

FAQs Regarding Forensic Audit, Resolution Plans Evaluation and Seeking Additional Information

1. What steps have been taken by Interim Resolution Professional relating to Forensic Audit?

A resolution professional is required to report any preferential or undervalued transactions as defined under section 43, 45 and 49 respectively of the Insolvency and Bankruptcy Code, 2016 which were made during the “relevant period”. The “relevant period” is defined in the Code as two years for related party of corporate debtor and one year for others from the insolvency commencement date. Also, under section 66 of the Code, an application may be moved to National Company Law Tribunal against any Director or Partner of the Corporate Debtor if it is found that any of the business of the Corporate Debtor has been carried on with intent to defraud creditors of the corporate debtor or for any fraudulent purpose.

It is a matter of record that the forensic audit was conducted for the period 1-4-2014 to 31-3-2017 by TR Chaddha & CO, Chartered Accountants. Based on findings of forensic review and review of other expert reports and documents, IRP/RP had identified certain transactions falling within the purview of section 43,45, 49 and 66 of the Code. Further, after due diligence and detailed deliberations on the identified transactions and giving due opportunity to the affected party to present their case, the IRP/RP had filed for avoidance with Hon’ble National Company Law Tribunal (NCLT). Further, the CoC was informed by the IRP/RP that the Hon’ble NCLT has decided in favour of the IRP/RP and certain transaction involving mortgage of unencumbered parcels of land have been avoided by the Hon’ble NCLT. However, subsequently all such affected parties have challenged the order of the Hon’ble NCLT before the Hon’ble National Company Law Appellate Tribunal (NCLAT) wherein implementation of the order passed by the Hon’ble NCLT has been stayed. The Appeals are still pending before the Hon’ble NCLAT and final decision is yet to be taken

2. What information in relation to Corporate Debtor has been shared with Committee of Creditors during the resolution process?

As per section 21(9) of the the Insolvency and Bankruptcy Code, 2016, the IRP/RP is required to, and has indeed provided, all the financial information relevant for the Corporate Insolvency Resolution Process to the members of the CoC. The financial information has been provided in the form of an Information Memorandum under section 29 of the Code. Further, additional information such as, Liquidation Valuation, Forensic Review Report, Agenda Notes, Minutes of Meeting, Resolution Plans, etc. have been shared with the entire CoC including the members of the class of creditors, (i.e. the allottees and the FD holders) as required by the Insolvency & Bankruptcy Code and CIRP Regulations.

3. Can the resolution professional share the confidential business information with Committee of Creditors?

The information pertaining to operating and business details such as, historical transactions, agreements, DPR studies, TFR studies, correspondence with GoUP and YEIDA, Noida Authority etc. is neither financial information nor required to be provided under any provision of the Code and or its regulations. Nor is such information relevant for taking decision by the CoC on any agenda items under the CIRP. Jaypee

Infratech Limited is a listed Company and is subject to SEBI guidelines and listing rules on sharing of price sensitive information. In fact, if the said information is provided, it might be detrimental to the Corporate Insolvency Resolution Process and contrary to section 21(9) of the Code, given the size of the committee of creditors which includes two class of creditors comprising of approx. 23,000 allottees and approx. 700 FD holders.

4. What steps are taken to ensure that Resolution Plans takes into account the concerns of all CoC members?

An independent Resolution Plan Evaluation Advisor RBSA has been appointed who shall provide assistance in assessment, comparative analysis, feasibility and viability of the resolution plans received, advising CoC on the modifications required and participate in negotiations with the resolution applicants. The CoC members, including class of creditors, can also propose modifications through their Authorized Representative which could be discussed with the Resolution Applicants. After all modifications and negotiations have taken place, the CoC members shall be voting on the final resolution plans and may accept or reject the resolution plans submitted by the resolution applicants.