



# PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS

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## 1. INTRODUCTION [1]

Imagine a company which is registered as MSME and is on the edge of collapse, struggling with heavy debt and an uncertain future. Employees are anxious, suppliers are hesitant, and creditors are demanding payment. The usual path of insolvency seems like a dark tunnel with no end in sight. But there is a way which is faster, more efficient to navigate this crisis, termed as the Pre-Packaged Insolvency Resolution Process (PPIRP) which offers a lifeline, while transforming the way of insolvency resolution India.

In India, small businesses often face financial problems that can threaten their survival. Market changes, operational issues, or unexpected economic downturns can push companies into distress. Traditional insolvency procedures under the Insolvency and Bankruptcy Code (IBC) are often slow and complicated, making things worse for such small businesses. The Prepackaged Insolvency Resolution Process (PPIRP) has been introduced especially for MSME's to make insolvency resolution faster and less disruptive.

## 2. MEANING OF PPIRP-

On 4th April 2021, The President of India issued the Insolvency and Bankruptcy (Amendment) Code 2021, to introduce PPIRP under the code for this purpose. PPIRP is available as an alternate option for financial crisis faced by corporate MSMEs. It is applicable in respect of defaults in respect to payment of Creditors, where default is at least ₹ 10 lakh.[2] PPIRP has features that make it as crucial and disciplined as Corporate Insolvency Resolution Process (CIRP). It combines the debtor's control with the creditor's oversight. It allows eligible companies to submit a Base Resolution Plan (BRP), which can be challenged to maximize value. Creditors have options to choose between CIRP and PPIRP based on their preferences and specific circumstances.

[1] The article reflects the general work of the authors and the views expressed are personal. No reader should act on any statement contained herein without seeking detailed professional advice.

[2] <https://www.ibbi.gov.in/uploads/whatsnew/a650764a464bc60fe330bce464d5607d.pdf>

### **3. ELIGIBILITY CRITERIA-**

A Corporate Debtor (CD), classified as a Micro, Small, and Medium Enterprise (MSME) under sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006, is eligible to apply for the initiation of Pre-Packaged Insolvency Resolution Process (PPIRP) if it meets the following criteria:

1. It has committed a default of at least ₹10 lakh.
2. It is eligible to submit a resolution plan under section 29A of the Insolvency and Bankruptcy Code (IBC).
3. It has not undergone a PPIRP during the three years preceding the initiation date.
4. It has not completed a (CIRP) during the three years preceding the initiation date.
5. It is not currently undergoing a CIRP.
6. It is not required to be liquidated by an order under section 33 of the IBC.

To prove that the CD is an MSME, the application must include either a copy of the latest and updated Udyam Registration Certificate or proof of investment in plant and machinery or equipment, along with turnover details as per Notification No. 2119(E) dated 26th June 2020 of the Ministry of MSMEs.[3]

### **4. PRE-INITIATION PHASE-**

#### **1. Convening Meeting of Creditors**

A Corporate Debtor who is intending to initiate PPIRP, shall conduct the meeting of Unrelated Financial Creditors (UFCs) by giving 5 days advance written notice. If no financial creditor or all financial creditors are related parties, convene meetings of Unrelated Operational Creditors (UOCs). The Process can be initiated on approval of 66% of Creditors.

#### **2. Appointment of Resolution Professional (RP)**

Any creditor individually or jointly having 10% of total debt shall propose the name of RP who is independent.

The RP shall be appointed with the approval of 66% of Creditors in Form P3.

[3][https://dcmsme.gov.in/State-Gov/Notification\\_%20S%20O%202119.pdf](https://dcmsme.gov.in/State-Gov/Notification_%20S%20O%202119.pdf)

### **3. Declaration of Directors**

Majority of Directors shall file a Declaration in form P6 which includes following;

- Corporate Debtor will file the Application within 90 days from approval of creditors
- PPIRP is not initiated to defraud the creditors
- Name of RP which is approved by the creditors

### **4. Shareholders Resolution**

Special resolution to approve filing for PPIRP.

### **5. IP to Ascertain Creditors in Classes**

If any Class of Creditors wants to appoint an Authorised Representative (AR), then RP will identify such class of creditors and select three Insolvency Professionals (IPs) for Authorized Representative with consent of creditors in Form P5.

Creditor will Choose IP with highest vote as AR and inform applicant about the same.

### **6. Preparation of Base Resolution Plan (BRP)**

BRP is to be prepared by CD as per the rules and regulations confirmed by RP.

### **7. Application for Initiation-**

An Application needs to be filed in Form 1 before Adjudicating Authority (NCLT). NCLT will either accept or reject the application within 14 days. If any further rectification is required, it shall be incorporated into 7 days from the date of remark. The day on which NCLT accepts the Application that date is called as PPIRP commencement date.

## **8. Constitution of Committee of Creditor -**

A Resolution Professional will constitute Committee of Creditors within 7 days from the PPIRP commencement date.

### **POST- INITIATION PHASE**

#### **i. Management During PPIRP:**

- The Board of Directors of the company will continue managing its affairs.
- They must try their best to protect the company's assets and maintain its operations.
- All obligations and rights under contracts or laws related to the company must be fulfilled by its promoters, members, personnel.

#### **ii. Initial Submissions:**

- Within two days of PPIRP starting, the company must submit:
  - A list of all claims from creditors, along with details of their securities and guarantees (Form P10).
  - A Preliminary Information Memorandum (PIM) that provides important details for creating a resolution plan.
- Incorrect or misleading information in these submissions can lead to liability for the promoters or directors who were involved in preparing them.

#### **iii. Base Resolution Plan (BRP):**

- The company must submit its Base Resolution Plan (BRP) to the Resolution Professional (RP) within two days of starting PPIRP.
- The plan can be revised subject to approval by the Committee of Creditors (CoC).

#### **iv. Public Announcement:**

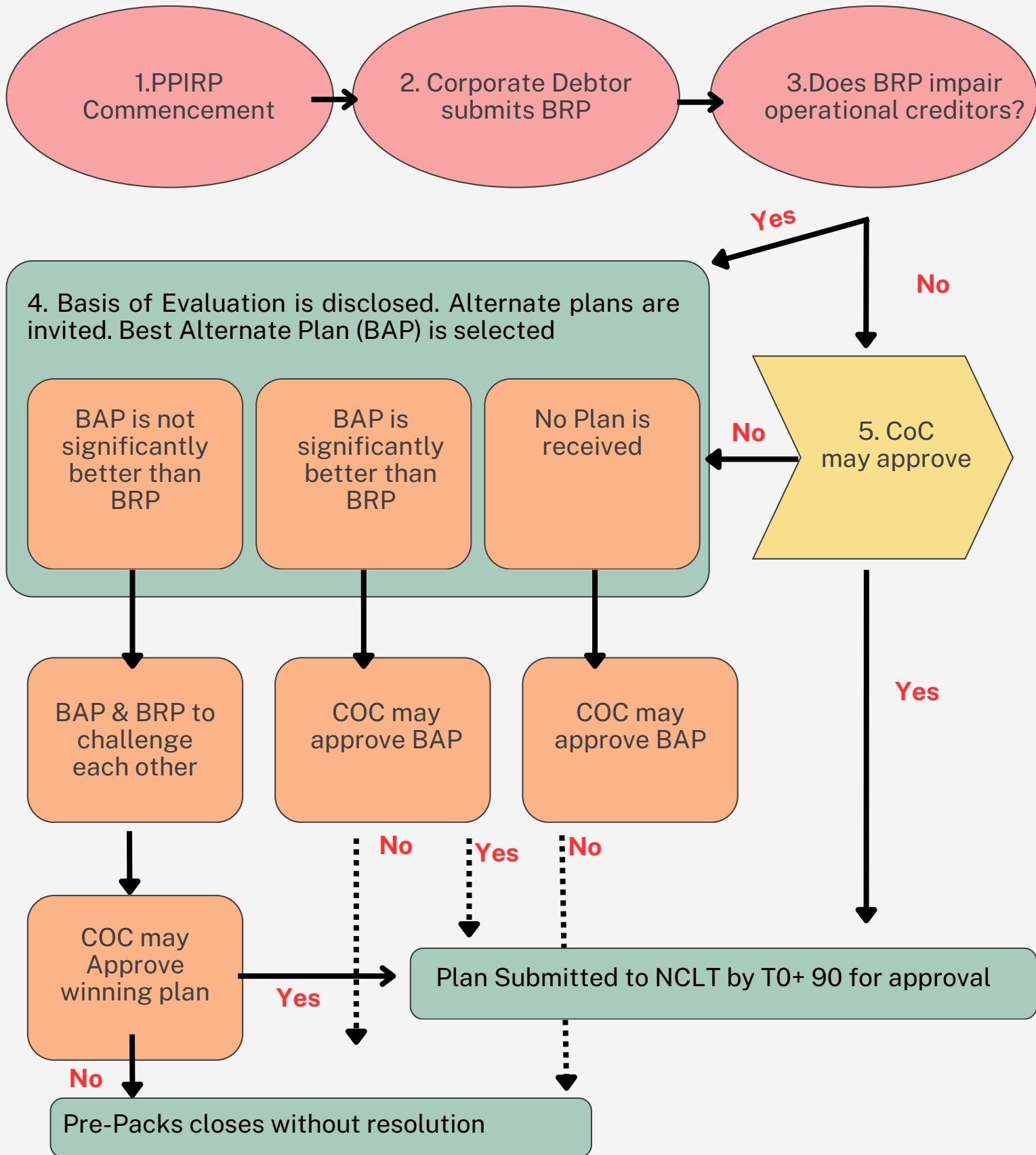
- The RP will make a public announcement (Form P9) within two days of starting the process. This announcement will follow specific regulations.

### **v. Timeline and Activities:**

The entire process must be completed within 120 days from PPIRP commencement date whereas plan shall be approved by COC within 90 days and by NCLT within next 30 days.



## 5. Process-



**In conclusion**, the Pre-Packaged Insolvency Resolution Process (PPIRP) represents a crucial advancement for small businesses in India. By offering a swift and flexible solution to financial challenges, PPIRP safeguards jobs, sustains business operations, and promotes economic resilience. This initiative underscores the government's commitment to supporting MSMEs and underscores their vital contribution to India's economic recovery and growth.

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