

A Model of Swiss Challenge for Pre-pack

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A base resolution plan should be ready before commencement of pre-pack. It could come from promoters if they are eligible under section 29A of the Code and wish to submit a plan, or from another person arranged by the creditors. Where creditors are arranging a resolution plan, they may run a private and confidential process to invite resolution plans from select investors and select the best of them to serve as the base plan.

On commencement of pre-pack, the base resolution plan shall be submitted to the RP. If such plan pays out the dues of OCs fully and the CoC feels that it gives the best value, it may decide to accept the plan. If it does not pay the dues of OCs fully, it shall necessarily conduct a swiss challenge. It shall release the commercials of the base plan and its weighted average score (WAS) as worked out by the CoC and invite resolution plans to challenge the base plan and select the best of them. Such invitation will be made only once.

The CoC now has two plans, the base plan (Plan A) from the promoter / investor and the plan (Plan B) of the swiss challenger. If WAS of Plan B is better than the Plan A by more than X%, Plan B will be accepted. If WAS of Plan B is better than Plan A by less than X%, the promoter /investor would have an option to improve the WAS of Plan A by at least Y% above that of Plan B. Thereafter, the swiss challenger will have an option to improve WAS of Plan B by at least Y% above that of Plan A. Then the promoter/investor would have option to similarly improve its plan further. This process will go on till one of them decides to quit. The opportunity for improvement will be closed in 24-48 hours. The person, who does not quit, becomes the successful resolution applicant. The processes will be backed up by usual legal arrangements to enforce the outcome.

(Annexure - B of Report of the Sub-Committee of the Insolvency Law Committee on Pre-packaged Insolvency Resolution Process) <https://ibclaw.in/reports-on-ibc/>

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