

## **Silent features of Proposed Pre-packaged Insolvency Resolution Process under Insolvency and Bankruptcy Code, 2016**

*Report of the Sub-Committee of the Insolvency Law Committee on Pre-packaged Insolvency Resolution Process*

### **1. A Typical Pre-Pack Process Flow**



(Source: [Report of Sub-committee of ILC on Pre-packaged Insolvency Resolution Process](#))

### **2. Salient Features of Proposed Pre-pack vis-à-vis CIRP**

<b>Parameter</b>	<b>CIRP</b>	<b>Proposed Pre-pack</b>
------------------	-------------	--------------------------

Objective	Resolution through a resolution plan	Resolution through a resolution plan
Legal framework	Relatively more in the statute and less in regulations	Relatively less in the statute and more in regulations
Applicability	Companies and LLPs	Companies and LLPs
Initiation of process	Default above Rs.1 crore, excluding COVID-19 Default	Pre and post default stress, including COVID-19 default. In a phased manner, if required
Initiation by	FC, OC, or CD	CD, with consent of majority of unrelated Fcs
Management of the CD	IP-in-possession with creditor-in-control	Debtor-in-possession with creditor-in-control
Role of IP	IRP appointed by the applicant and then RP by the CoC Managing affairs of the CD and conducting the process	RP, to be appointed with consent of majority of unrelated Fcs Conducting the process
Claim collation	IRP to invite and collate	CD to provide. RP to verify.
Information memorandum	Prepared by RP	Draft prepared by CD and finalised by RP
Moratorium	Moratorium under section 14	Limited Moratorium
Interim finance	Yes	Yes
Avoidance transactions	Yes	Yes
Valuation	By two valuers	By two valuers
IRPC	Includes cost of running operations	Does not include cost of running operations
Invitation for resolution plans	Public process	First right of offer to promoters, Swiss Challenge
Ineligibility for resolution plan	Section 29A to applies	Section 29A to apply
Early closure of process	Under section 12A, on request of the applicant	With approval of 66% of voting share, present and voting; Suo moto by CoC

Approval of resolution plan by CoC	66% of voting share	66% of voting share, present and voting
Consequence of termination of process	No termination allowed	Liquidation, with 75% of voting share of CoC
Consequence of failure of process	Liquidation	Closure
Binding outcome	Resolution plan binding	Resolution plan binding
Regulatory benefits	Yes	Yes
Clean Slate, post resolution	Yes	Yes
Role of IP and AA	Relatively more	Relatively less
Timeline	180 days till approval of resolution plan by the AA	90 days for filing of resolution plan with the AA plus 30 days for the AA to approve it
Cooling off	12 months between two CIRPs	Three years between two Pre-packs

(Source: [Report of Sub-committee of ILC on Pre-packaged Insolvency Resolution Process](#))

### 3. Invitation of comments from public on Pre-packaged Insolvency Resolution Process under Insolvency and Bankruptcy Code, 2016

Public comments are hereby invited on recommendations of Sub-committee of ILC on Pre-packaged Insolvency Resolution Process. Suggestion/comments, if any, along with brief justification may be submitted online therein at the below mentioned web link by the end of business hours on 22nd January, 2021:

[https://ibbi.gov.in/webfront/prepack\\_comment\\_irp.php](https://ibbi.gov.in/webfront/prepack_comment_irp.php)

### 4. Report of the Sub-Committee of the Insolvency Law Committee on Pre-packaged Insolvency Resolution Process

<https://ibclaw.in/wp-content/uploads/2021/01/Pre-Pack-Comments.pdf>

---

**Disclaimer:** While every effort is made to avoid any mistake or omission, this document including case-

summary/brief about the decision/ add. info/headnote/ judgment/order/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this document. The authenticity of this text must be verified from the original source. Read more [here](#).