

# **FREQUENTLY ASKED QUESTIONS(FAQs)** **FROM REAL ESTATE BUYERSAND** **RESPONSE FROM IRP**

## **Corporate Insolvency Resolution Process (CIRP) in** **relation to Submission of Claims by the Real Estate** **Buyers in M/s Ninex Deveopers Limited.**

**Q1. What is the Corporate Insolvency Resolution Process (CIRP) and what is its impact on the Company?**

Corporate Insolvency Resolution Process (CIRP) is a process towards insolvency resolution of Corporate Persons. This situation generally arises where there are some difficulties on the part of Company to pay its payment obligations as due to its creditors. As the name suggests, the process of Corporate Insolvency Resolution Process seeks to find a Resolution in the company so that a company is able to meet its commitment obligations as a going concern. The time period for resolution of the corporate entity is 180 days which can be extended by the competent court for a maximum period up to 330 days (*as per revised framework*).

**Q2. How does the company function during the CIRP ?**

The Company during the CIRP will function under the supervision and administration of Interim Resolution Professional (IRP) / Resolution Professional (RP). The Powers of the Board of Directors will be suspended during the Corporate Insolvency Resolution Process (CIRP). However, the company is expected to be functioning as normal during CIRP. The IRP/RP will endeavor to keep the working of the company as a going concern during the CIRP period.

**Q3. What is the Time Period during which the claims are to be submitted by the Real Estate Buyers ?**

As per the Public Announcement dated 30<sup>th</sup> July, 2019 the last date for submission of claim is 10<sup>th</sup> August, 2019.

**Q4. In what Form the Real Estate Buyers are to file their claims?**

The Real Estate Buyers of the company has been treated as a separate class of Financial Creditor. As such, their claims are to be filed in FORM-CA. The format of Form –CA can be downloaded from the website of the company viz [www.ninex.in](http://www.ninex.in) or also can be downloaded from the IBBI Website at [www.ibbi.gov.in](http://www.ibbi.gov.in)

**Q.5 Can any claim be admitted after the period of submission of claim is over, as specified in Public Announcement ?**

Ans. Yes.

Section 15(1) (c) of the Code provides that the public announcement of the CIRP shall contain the last date for submission of claims.

Regulations 12(2) of the CIRP Regulations provides that A creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit the claim with proof to the interim resolution professional or the resolution professional, as the case may be, on or before the ninetieth day of the insolvency commencement date

However, it is advisable to submit the claim within the time so that the Creditors Claim can be considered in the formation of committee of creditor.

**Q6. Will the Corporate Insolvency Resolution Process (CIRP) have any impact over RMG Developers Pvt.Ltd./ Red Topaz Real Estate Private Limited or any of its group concern? Does the real estate buyers in the other group companies also required to submit their Claims ?**

Ans. It may be noted that current CIR Process is only in respect of **M/s Ninex Developers Limited (Ninex)** and has no direct impact on the other group companies. Therefore, the real estate buyers of the other group companies are not required to submit their claims in the CIR Process unless they have made any payments directly in the name of Ninex by which there arises any liability on Ninex. The same understanding goes even if any group company is the subsidiary of Ninex.

**Q7. Are the Homebuyers who have got possession of their flats required to file Form CA ?**

Ans. Yes.

It may be noted that the company is yet to obtain the Occupancy Certificate from Competent Authority and does not hold any valid authorization to transfer the ownership rights to the Home Buyers. It is noted that in the meantime, the company has offered physical possession to some of the home buyers. However, the offering of physical possession does not complete the sale and purchase transaction and the amount paid by Home Buyers remains a liability on the part of the company. Therefore, home buyers with or without possession in the instant case stand as Financial Creditor and can file their claim in **FORM –CA**. The Same process is applicable for the other persons who have not still received their possession from the company.

**Q8. What is the status of Homebuyers in the Corporate Insolvency Resolution Process ?**

Ans. Homebuyers are also Financial Creditors to the company under the CIRP. As per many Court Judgements and subsequent amendment in IBC, the Homebuyers carry the same rights as are given to the Financial Creditors.

**Q9. Does filing of FORM – CA mean that you are asking your money back from the company ?**

Ans. No

The Filing of FORM –CA does not mean that you are asking for refund of money from the company. Irrespective of the fact whether somebody is interested in getting the Apartment from the company or in refund of the money given by him, he is required to file his claim in FORM – CA to the Interim Resolution Professional in both the scenario.

**Q10. How is the Authorised Representative selected by the creditors in a class to attend the meetings of their behalf ?**

Ans The creditors in a class (real estate buyers in the instant case) may select an Authorized Representative from amongst the three names of Insolvency Professionals whose names are provided in the Public Announcement as their representative to attend the meetings on their behalf in the Committee of Creditors.

**Disclaimer**

*The Answers to various Frequently Asked Questions (FAQs) are based upon the opinion of the Interim Resolution Professional based upon his professional knowledge of IBC Code, 2016 and Insolvency Resolution Process for Corporate Persons Regulations, 2016&preliminary understanding of the various situations in the ongoing CIR Process in relation to M/s Ninex Developers Limited. The above opinions have been expressed by the Interim Resolution Professional (IRP) in view of the regular queries received from the Real Estate Buyers of the company and have been issued in bona fide public interest. However, it may be noted that the Opinions and views presented herein may not necessarily represent the actual position / correct interpretation of Insolvency and Bankruptcy Code, 2016 or Insolvency Resolution Process for Corporate Persons Regulations, 2016. The stakeholders are advised to exercise the precaution and diligence in this regard.*

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***The above document is published with consent of IRP CS Vekas Kumar Garg in Ninex Developers Ltd.***