

These proforma's were distributed by
Chief Justice (Retd.) M.M. Kumar,
Hon'ble President during the Induction
Colloquium of the newly appointed
Members on 23rd July, 2019.

**MODEL PROFORMA FOR ADMISSION/REJECTION OF
PETITIONS UNDER SECTION-7 OF THE CODE**

PART - I

Sr. No.	PARTICULARS	YES/NO
1.	<p>Registry is to ensure service of advance notice of the petition by registered post or speed post/e-mail as per the master data of the corporate debtor.</p> <p>Whether Information Utility accounts filed with the petition.</p>	
2.	<p>Whether service effected. If so then affidavit of service to that effect be filed.</p>	
3.	<p>Is the petition complete as per the provisions of Section-7 (2) & (3)</p> <p>a) Whether the petition has been filed in the prescribed Form-1 and the manner prescribed therein [Rule 4(1) of the Application to Adjudicating Authority Rules]</p> <p>b) Whether the following documents which are necessary for assessing the completeness of the petition</p>	

	<p>are attached:</p> <ul style="list-style-type: none">i. Record of the default recorded with the information utility or such other record or evidence of default as specified.ii. The name of the resolution professional proposed to act as an interim resolution professional in accordance with Rule 9 of the Application to Adjudicating Authority Rules.	
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PART – II

The issues which need examination by the Adjudicating Authority:

Sr. No.	PARTICULARS	YES/NO
1.	Whether the claimed amount is financial debt within the meaning of Section-5(8) of the Code.	
2.	Whether the claim has been made within the period of limitation as Section- 238A of the Code makes Limitation Act applicable.	
3.	Whether the default is for a sum exceeding Rupees One Lakh as is condition precedent under Section- 4 IBC.	
4.	Whether the petition warrants admission. If 'yes' the following directions to be issued: a) Declaration of moratorium in terms of Section 14 of the Code from the insolvency commencement date. b) In pursuance of Section 13 (2) of the Code read with Regulation 6 of the Insolvency Resolution Process for Corporate Persons Regulations, Interim Resolution Professional shall immediately	

make public announcement with regard to admission of the petition.

- c) The Interim Resolution Professional shall perform all his functions religiously and strictly which are contemplated, *inter alia*, by Sections 15, 17, 18, 19, 20 & 21 of the Code.**
- d) In case of admission directions to be given to the Ex- Management to provide all documents in their possession and furnish every information in their knowledge within a period of 1 week to the IRP, otherwise coercive steps to follow.**
- e) If admitted, a sum of Rs. 1 Lakh to be deposited with the IRP by Financial Creditor to meet his expenses arising out of issuing public notice and inviting claims. The expenses are subject to approval by the CoC.**
- f) The office must be directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional at the earliest but**

	<p>not later than three days from admission of the petition. A copy of the order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.</p>	
<p>5.</p>	<p>Whether the petition is to be Admitted or rejected. Brief reasons be recorded.</p>	

**MODEL PROFORMA FOR ADMISSION/REJECTION OF
PETITIONS UNDER SECTION-9 OF THE CODE**

PART - I

Sr. No.	PARTICULARS	YES/NO
1.	Whether demand notice of 'unpaid operational debt' served on the corporate debtor under Sec-8(1) along with invoices (Form 3 and Form 4)	
2.	Whether reply to demand notice is sent to operational creditor within 10 days of it being delivered. a) If 'yes', any dispute raised under Section-8(2) b) If 'no', can a presumption of acceptance of default be raised.	
3.	Has the petition been filed after expiry of 10 days from the date of delivery of the demand notice	
4.	Is the petition complete as per the provisions of Section-9 (2) & (3) a) Whether the petition has been filed in the prescribed Form-5 and the manner prescribed therein [Rule 6(1) of the Application to Adjudicating Authority Rules] b) Whether the following documents which are necessary for assessing the completeness of the petition are attached: i. A copy of the invoice demanding payment or	

	<p>demand notice delivered.</p> <ul style="list-style-type: none"> ii. An affidavit by the petitioner that no notice of dispute received in respect of unpaid operational debt. iii. A copy of certificate from the financial institution maintaining the accounts of operational creditor, if available. iv. A copy of any record with the Information Utility confirming that no payment of unpaid operational debt is made, if available. v. Any other proof confirming that no payment of operational debt received. 	
5.	<p>Whether the Operational Creditor has proposed the name of a Resolution Professional to act as an Interim Resolution Professional</p> <ul style="list-style-type: none"> a) If 'yes', the operational creditor shall obtain a written communication in Form-2 from the insolvency professional and it should be accompanied by a certificate of the eligibility from the IBBI [Rule 9 of the Application to Adjudicating Authority Rules] b) If not proposed then to be named by the Bench from the list provided by IBBI 	

PART – II

The issues which need examination by the Adjudicating Authority:

Sr. No.	PARTICULARS	YES/NO
1.	Whether the claimed amount is operational debt within the meaning of Section- 5(21) which may be a claim in respect of goods and services including statutory dues.	
2.	Whether the claim has been made within the period of limitation as Section- 238A of the Code makes Limitation Act applicable.	
3.	Whether the default is for a sum exceeding Rupees One Lakh as is condition precedent under Section-4 IBC.	
4.	Whether the petition warrants admission. If 'yes' the following directions to be issued: a) Declaration of moratorium in terms of Section 14 of the Code from the insolvency commencement date. b) In pursuance of Section 13 (2) of the Code read with Regulation 6 of the Insolvency Resolution Process for Corporate Persons Regulations, Interim Resolution Professional shall immediately make public announcement with regard to admission of the petition. c) The Interim Resolution Professional shall perform all his functions religiously and strictly which are contemplated, <i>inter alia</i>, by	

	<p>Sections 15, 17, 18, 19, 20 & 21 of the Code.</p> <p>d) In case of admission directions to be given to the Ex- Management to provide all documents in their possession and furnish every information in their knowledge within a period of 1 week to the IRP, otherwise coercive steps to follow.</p> <p>e) If admitted, a sum of Rs. 1 Lakh to be deposited with the IRP by Operational Creditor to meet his expenses arising out of issuing public notice and inviting claims. The expenses are subject to approval by the CoC.</p> <p>f) The office must be directed to communicate a copy of the order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional at the earliest but not later than three days from admission of the petition. A copy of the order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.</p>	
5.	<p>Whether the petition is to be admitted or rejected. Brief reasons to be recorded.</p>	

**MODEL PROFORMA FOR ADMISSION/REJECTION OF
PETITIONS UNDER SECTION-10 OF THE CODE**

PART - I

Sr. No.	PARTICULARS	YES/NO
1.	<p>Registry is to ensure service of advance notice of the petition by registered post or speed post/e-mail as per the master data of the corporate debtor. [Rule 7(2) of the Application to Adjudicating Authority Rules]</p> <p>Whether Information Utility accounts filed with the petition.</p>	
2.	<p>Whether service effected. If so then affidavit of service to that effect be filed.</p>	
3.	<p>Is the petition complete as per the provisions of Section-10 (2) & (3)</p> <p>a) Whether the petition has been filed in the prescribed Form-6 and the manner prescribed therein [Rule 7(1) of the Application to Adjudicating Authority Rules]</p> <p>b) Whether the following documents which are</p>	

necessary for assessing the completeness of the petition are attached:

- i. Information relating to its books of account and such other documents for such period as may be specified.**
- ii. The name of the resolution professional proposed to act as an interim resolution professional in accordance with Rule 9 of the Application to Adjudicating Authority Rules.**
- iii. Special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor approving filing of the application.**

PART – II

The issues which need examination by the Adjudicating Authority:

Sr. No.	PARTICULARS	YES/NO
1.	Whether the claimed amount is financial debt/operational debt within the meaning of Section-5(8)/5(21) of the Code.	
2.	Whether the claim has been made within the period of limitation as Section- 238A of the Code makes Limitation Act applicable.	
3.	Whether the default is for a sum exceeding Rupees One Lakh as is condition precedent under Section-4 of IBC.	
4.	Whether the petition warrants admission. If 'yes' the following directions to be issued: a) Declaration of moratorium in terms of Section 14 of the Code from the insolvency commencement date. b) In pursuance of Section 13 (2) of the Code read with Regulation 6 of the Insolvency Resolution Process for Corporate Persons Regulations, Interim Resolution	

Professional shall immediately make public announcement with regard to admission of the petition.

c) The Interim Resolution

Professional shall perform all his functions religiously and strictly which are contemplated, *inter alia*, by Sections 15, 17, 18, 19, 20 & 21 of the Code.

d) In case of admission

directions to be given to the Ex- Management to provide all documents in their possession and furnish every information in their knowledge within a period of 1 week to the IRP, otherwise coercive steps to follow.

e) If admitted, a sum of Rs. 1

Lakh to be deposited with the IRP by Corporate Applicant to meet his expenses arising out of issuing public notice and inviting claims. The expenses are subject to approval by the CoC.

f) The office must be directed to

communicate a copy of the order to the Corporate Applicant, the Corporate Debtor and the Interim

	<p>Resolution Professional at the earliest but not later than three days from admission of the petition. A copy of the order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.</p>	
<p>5.</p>	<p>Whether the petition is to be admitted or rejected. Brief reasons to be recorded.</p>	