



APAC & ASSOCIATES LLP
Company Secretaries

ONE CONCEPT ONE SLIDE

Web Series – March 2020/24

Topic: Insolvency and Bankruptcy Code – Initiation of CIRP

604-605, PP City Centre Road No. 44, Pitampura, New Delhi – 110 034



011 4905 8720, 4905 8721



+91 98181 88855

info@apacandassociates.com

www.apacandassociates.com





For the initiation of CIRP, the minimum amount of default shall be One Crore Rupees*

Persons entitled to make an application for initiation of CIRP:
Operational Creditor, Financial Creditor or Corporate Debtor

Refer Video 23 for their understanding

- By hand, registered post or speed post at the Registered Office OR
- E-mail to a WTD/designated partner/KMP
- Information Utility (IU) i.e. a person registered with IBBI u/s 210, if any

Demand Notice
(Form-3 or Form 4 in case invoice copy attached)

Additional step for only OPERATIONAL CREDITORS

Pre-Existing dispute
(Mobilox Innovations Pvt Ltd v Kirusa Software Pvt Ltd)

Non-payment

Payment

10 days

OR

OR

Attachments of application with NCLT

- Contract
- Invoice/notice of payment
- Affidavit - no notice of dispute
- Record of IU, if any
- Certificate by PFI - no payment received (OC)
- Other proofs of non-payment

Application# for initiation of CIRP to NCLT & copy to CD
FC (Form 1), OC (Form 5), CD (Form 6)
#may propose an interim resolution professional

14 days

Admit

Reject

7 days

Intimation to Corporate Debtor & applicant

Initiation of CIRP
(CIRP shall commence from the date of admission of application by NCLT)

Rectify and resubmit

Important Points

- Default includes any non-payment to Financial Creditor of the Corporate Debtor
- 100 or not less than 10% (whichever is less) of the financial creditors in the same class may file a joint application & nominate one to act on behalf of all
- In case of assignment /transfer of financial debt - copy of assignment/transfer agreement to be attached with application
- Additional attachments by Corporate Debtor itself for filing of application- Books of Accounts, Special Resolution or consent from 3/4th partners as the case maybe
- The IBC (Amendment) Ordinance, 2019 has been repealed and IBC (Amendment), 2020 has come into effect, which fills the critical gaps in the corporate insolvency framework.

Persons not entitled to submit an application

- CD undergoing CIRP
- CD completed CIRP, 12 months preceding application
- CD/ FC who has violated any terms of resolution plan, 12 months preceding application
- CD in whose respect liquidation order is made

*The minimum amount of default is increased from Rs. 1 lakh to Rs. 1 Crore vide MCA Notification dated March 24, 2020.

In case the situation (COVID-19) doesn't improve till April 30, 2020 the provisions for initiation of CIRP are proposed to be suspended for six months



OTHER VIDEOS - APAC



1. IEPF (Aug'19)



2. Board Governance (Sep'19)



3. SBO (Sep'19)



4. #startup (Sep'19)



5. Secretarial Standard – 1 (Sep'19)



6. Secretarial Standard – 2 (Sep'19)



7. Board's Report (Oct'19)



8. TReDS (Oct'19)



9. Corporate Social Responsibility (Oct'19)



10. Related Party Transactions (RPT) (Oct'19)



11. Statutory Registers (Nov'19)



12. Incorporation of Companies (Nov'19)



13. Secretarial Audit (Nov'19)



14. Labour Code (Dec'19)



15. LEI (Dec'19)



16. Independent Directors' Proficiency Test (Dec'19)



17. Conversion of LLP/Partnership Firm to Company (Jan'20)



18. Methodology-Secretarial Audit for Private Companies (Jan'20)



19. One Person Company (OPC) (Jan'20)



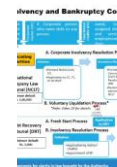
20. Voluntary liquidation of Company/LLP (Feb'20)



21. Single Master Form-Companies (Direct Investment) (Feb'20)



22. Insider Trading Regulations (Feb'20)



23. IBC Overview (Mar'20)



Weekly Updates:

WEEKLYTE
SECRETARIAL UPDATES

Week 26 (2019-2020)

LAW UPDATES

Significant Beneficial Owner-Extension for E-form BEN-2 till 31.12.2019

Consequent to the representations and certain new aspects which require further examination and clarification, the time limit for filing of e-form BEN- 2 (reporting of Significant Beneficial Owner) is extended upto 31.12.2019 without payment of an additional fees.

Source: http://mca.gov.in/Ministry/pdf/GeneralCircular_24092019.pdf

Unique Alpha-numeric Identification Number (Code)

CSI has made mandatory to quote a unique code for:

The members in practice (ICSI UDIN) in every document except an e-form, signed c

Monthly Updates:

Private Circulation On

MONTHLYTE
Secretarial Updates August 2019

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A. Re-Shaping of Law

1.0 CSR Recommendations of High-Level Committee (HLC)

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B. Regulatory Changes

1.2 Companies (Amendment) Act, 2019-Enforcement

1.5 IEPF Compliance-Amendment

Regular Online Updates

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