

## **Frequently Asked Questions by Real Estate Allottees (FAQs)**

*These FAQs have been prepared to answer to the questions being commonly asked by real estate allottees / home buyers on emails/phone. Please note the answer to FAQs is not a legal advice and where necessary flat buyers may seek expert advice.*

### **1. Ferrous Infrastructure Pvt. Ltd. has been admitted into insolvency on 07-02-2023 (Date of receipt of copy of admission order pronounced on 02.02.2023). What does it mean?**

Hon'ble National Company Law Tribunal, Delhi Bench ("NCLT") by its order dated 2<sup>nd</sup> February 2023 (order received on 07.02.2023), ("**Admission Order**") ordered the commencement of Corporate Insolvency Resolution Process ("**CIRP**") in respect of Ferrous Infrastructure Pvt Ltd. (hereinafter referred to as "**Ferrous Infra**" or "**Company**" or "**Corporate Debtor**") under the provisions of the Insolvency and Bankruptcy Code' 2016 and subsequent amendments thereof ("**IBC**"). Mr. Narender Kumar Sharma, IBBI Registration no IBBI/IPA-002/IP-N00125/2017-18/10294 has been appointed as Interim Resolution Professional ("**IRP**").

In accordance with section 17(1)(b) of the IBC, the powers of the board of directors of the Company are suspended and be exercised by the IRP.

The CIRP is not a proceeding for liquidation. It is a process to find a resolution for the current situation in accordance with the provisions of IBC. It is duty of the IRP to endeavor to protect and preserve the value of the property of the Company and manage its operations as a going concern. I am conscious of the interest of the key stakeholders.

### **2. Which projects of Ferrous Infrastructure are affected by this order?**

Please be informed that the projects which are part of Ferrous Infrastructure Pvt Ltd will come under insolvency proceedings by virtue of Hon'ble NCLT order dated 2<sup>nd</sup> February 2023.

### **3. Whether flat buyers / allottees are required to file the claim under CIRP process?**

In terms of Section 5(8)(f) of the Code, 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.

This implies that real estate allottee are financial creditors and need to file claim in form CA (claim by financial creditors in a class).

### **4. How do I file the claim**

As per regulation 8A(1) of CIRP regulations 2016, a person claiming to be a creditor in a class shall submit claim with proof to the interim resolution professional in electronic form in Form CA.

This implies that home buyers do not have to submit the form CA in physical form. The forms submitted by home buyers in electronic form only shall be considered for the purpose of verification.

For the purpose of claim submission along with documents, kindly go to [www.ferrousinfra.in](http://www.ferrousinfra.in) The detailed step-by-step guide to file claim is available on the same website.

If, due to any unavoidable reasons, any home buyer is not able to submit the claim through above portal, such home buyers may contact to IRP office through mail [cirp.ferrousinfra@gmail.com](mailto:cirp.ferrousinfra@gmail.com) or through phone – 08571009284.

## **5. What all constitutes the claim amount for home buyers to be filed under Form CA?**

The claim amount for home buyers primarily falls under various categories, namely as follows:

- **Principal claim:**

The principal amount doesn't mean the total cost/sale price of unit. The principal amount is the amount actually paid up to insolvency commencement date by home buyers to the company.

- **Interest:**

Interest shall be calculated interest at the rate of **eight per cent per annum** unless a different rate has been agreed to between the home buyer and the company. The calculation of interest shall be done for each payment receipt date upto insolvency commencement date.

The claim management portal shall do the calculation at 8% rate of interest by default. If there is any higher interest rate agreed to between the parties, then the home buyers may calculate incremental interest and submit the same under "other amounts". The proof of such agreement of higher interest rate shall also need to be submitted

- **Other Amounts:**

For any other amounts due to the home buyers under the allotment agreement, the home buyer should file the same under the other amounts along with submission of proof substantiating such claim.

## **6. Who is authorized representative? Why do home buyer need authorized representative? How to choose authorized representative?**

Authorised representative is a registered insolvency professional who gets highest number of votes by certain class of creditors (Home buyers or real estate allottees) in form CA received by IRP.

As per section 25A of Insolvency and Bankruptcy Code, 2016 ("IBC 2016") read with regulation 16A of CIRP regulations' 2016, an authorized representative shall have the right to participate and vote in meetings of the committee of creditors on behalf of the home buyers he represents in

accordance with the prior voting instructions of such creditors obtained through physical or electronic means.

The home buyers need to select one authorized representative out of the three names of insolvency professional given in public announcement. While filing the claim form, the home buyers need to provide the name of insolvency professional who he/she choose as authorized representative in serial number 11 of Form CA. The profiles of Authorized Representatives are uploaded on CIRP section of website [www.ferrousinfra.in](http://www.ferrousinfra.in)

The option of selecting the Authorized Representative is given while submitting the Form CA on claim management portal.

**7. Do foreign resident need to get the claim form attested by Indian embassy?**

No

**8. Does the affidavit need to be on stamp paper?**

Not required

**9. Is there a need to submit the claim with the help of an advocate?**

There is no requirement to file the claim through a lawyer. The allottee can go to the claims management portal through [www.ferrousinfra.in](http://www.ferrousinfra.in) and follow the step by step guide which shall help them submit the form on their own. However, the home buyer may choose to get legal assistance if they so desire.

**10. Can a claimant appoint a representative to sign the Form on his behalf?**

Yes, subject to the representative having a valid authority/Power of Attorney.

**11. What are the supporting documents of proof needed to be attached with the claim form?**

Documents that are needed to be uploaded / attached with the claim form includes KYC documents e.g. PAN card, Aadhaar card, Passport, Voter Id etc., Builder Buyer Agreement (BBA), Buyer Agreement, Allotment letter, Possession Letter, No Dues Certificate, payment receipts, Copy of cancelled cheque, Power of Attorney (if applicable) and any other document to substantiate their claim.

**12. I have obtained the possession of the flat but the registry is not done yet. Do I need to file the claim?**

Any home buyer who has paid an amount to the company under a real estate project and the company has not fulfilled its obligations under the allotment agreement, file a claim under the CIRP process. Merely filing of claim form shall not result in cancellation of possession rights given to those home buyers. The IRP shall collate and verify all claims as per the provisions of the Code.

A flat buyer who has got registry done and do not have outstanding claim may not file the claim form.

**13. Which homebuyers are eligible for the purpose of constituting the Committee of Creditors?**

The home buyers who have been allotted a plot / flat / apartment / building vide letter of allotment or agreement to lease or agreement of sale or any other agreement and have not been given possession of the property and have filed claim form are to be considered as financial creditors and will be represented in the meetings of committee of creditors through their authorized representative.

**14. Which form should be used by the Real Estate Allottees (“home buyer”) to file claim.**

Regulations require Home buyer to file claim in Form CA

**15. Will deadline for filing the claims be extended? Will the deadline for filing forms be extended for persons staying outside India?**

The last date for submission of proofs of claim is 21<sup>st</sup> February 2023, as is stated in the public announcement published on 9<sup>th</sup> February 2023. The first Committee of Creditor will be constituted based on the claim filed till 21<sup>st</sup> February 2023.

Any creditor who fails to submit claim and proof of claim within the time stipulated in the public announcement may submit such proof to the RP on or before the 90<sup>th</sup> day of the Insolvency Commencement Date.

**16. What will happen if Home buyer fails to submit proof of claim within stipulated time?**

Home buyers are requested to submit the claim form by the deadline provided i.e. 21<sup>st</sup> February 2023 with basic supporting documents i.e. KYC documents, agreement to sale, statement of account etc. The IRP may require additional documents from home buyers to substantiate their claim which may be addressed through the claim management portal/Mail.

**17. Can a flat buyer cancel the booking and ask for refund?**

The IRP is making an endeavor to ensure that development of project continues. The provisions of agreement / Allotment letter continue to be valid and all rights of parties (including cancellation by Flat buyer) can be exercised subject to provisions of the Insolvency and Bankruptcy Code, 2016.

**18. What about court cases, if any, filed by flat buyers/ allottee?**

Hon'ble NCLT vide its order dated 2<sup>nd</sup> February 2023 has declared moratorium prohibiting the institution of suits or continuation of pending suits or proceedings against the Company, including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority. In view of the same, all suits and proceedings pending against the Company shall be stayed. Please refer to Section 14 of IBC. Flat buyers / allottees who have an order of a judicial or regulatory authority for payment by Ferrous Infra may file a claim with the IRP in this respect.

**19. Flat buyer who live abroad do they need notarization of affidavit in support of Form?**

Yes

**20. What if the claim of flat buyer is for possession of flat and not refund?**

The flat buyer may mention in claim form that he/she wants the flat only as per terms of the allotment letter. IRP is making an endeavor to ensure that development of project continues.

**21. Whether construction and allotment would continue**

The IRP will make best endeavor and the operations of the company is being continued as a going concern.

**\*\* End \*\***