**ADDITIONAL GUIDELINES**

Dear All,

These additional guidelines are being issued in order to provide clarifications to the queries raised by most of us. Unfortunately, the provisions of Insolvency Code have a lot of lacuna and as such, the validity of most of the provisions has been challenged before the High Courts and the Supreme Court.

Be that as it may, even in relation to Forms, there is no guideline envisaged in the Insolvency Code. Therefore, in the absence of clarity, lack of precedents on the issue basis our reasonable understanding, we have tried to put together the Form to the best of our ability.

The effort is to ensure that the Claim form on behalf of all the Creditors/buyers including the documents and affidavit are in order and as accurate as possible. However, we would also like to clarify that the IRP will not disqualify the claim just because it has been filed in an incorrect form.

We will also be circulating amended column 4 of Form –C shortly.

Please see below the additional guidelines:-

1. **CLAIM FORM (Form –C):-**
2. The claim form need not be on a stamp paper.
3. The claim form needs to be printed on a white paper, A4 size and one sided.
4. In case of joint Applicants, the claim form can be signed jointly by both the Applicants
5. In case of joint Applicants, except the affidavit, only single set of documents will be required.
6. No original (except Form-C and Affidavit) is required to be filed/submitted.
7. The copy of the documents in support needs to be self-attested i.e. each page needs to bear the signature of the Creditor/buyer.
8. In case of joint Applicants, self-attestation by both will be required.
9. **AFFIDAVIT**
10. The affidavit needs to be on a Rs 20 stamp paper
11. In the case of joint Co-Applicants, separate affidavits will have to be executed by each person.
12. It is advisable not to alter the structure of the affidavit in order to ensure that it is not contrary to the format provided in the Insolvency Code
13. The affidavit needs to be on a white paper, A4 size and one sided
14. In the event, Rs 20 stamp paper is not available, Rs 10 or Rs 100 stamp paper may be purchased. It will be advisable to check with the concerned person (from whom you buy the stamp paper) as to the applicable stamp duty on the affidavit, as prevalent at that relevant place.
15. If a person is buying the affidavit in Delhi and getting it notarised in Noida, it is advisable to insert “present in Noida” in the opening para of the affidavit. A sample is reproduced herein below:-

*I, \_\_\_\_\_\_\_\_\_ s/o \_\_\_\_\_\_\_\_\_\_\_\_\_, aged \_\_\_\_\_\_\_ years currently residing at Flat No. \_\_\_\_\_\_\_\_, Pocket-40, CR Park, new Delhi – 19, present at Noida, do solemnly affirm and state as follows:-*

1. **Overseas Creditors/Buyers:-**
2. The affidavit needs to be as per the format prevalent in the country where they are based
3. It does not need to be on an Indian stamp paper
4. The law suggests that the affidavit needs to be Apostilled or Consularized (depending where they are based) by the Indian Embassy. However, as per the FAQ answered by the IRP (Rajesh Samson), the affidavit of the overseas Creditors/buyers has to be either notarised before the Notary Public of that country where the document is executed or before the Indian Consulate/Embassy.
5. In view of the FAQ and considering that Apostille or Consularization may not be done within the time frame (September 19, 2017), the people based abroad may send the notarised Affidavits (without Apostilled/Consularization).
6. **Documents required:-**
7. Please note that neither the Insolvency Code nor the Regulation stipulates what documents are required to be provided. As such, it is recommended that the documents which could establish the claim should be filed. For ease of reference, we have segregated the documents required as under:-
8. **Bank loan:**
* Copy of Pan card/Adhaar card (for the purpose of identification);
* Copy of the Allotment-cum-Flat Buyer Agreement (copy of all the pages required);
* Statement of account issued by the Amrapali Silicon City Pvt. Ltd.;
* Interest Certificate issued by the bank from which loan has been availed
1. **Self-Financed:**
* Copy of Pan card/Adhaar card (for the purpose of identification);
* Copy of the Allotment-cum-Flat Buyer Agreement (copy of all the pages required);
* Statement of account issued by the Amrapali Silicon City Pvt. Ltd.;
* Copy of the payment receipts/acknowledgment provided by the builder;
1. **Resale:**
* Copy of Pan card/Adhaar card (for the purpose of identification);
* Copy of the Flat Buyer Agreement (copy of all the pages required);
* Copy of payment receipts;
* Bank account statements

**Note**: - The column no. 10 and para 2 of the Affidavit needs to be addressed accordingly.

1. **Camp on September 15 & 16, 2017**
2. The camp is being organized on September 15 & 16, 2017 (Friday and Saturday) to assist the Creditors/buyers in submissions of their respective forms.
3. The law firm will be offering the following services:-
* Preliminary scrutiny of form and related documents for any omission/commission.
* Compilation of forms along with all the documents on behalf of each Creditor/buyer;
* Getting the affidavits printed/ notarised; and
* Submitting the forms with the IRP on behalf of the buyers
1. The camp is being organized in advance in the interest of everyone. For instance, if there is any substantial error in the documentation of any of the Creditors/buyers, there will still be time to rectify the error. The firm will assist/advise the said Creditor/buyer in doing so.
2. There is also an effort to arrange for a laptop and a printer at the camp so that the affidavits can be reviewed and printed on the site itself. As such, people are requested to carry a pen drive having the contents of their affidavits stored in it.
3. However, since we all are hard pressed for time (because of deadline of September 19, 2017), it is strongly advised that everyone keeps their respective documentations in order.
4. People are also requested to carry Rs 900 cash if not already paid.
5. We are also looking for an option to arrange for a notary who would provide a stamp paper, take print and also notarize it. However, it has not been confirmed yet and it will be informed once the confirmation is received from the notary.
6. **Submission of Form:-**
7. The claim forms can be submitted/filed before the IRP in the following ways:-
* Directly email it to the IRP on inascplip@deloitte.com; or
* Courier it to the IRP on the address mentioned in the Public Notice
* Hand over to the law firm (Clasis Law) and the firm will submit/file all the claim forms physically
1. In our view, in addition to the email, it will be advisable to submit/file the claim physically.
2. The Creditors/buyers who wish to submit/file the claim form on their own, may email the entire set of documents to us for our advise (before submitting/filing), if they so desire.
3. The Creditors/buyers based overseas and who do not wish to submit/file directly to the IRP, may courier the documents to Clasis law at the address already provided. However, it needs to reach to us before September 19, 2017.

**AMENDED FORM-C**

We had an internal discussion and it was decided to amend column 4. The amended column 4 is set out as under:-

|  |  |  |
| --- | --- | --- |
|  | Description of the claim (including the amount of the claim as at insolvency Commencement date) | 1. Principal Amount advanced as credit/loan till date to Amrapali Silicon City Pvt. Ltd. according to demand raised by Amrapali Silicon City Pvt. Ltd. from time to time as per the Allotment-cum-Flat Buyers Agreement dated \_\_\_\_\_\_\_ for Rs \_\_\_\_\_\_\_\_\_\_ executed between the builder and the Creditor (s) towards unit no. \_\_\_\_\_\_ in Amrapali Silicon City project.

(**Note**- the amount will be the actual payment made to the builder till date)1. The amount of Rs \_\_\_\_\_\_\_\_\_towards penalty as envisaged in clause \_\_\_ of the Allotment-cum-Flat Buyers Agreement dated \_\_\_\_\_\_. (The clause provides that the buyer will be entitled to Rs 5 per square feet if the possession is not handed over within 36 months (+6 months) i.e. 42 months from the date of the Agreement.

 (**Note** – If the 42 months get over in September, 2016 from the date of the Agreement, then the amount will be calculated from October, 2016 to September, 2017 @ Rs 5 per month per square feet. (For instance, if the area of the flat is 1180 sq. ft. then the penalty amount would be Rs 5900 (5x1180) for each month. As such, from October, 2016 till September, 2017, the total amount would be Rs. 70,800/-.1. Interest amount of Rs \_\_\_\_\_\_\_\_\_ paid to the bank till date towards the loan availed.

**(Note** – This is applicable to the people who have availed loan from the bank.)1. Interest @ 12 % p.a. from the date of the possession of the flat became due till the time of actual possession of the flat.
2. Interest @ 12% p.a. from the date of the insolvency commencement date till the realization of the amount.

**Note** – Interest amount as envisaged in point (4) and (5) above cannot be computed at this stage, as it is contingent on a future event. The total amount in the affidavit should be a combination of (principal amount+ penalty amount+ interest paid to the bank). Creditors who are claiming rental amount may also add that amount in the affidavit.1. Alternatively, it is being claimed that the apartment (bearing Unit No. \_\_\_\_) as allotted / or any other similar apartment may be handed over to the Creditor herein.

Note:-1. We do not cede our legal right in relation to the apartment allotment in our name.
2. The present claim form is being filed without prejudice to our rights and contentions and with full reservation of ours rights in all respects.
3. The apartment was to be delivered within 36 (+6 months) month from the date of the Agreement.
4. Total delay period from promised possession [ \_\_\_\_] till date of insolvency commencement [4th September, 2017] is \_\_\_ years \_\_ months.

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**Note 1**: - Please note that there is no standard format envisaging what all amount to be claimed. Therefore, in addition to the above, the Creditors may claim whatever else they think they are entitled to. I’ll be using the above claims as I want to limit my claims in consonance with the Agreement entered into between myself and the builder.

**Note 2** – The observations made in ‘red’ above is only to provide clarification to all of us. Please delete the clarifications before finalising the form.

**Note 2**:- We reiterate that inadvertently if a part of claim is not mentioned in column 4 above or if additional claim is mentioned in column 4 above, in either of the case, the form will neither be defective nor disqualified.