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right** or beneficial interest therein;

(c) **any action to foreclose, recover or enforce any security interest created by the corporate debtor** in respect of its property **including any action under SARFAESI Act**, 2002;

(d) **the recovery of any property by an owner or lessor where such property is occupied by** or in the possession of the **corporate debtor**.

Explanation.*-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the CG, SG, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, **shall not be suspended or terminated** on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period.* ***(Explanation newly Added - Amendment for Nov, 2020)***

(2) The **supply of essential goods or services to the corporate debtor** as may be specified **shall not be terminated or suspended or interrupted** during moratorium period.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified. ***(Newly inserted - Amendment for Nov, 2020)***

(3) The **provisions of sub-section (1) shall not apply to**—

(a) such transactions, *agreements or other arrangement* as may be notified by CG in consultation with any financial sector regulator or any other authority;

(b) a surety in a contract of guarantee to a corporate debtor.

(4) The order of moratorium **shall have effect from the date of such order till the completion of the CIRP**:

Provided that where at any time during the CIRP period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor u/s 33, **the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be**.

Section 15 Public Announcement of CIRP

(1) The **public announcement** of the CIRP under the order referred to in section 13 **shall contain the following** information, namely:—

(a) **name and address of the corporate debtor** under the CIRP;
(b) **name of the authority with which** the **corporate debtor is incorporated or registered**;
(c) the **last date for submission of claims**, as may be specified;
(d) **details of the interim resolution professional** who shall be vested with the management of the corporate debtor and be responsible for receiving claims;
(e) **penalties for false or misleading claims**;
and
(f) **the date on which the CIRP shall close**, which shall be the 180th day from the date of the admission of the application u/s 7, 9 or 10, as the case may be.

(2) The public announcement under this section shall be made in such manner as may be specified.

Section 16 Appointment and Tenure of Interim Resolution Professional

(1) The **Adjudicating Authority shall appoint an interim resolution professional *ON the* insolvency commencement date.**

(Time Limit of above appointment by AA reduced from 14 days to Same day – Amendment for Nov, 2020)

(2) **Where the application for CIRP is made by a financial creditor or the corporate debtor**, as the case may be, **the resolution professional, as proposed respectively in the application u/s 7 or section 10, shall be appointed as the interim resolution professional,** if no disciplinary proceedings are pending against him.

(3) **Where the application** for CIRP is made **by an operational creditor and**—

(a) **no proposal for an interim resolution professional** is **made**, the **Adjudicating Authority shall make a reference to the Board for the recommendation of an insolvency professional who may act as an interim resolution professional**;

(b) **a proposal for an interim resolution professional is made** u/s 9(4), the **resolution professional as proposed, shall be appointed as the interim resolution professional**, if no disciplinary proceedings are pending against him.

(4) The Board shall, within 10 days of the receipt of a reference from the Adjudicating Authority under sub-section (3), recommend the name of an insolvency professional to the Adjudicating Authority against whom no disciplinary proceedings are pending.

(5) The **term** of the interim resolution professional **shall continue till the date of appointment of the resolution professional u/s 22**.

Section 17 Management of Affairs of Corporate Debtor by Interim Resolution Professional

(1) From the date of appointment of the interim resolution professional,—

(a) the **management** of the affairs of the corporate debtor **shall vest** in the interim resolution professional;
(b) the **powers of the BOD or the partners** of the corporate debtor, as the case may be, **shall stand suspended and be exercised by the interim resolution professional**;
(c) the **officers and managers** of the corporate debtor **shall report to the interim resolution professional** and provide access to such documents and records of the corporate debtor as may be required by the interim resolution professional;
(d) the **financial institutions maintaining accounts** of the corporate debtor **shall act on the instructions of the interim resolution professional** in relation to such accounts and furnish all information relating to the corporate debtor available with them to the interim resolution professional.

(2) The **interim resolution professional** vested with the management of the corporate debtor **shall**—

(a) **act and execute in the name** and on behalf **of** the **corporate debtor** all deeds, receipts, and other documents, if any;
(b) **take such actions**, in the manner and subject to such restrictions, **as may be specified** by the Board;
(c) **have the authority to access** the electronic **records** of corporate **debtor from information utility** having financial information of the corporate debtor;
(d) **have the authority to access the books** of account, records and other relevant documents of corporate debtor **available with government authorities, statutory auditors, accountants and such other persons** as may be **specified**;

and

(e) **be responsible for complying with** the requirements under any **law** for the time being in force on behalf of the corporate debtor.

Section 18 Duties of Interim Resolution Professional

The **interim resolution professional shall perform the following duties**, namely:—

(a) **collect all information** relating to the assets, finances and operations of the corporate debtor **for determining the financial position** of the corporate debtor, **including information relating to**—

(i) business operations for the previous 2 years;
(ii) financial and operational payments for the previous 2 years;
(iii) list of assets and liabilities as on the initiation date; and
(iv) such other matters as may be specified;

(b) **receive and collate all the claims** submitted by creditors to him, pursuant to the public announcement made under sections 13 and 15;

(c) **constitute a committee of creditors**;

(d) **monitor the assets** of the corporate debtor **and** manage its **operations until a resolution professional is appointed** by the committee of creditors;

(e) **file information collected** with the information utility, if necessary;

and

(f) **take control and custody of any asset** over which the corporate debtor has ownership rights **as recorded in the balance sheet** of the corporate debtor, **or** with **information utility or** the **depository** of securities **or any other registry that records the ownership** of assets including—

(i) assets over which the corporate debtor has ownership rights which may be located in a foreign country;
(ii) assets that may or may not be in possession of the corporate debtor;
(iii) tangible assets, whether movable or immovable;
(iv) intangible assets including intellectual property;
(v) securities including shares held in any subsidiary of the corporate debtor, financial instruments, insurance policies;
(vi) assets subject to the determination of ownership by a court or authority;

(g) to perform such other duties as may be specified by the Board.

Explanation.—For the purposes of this section, the term "**assets**" **shall not include the following**, namely:—

(a) assets owned by a third party in possession of the corporate debtor held under trust or under contractual arrangements including bailment;
(b) assets of any Indian or foreign subsidiary of the corporate debtor; and
(c) such other assets as may be notified by the CG in consultation with any financial sector regulator.

Section 19 Personnel to extend co-operation to Interim Resolution Professional

(1) The **personnel of the corporate debtor**, its promoters or any other person associated with the management of the corporate debtor **shall extend all assistance and cooperation to the interim resolution professional** as may be required by him in managing the affairs of the corporate debtor.

(2) **Where any personnel** of the corporate debtor, its promoter or any other person **required to assist or cooperate with the interim resolution professional does not assist or cooperate**, the **interim resolution professional may make an application to the Adjudicating Authority for necessary directions**.

(3) The **Adjudicating Authority, on receiving an application** under sub-section (2), **shall by an order, direct** such personnel or other person to comply with the instructions of the resolution professional and to cooperate with him in collection of information and management of the corporate debtor.

Section 20 Management of Operations of Corporate Debtor as Going Concern

(1) The int**erim resolution professional shall make every endeavour to protect and preserve the value of the property** of the corporate debtor **and manage the operations** of the corporate debtor **as a going concern**.

(2) For the purposes of sub-section (1), the interim resolution professional shall have the authority—

(a) to appoint accountants, legal or other professionals as may be necessary;
(b) to enter into contracts on behalf of the corporate debtor or to amend or modify the contracts or transactions which were entered into before the commencement of CIRP;
(c) to raise interim finance provided that no security interest shall be created over any encumbered property of the corporate debtor without the prior consent of the creditors whose debt is secured over such encumbered property:

Provided that **no prior consent of the creditor shall be required where the value of such property is not less than the amount equivalent to twice the amount of the debt**.

(d) to issue instructions to personnel of the corporate debtor as may be necessary for keeping the corporate debtor as a going concern; **and**
(e) to take all such actions as are necessary to keep the corporate debtor as a going concern.

Section 21 Committee of Creditors

(1) **The interim resolution professional shall** after collation of all claims received against the corporate debtor and determination of the financial position of the corporate debtor, **constitute a committee of creditors**.

(2) The **committee of creditors shall comprise all financial creditors** of the corporate debtor:

Provided that a financial creditor or the authorised representative of the financial creditor referred to in sub-section (6) or sub-section (6A) or sub-section (5) of section 24, **if it is a related party of the corporate debtor, shall not have any right of representation**, participation or voting in a meeting of the committee of creditors:

Provided further that the first proviso shall not apply to a financial creditor, regulated by a financial sector

regulator, **if** it is a **related party** of the corporate debtor **solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares** *or completion of such transactions as may be prescribed*, prior to the insolvency commencement date; ***(Coloured text newly inserted – Amendment for Nov, 2020)***

21(3) Subject to sub-sections (6) and (6A), where the corporate debtor owes financial debts to two or more financial creditors as part of a c**onsortium or agreement, each such financial creditor shall be part of the committee of creditors and their voting share shall be determined on the basis of the financial debts owed to them**.

21(4) **Where any person is a financial creditor as well as an operational creditor**,—

(a) such person shall be a financial creditor to the extent of the financial debt owed by the corporate debtor, and **shall be included in the committee of creditors**, with voting share **proportionate to the extent of financial debts** owed to such creditor;

(b) **such person shall be considered to be an operational creditor to the extent of the operational debt** owed by the corporate debtor to such creditor.

(5) **Where an operational creditor has assigned or legally transferred any operational debt to a financial creditor**, the assignee or transferee shall be considered as an operational creditor to the extent of such assignment or legal transfer.

(6) **Where** the terms of the financial debt extended as part of a consortium **arrangement** or syndicated facility **provide for a single trustee or agent to act for all financial creditors**, each financial creditor **may**—

(a) authorise the trustee or agent to act on his behalf in the committee of creditors to the extent of his voting share;
(b) represent himself in the committee of creditors to the extent of his voting share;
(c) appoint an insolvency professional (other than the resolution professional) at his own cost to represent himself in the committee of creditors to the extent of his voting share; **or**
(d) exercise his right to vote to the extent of his voting share with one or more financial creditors jointly or severally.

21(6A) Where a financial debt—

(a) is in the form of securities or deposits and the terms of the financial debt provide for appointment of a trustee or agent to act as authorised representative for all the financial creditors, such trustee or agent shall act on behalf of such financial creditors;

(b) is owed to a class of creditors exceeding the number as may be specified, other than the creditors covered under clause (a) or sub-section (6),

the **interim resolution professional shall make an application to the Adjudicating Authority along with the list of all financial creditors, containing the name of an insolvency professional, other than the interim resolution professional, to act as their authorised representative** who shall be appointed by the Adjudicating Authority prior to the first meeting of the committee of creditors;

(c) is represented by a guardian, executor or administrator, such person shall act as authorised representative on behalf of such financial creditors,

and such authorised representative under clause (a) or clause (b) or clause (c) shall attend the meetings of the committee of creditors, and vote on behalf of each financial creditor to the extent of his voting share.
(6B) The **remuneration payable to the authorised representative**— (a) under clauses (a) **and** (c) of sub-section (6A), if any, **shall be as per the terms of the financial debt or the relevant documentation**; **and** (b) **under clause (b)** of sub-section (6A) **shall be as specified which shall form part of the insolvency resolution process costs**.
(7) The Board may specify the manner of voting and the determining of the voting share in respect of financial debts covered under sub-sections (6) and (6A).
(8) **All decisions of the committee of creditors shall be taken by a vote of not less than 75 per cent of voting share of the financial creditors**: Provided that **where a corporate debtor does not have any financial creditors**, the committee of creditors shall be constituted and comprise of such persons to exercise such functions in **such manner as may be specified by the Board**.
(9) The committee of creditors shall have the right to require the resolution professional to furnish any financial information in relation to the corporate debtor at any time during the CIRP.
(10) **The resolution professional shall make available any financial information so required by the committee of creditors under sub-section (9) within a period of 7 days of such requisition.**

Section 22 Appointment of Resolution Professional
(1) The **first meeting** of the committee of creditors shall be held **within 7 days of the constitution** of the committee of creditors.
(2) The committee of creditors, may, in **the first meeting, by a majority vote of not less than 66 per cent** of the voting share of the financial creditors, **either resolve to appoint the interim resolution professional as a resolution professional or to replace the interim resolution professional by another resolution professional**.
22(3) Where the committee of creditors resolves under sub-section (2)— (a) to continue the interim resolution professional as resolution professional, it shall communicate its decision to the interim resolution professional, subject to a **written consent** from the interim resolution professional in the specified form] it shall communicate its decision to the interim resolution professional, the corporate debtor and the Adjudicating Authority; or (b) to replace the interim resolution professional, it shall file an application before the Adjudicating Authority for the appointment of the proposed resolution professional **along with a written consent from the proposed resolution professional** in the specified form.

22(4) The Adjudicating Authority shall forward the name of the resolution professional proposed under clause (b) of sub-section (3) to the Board for its confirmation and shall make such appointment after confirmation by the Board.
22(5) **Where the Board does not confirm the name of the proposed resolution professional within 10 days** of the receipt of the name of the proposed resolution professional, the Adjudicating Authority shall, by order, **direct the interim resolution professional to continue to function** as the resolution professional until such time as the Board confirms the appointment of the proposed resolution professional.

Section 23 Resolution professional to conduct CIRP

(1) Subject to section 27, the **resolution professional shall conduct the entire CIRP and manage the operations of the corporate debtor during the CIRP period**.

Provided that the resolution professional shall continue to manage the operations of the corporate debtor after the expiry of the CIRP period, until an order approving the resolution plan u/s 31(1) or appointing a liquidator u/s 34 is passed by the Adjudicating Authority. ***(Proviso Substituted –Amendment for Nov, 2020)***

(2) The resolution professional shall exercise powers and perform duties as are vested or conferred on the interim resolution professional under this Chapter.

(3) In case of any appointment of a resolution professional u/s 22(4), the interim resolution professional shall provide all the information, documents and records pertaining to the corporate debtor in his possession and knowledge to the resolution professional.

Section 24 Meeting of Committee of Creditors

(1) The members of the committee of creditors **may meet in person or by such electronic means** as may be specified.

(2) All meetings of the committee of creditors **shall be conducted by the resolution professional**.

(3) The resolution professional **shall give notice of each meeting** of the committee of creditors **to**—

(a) **members of committee** of creditors, **including the authorised representatives** referred to in sub-sections (6) and (6A) of section 21 and sub-section (5);
(b) **members of the suspended BOD or the partners** of the corporate persons, as the case may be;
(c) **operational creditors or their representatives** if the amount of their aggregate dues is not less than 10 per cent of the debt.

As per Circular issued by IBBI on 10/08/2018: *The Board has directed interim resolution professional or the resolution professional, as the case may be that he shall, in every notice of meeting of the CoC and any other communication addressed to the financial creditors,* ***other than creditors u/s 21(6A)(b)****, require that* ***they must be represented in the CoC*** *or in any meeting of the CoC* ***by such persons who are competent and are authorised to take decisions on the spot*** *and without deferring decisions for want of any internal approval from the financial creditors.* ***(To stop wastage of Time & Unnecessary delay)***

(4) The **directors, partners and one representative of operational creditors**, as referred to in sub-section (3), **may attend the meetings** of committee of creditors, **but shall not have any right to vote** in such meetings:

Provided that the absence of any such director, partner or representative of operational creditors, as the case may be, **shall not invalidate proceedings of such meeting**.

(5) **Subject to** sub-sections (6), (6A) and (6B) of section 21, **any creditor who is a member of the committee of creditors may appoint an insolvency professional other than the resolution professional to represent such creditor in a meeting of the committee of creditors**:

Provided that the **fees payable to such insolvency professional representing any individual creditor will be borne by such creditor.**

(6) **Each creditor shall vote in accordance with the voting share assigned** to him **based on the financial debts** owed to such creditor.

(7) The **resolution professional shall determine the voting share** to be assigned to each creditor in the manner specified by the Board.

(8) The meetings of the committee of creditors shall be conducted in such manner as may be specified.

Section 25 Duties of Resolution Professional

(1) **It shall be the duty** of the resolution professional **to preserve and protect the assets of the corporate debtor, including the continued business operations** of the corporate debtor.

(2) For the purposes of sub-section (1), the **resolution professional shall undertake the following actions**, namely:—

(a) take immediate custody and control of all the assets of the corporate debtor, including the business records of the corporate debtor;
(b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial or arbitration proceedings;
(c) raise interim finances subject to the approval of the committee of creditors under section 28;
(d) appoint accountants, legal or other professionals in the manner as specified by Board;
(e) maintain an updated list of claims;
(f) convene and attend all meetings of the committee of creditors;
(g) prepare the information memorandum in accordance with section 29;
(h) invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans.
(i) present all resolution plans at the meetings of the committee of creditors;
(j) file application for avoidance of transactions in accordance with Chapter III, if any; **and**
(k) such other actions as may be specified by the Board.

Section 25A Rights and Duties of Authorised Representative of Financial Creditors

(1) The **authorised representative** under sub-section (6) or sub-section (6A) of section 21 or sub-section (5) of section 24 **shall have the right to participate and vote in meetings** of the committee of creditors **on behalf of the financial creditor he represents** in accordance with the prior voting instructions of such creditors obtained through physical or electronic means.

25A(2) It **shall be the duty of the authorised representative to circulate the agenda and minutes of the meeting** of the committee of creditors **to the financial creditor he represents**.

25A(3) The **authorised representative shall not act against the interest of the financial creditor he represents** and shall always act in accordance with their prior instructions:

Provided that **if the authorised representative represents several financial creditors, then he shall cast his vote in respect of each financial creditor** in accordance with instructions received from **each** financial creditor, **to the extent of his voting share**:

Provided further that if **any financial creditor does not give prior instructions** through physical or electronic means, **the authorised representative shall abstain from voting on behalf of such creditor**.

(3A) Notwithstanding anything to the contrary contained in sub-section (3), the ***authorised representative u/s 21(6A) shall cast his vote on behalf of all the financial creditors he represents*** *in accordance with the decision* ***taken by a vote of more than 50 per cent. of the voting share of the financial creditors he represents****, who have cast their vote:*

Provided that ***for a vote to be cast in respect of an application u/s 12A, the authorised representative shall cast his vote in accordance with the provisions of sub-section (3).***

[Interpretation Note: *This is a newly inserted provision which over rules section 25A(3) {to the extent of inconsistency between 25A(3) and 25A(3A)} and provides that if a Authorised Representative is appointed by more than one financial creditor* ***u/s 21(6A) (viz debt in nature of securities/deposits etc.) then the Authorised Representative so appointed shall cast vote on behalf of all the financial creditors he represent and that vote of the authorised representative shall be as per the decision taken by more than 50% of voting share (of total votes casted) of financial creditor he represent*** *{and there is no requirement for Authorised Representative to take instruction from 'each' financial creditor as required in section25A(3)}.*

Further *the 'proviso' provides that even in case of Authorised Representative appointed u/s 21(6A), if the vote is to be casted for withdrawal of Application for CIRP u/s 12A (where approval of atleast 90% voting share is required), the Authorised Representative shall take instructions from 'each' financial creditor he represent and shall vote accordingly as per section 25A(3).]*

(4) The **authorised representative shall file with the committee of creditors any instructions received** by way of physical or electronic means, **from the financial creditor he represents, for voting in accordance therewith**, to ensure that the appropriate voting instructions of the financial creditor he represents is correctly recorded by the interim resolution professional or resolution professional, as the case may be.

Explanation.-- For the purposes of this section, the "electronic means" shall be such as may be specified.

Section 26 Application for avoidance of transaction not to affect proceedings

The **filing of an avoidance application** u/s 25(2)(j) by the resolution professional **shall not affect the proceedings of the CIRP**.

Section 27 Replacement of Resolution Professional by Committee of Creditors

(1) **Where**, at any time during the CIRP, the **committee of creditors is of the opinion that a resolution professional appointed u/s 22 is required to be replaced**, **it may replace him** with another resolution professional in the manner provided under this section.

(2) The **committee of creditors may**, at a meeting, **by a vote of 66 per cent of voting shares**, resolve **to replace the resolution professional** appointed u/s 22 with another resolution professional, **subject to a written consent from the proposed resolution professional** in the specified form.

(3) The **committee of creditors shall forward the name of the insolvency professional proposed** by them **to the Adjudicating Authority.**

(4) The **Adjudicating Authority shall forward the name** of the proposed resolution professional **to the Board for its confirmation and a resolution professional shall be appointed** in the same manner as laid down in section 16.

(5) **where any discriplinary proceeding are pending** against the proposed resolution professional under sub-section (3), **the resolution professional appointed u/s 22 shall continue** till the appointment of another professional under the section.

Section 28 Approval of Committee of Creditors for certain actions

(1) Notwithstanding anything contained in any other law for the time being in force, **the resolution professional, during the CIRP, shall not take any of the following actions without the prior approval of the committee of creditors namely**:—

(a) raise any interim finance in excess of the amount as may be decided by the committee of creditors in their meeting;

(b) create any security interest over the assets of the corporate debtor;

(c) change the capital structure of the corporate debtor, including by way of issuance of additional securities, creating a new class of securities or buying back or redemption of issued securities in case the corporate debtor is a company;

(d) record any change in the ownership interest of the corporate debtor;

(e) give instructions to financial institutions maintaining accounts of the corporate debtor for a debit transaction from any such accounts in excess of the amount as may be decided by the committee of creditors in their meeting;

(f) undertake any related party transaction;

(g) amend any constitutional documents of the corporate debtor;

(h) delegate its authority to any other person;

(i) dispose of or permit the disposal of shares of any shareholder of the corporate debtor or their nominees to third parties;

(j) make any change in the management of the corporate debtor or its subsidiary;

(k) transfer rights or financial debts or operational debts under material contracts otherwise than in the ordinary course of business;

(l) make changes in the appointment or terms of contract of such personnel as specified by the committee of creditors;

or

(m) make changes in the appointment or terms of contract of statutory auditors or internal auditors of the corporate debtor.

28(2) The resolution professional shall convene a meeting of the committee of creditors and seek the vote of the creditors prior to taking any of the actions under sub-section (1).

(3) No action under sub-section (1) shall be approved by the committee of creditors unless approved by a vote of **66 per cent** of the voting shares.

(4) Where any action under sub-section (1) is taken by the resolution professional without seeking the approval of the committee of creditors in the manner as required in this section, such action shall be void.

(5) The committee of creditors may report the actions of the resolution professional under sub-section (4) to the Board for taking necessary actions against him under this Code.

Section 29 Preparation of Information Memorandum

(1) The **resolution professional shall prepare an information memorandum** in such form and manner containing such relevant information as may be specified by the Board for formulating a resolution plan.

(2) The **resolution professional shall provide to the resolution applicant** access to **all relevant information** in physical and electronic form, provided such resolution applicant undertakes—

(a) to **comply with provisions of law** for the time being in force **relating to confidentiality and insider trading**;

(b) to **protect any intellectual property** of the corporate debtor it may have access to;

and

(c) **not to share relevant information** with third parties unless clauses (a) and (b) of this sub-section are complied with.

Explanation.—For the purposes of this section, "relevant information" means the information required by the resolution applicant to make the resolution plan for the corporate debtor, which shall include the financial position of the corporate debtor, all information related to disputes by or against the corporate debtor and any other matter pertaining to the corporate debtor as may be specified.

Section 29A Persons not eligible to Resolution Applicant [IMPORTANT]

A person shall **not be eligible to submit a resolution plan**, if such person, or any other person acting jointly or in concert with such person—

(a) is an **undischarged insolvent**;

(b) is a **wilful defaulter** in accordance with the guidelines of the RBI issued under the Banking Regulation Act, 1949;

(c) **at the time of submission of the resolution plan** has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, **classified as non-performing asset** in accordance with the guidelines of the RBI issued under the Banking Regulation Act, 1949 or the guidelines of a financial sector regulator issued under any other law for the time being in force, **and at least a period of one year has lapsed from the date of such classification** till the date of commencement of the CIRP of the corporate debtor:

Provided that **the person shall be eligible to submit a resolution plan if such person makes payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission** of resolution plan:

Provided further that **nothing in this clause shall apply to** a resolution applicant where suc**h applicant is a financial entity and is not a related party to the corporate debtor**.

Explanation I.- For the purposes of this proviso, the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares *or completion of such transactions as may be prescribed*, prior to the insolvency commencement date. ***(Amendment for Nov., 2020)***

Explanation II.— For the purposes of this clause, where a resolution applicant has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under this Code, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this Code;

(**d**) has been **convicted** for **any offence punishable with imprisonment** –

(i) for **two years or more under any Act specified** under the Twelfth Schedule; or
(ii) for **seven years or more under any law** for the time being in force:

Provided that this **clause shall not apply to a person after the expiry of a period of two years from the date of his release** from imprisonment:

Provided further that this clause shall not apply in relation to a connected person referred to in clause(iii) of Explanation I;

(**e**) **is disqualified to act as a director under the Companies Act, 2013**

Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I;

(f) is **prohibited by the SEBI from trading** in securities or accessing the securities markets;

(**g**) **has been a promoter or in the management or control** of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code:

Provided that this clause shall not apply if a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place prior to the acquisition of the corporate debtor by the resolution applicant pursuant to a resolution plan approved under this Code or pursuant to a scheme or plan approved by a financial sector regulator or a court, and such resolution applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;

(**h**) **has executed a guarantee in favour of a creditor** in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code and such guarantee has been invoked by the creditor and remains unpaid in full or part;

(**i**) is **subject to any disability, corresponding to clauses (a) to (h)**, under any law in a jurisdiction **outside India**; or

(**j**) **has a connected person not eligible** under clauses (a) to (i).

Explanation I. — For the purposes of this clause, the expression "**connected person**" means—
(i) any person who is the promoter or in the management or control of the resolution applicant; or
(ii) any person who shall be the promoter or in management or control of the business of the corporate debtor during the implementation of the resolution plan; or
(iii) the holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii):

Provided that nothing in clause (iii) of Explanation I shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of the corporate debtor:

Provided further that the expression "**related party**" **shall not include** a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares *or completion of such transactions as may be prescribed*, prior to the insolvency commencement date;

(Amendment for Nov., 2020)

Explanation II—For the purposes of this section, "**financial entity**" shall mean the following entities which meet such criteria or conditions as the CG may, in consultation with the financial sector regulator, notify in this behalf, namely:—
(a) a scheduled bank;
(b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organisation of Securities Commissions Multilateral Memorandum of Understanding;
(c) any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the FEMA, 1999;
(d) an ARC register with the RBI u/s 3 of the SARFAESI Act, 2002;
(e) an Alternate Investment Fund registered with SEBI;
(f) such categories of persons as may be notified by the CG.

Section 30 Submission of Resolution Plan

(1) A resolution applicant may submit a resolution plan **along with an affidavit stating that he is eligible u/s 29A** to the resolution professional prepared on the basis of the information memorandum.

(2) The **resolution professional shall examine each resolution plan received by him to confirm that each resolution plan—**

(a) **provides for the payment of insolvency resolution process costs** in a manner specified by the Board in priority to the payment of other debts of the corporate debtor;

(b) provides for the payment of debts of operational creditors in such manner** as may be **specified** by the Board **which shall not be less than-

(i) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor u/s 53;

or

(ii) the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53,

whichever is higher,

and

provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with section 53(1) in the event of a liquidation of the corporate debtor.

***Explanation** 1. — For removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.*

***Explanation** 2. — For the purpose of this clause, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of a corporate debtor-*

*(a) **where a resolution plan has not been approved or rejected** by the Adjudicating Authority;*

*(b) **where an appeal has been preferred** u/s 61 or section 62 **or such an appeal is not time barred** under any*

provision of law for the time being in force;

or

(c) ***where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority*** *in respect of a resolution plan;*

(c) **provides for the management of the affairs** of the Corporate debtor after approval of the resolution plan;
(d) the **implementation and supervision** of the resolution plan;
(e) **does not contravene any of the provisions of the law** for the time being in force;
(f) **conforms to such other requirements** as may be specified by the Board.

Explanation.-- For the purposes of clause (e), if any approval of shareholders is required under the Companies Act, 2013 or any other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law;

(3) The resolution professional shall present to the committee of creditors for its approval such resolution plans which confirm the conditions referred to in sub-section (2).

30(4) The committee of creditors may approve a resolution plan by a vote of not less than **66 per cent** of voting share of the financial creditors, after considering its feasibility and viability and such other requirements as may be specified by the Board:

Provided that the committee of creditors shall not approve a resolution plan, submitted before the commencement of the IBC (Amendment) Ordinance, 2017, where the resolution applicant is ineligible under section 29A and may require the resolution professional to invite a fresh resolution plan where no other resolution plan is available with it:

Provided further that where the resolution applicant referred to in the first proviso is ineligible under clause (c) of section 29A, the resolution applicant shall be allowed by the committee of creditors such period, not exceeding thirty days, to make payment of overdue amounts in accordance with the proviso to clause (c) of section 29A:

Provided also that nothing in the second proviso shall be construed as extension of period for the purposes of the proviso to sub-section (3) of section 12, and the CIRP shall be completed within the period specified in that sub-section.

Provided also that the eligibility criteria in section 29A as amended by the IBC (Amendment) Ordinance, 2018 shall apply to the resolution applicant who has not submitted resolution plan as on the date of commencement of the IBC (Amendment) Ordinance, 2018.

30(5) The resolution applicant may attend the meeting of the committee of creditors in which the resolution plan of the applicant is considered:

Provided that the resolution applicant shall not have a right to vote at the meeting of the committee of creditors unless such resolution applicant is also a financial creditor.

(6) The resolution professional shall submit the resolution plan as approved by the committee of creditors to the Adjudicating Authority.

Section 31 Approval of Resolution Plan

(1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 **meets the requirements as referred** to in sub-section (2) of section 30, **it shall by order approve the resolution plan which shall be binding** on the corporate debtor and its employees, members, creditors, *including the CG, any SG or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed*, guarantors and other stakeholders involved in the resolution plan.

Provided that the Adjudicating Authority shall, before passing an order for approval of resolution plan under this sub-section, satisfy that the resolution plan has provisions for its effective implementation.

(2) Where **the Adjudicating Authority is satisfied that the resolution plan does not confirm to the requirements** referred to in sub-section (1), it may, by an order, reject the resolution plan.

(3) After the order of approval under sub-section (1),--

(a) the moratorium order passed by the Adjudicating Authority u/s 14 shall cease to have effect;
and
(b) the resolution professional shall forward all records relating to the conduct of the CIRP and the resolution plan to the Board to be recorded on its database.

(4) The resolution applicant shall, pursuant to the resolution plan approved under sub-section (1), obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later:

Provided that where the resolution plan contains a provision for combination, as referred to in section 5 of the Competition Act, 2002, the resolution applicant shall obtain the approval of the Competition Commission of India under that Act prior to the approval of such resolution plan by the committee of creditors.

MCA Circular:

It is clarified by the MCA on 25th October 2017 (vide General Circular No. IBC/01/2017) that once the resolution plan is approved by the Adjudicating Authority i.e. NCLT, no further approval of the resolution plan is required from the shareholders/members of the Corporate Debtor.

Section 32 Appeal

Any appeal from an order approving the resolution plan shall be in the manner and on the grounds laid down in sub-section (3) of section 61.

Section 32A (Newly inserted provision – AMENDMENT FOR NOVEMBER, 2020 EXAMS)

*(1) Notwithstanding anything to the contrary contained in this Code or any other law for the time being in force, the liability of a **corporate debtor** for an **offence committed prior to the commencement of the CIRP shall cease**, and the corporate debtor shall not be prosecuted for such an offence from the date the resolution plan has been approved by the Adjudicating Authority u/s 31, **if the resolution plan results in the change in the management or control of the corporate debtor to a person who was not**-*

(a) a promoter or in the management or control of the corporate debtor or a related party of such a person;

or

(b) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession, reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court:

Provided that if a prosecution had been instituted during the CIRP against such corporate debtor, it shall stand discharged from the date of approval of the resolution plan subject to requirements of this sub-section having fulfilled:

Provided further that every person who was a "designated partner" as defined in section 2(j) of the LLP Act, 2008 or an "officer who is in default", as defined in section 2(60) of the Companies Act, 2013, or was in any manner in-charge of, or responsible to the corporate debtor for the conduct of its business or associated with the corporate debtor in any manner and who was directly or indirectly involved in the commission of such offence as per the report submitted or complaint filed by the investigating authority, shall continue to be liable to be prosecuted and punished for such an offence committed by the corporate debtor notwithstanding that the corporate debtor's liability has ceased under this sub-section.

(2) No action shall be taken against the property of the corporate debtor in relation to an offence committed prior to the commencement of the CIRP of the corporate debtor, where such property is covered under a resolution plan approved by the Adjudicating Authority u/s 31, which results in the change in control of the corporate debtor to a person, or sale of liquidation assets under the provisions of Chapter III of Part II of this Code to a person, who was not–

(i) a promoter or in the management or control of the corporate debtor or a related party of such a person; ***or***

(ii) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession, reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court.

***Explanation**.- For the purposes of this sub-section, it is hereby clarified that,-*

(i) an action against the property of the corporate debtor in relation to an offence shall include the attachment, seizure, retention or confiscation of such property under such law as may be applicable to the corporate debtor;

(ii) nothing in this sub-section shall be construed to bar an action against the property of any person, other than the corporate debtor or a person who has acquired such property through CIRP or liquidation process under this Code and fulfils the requirements specified in this section, against whom such an action may be taken under such law as may be applicable.

(3) Subject to the provisions contained in sub-sections (1) and (2), and notwithstanding the immunity given in this section, the corporate debtor and any person, who may be required to provide assistance under such law as may be applicable to such corporate debtor or person, shall extend all assistance and co-operation to any authority investigating an offence committed prior to the commencement of the CIRP.

For Free Online Access of Complete Notes of Corporate and Economic Laws, Scan the QR given on Cover Page or visit:

https://www.linkedin.com/company/ca-final-law-notes