

CORPORATE INSOLVENCY RESOLUTION PROCESS

ORCHID PHARMA LTD. (“Corporate Debtor”)

ELIGIBILITY CRITERIA and Terms and conditions FOR POTENTIAL RESOLUTION APPLICANTS

1. For Private/ Public Limited Company/ Limited Liability Partnership (“LLP”)/ Body Corporate/ any other Potential Resolution Applicant:

- Minimum Tangible Net Worth (“TNW”)/ Net Owned Funds (“NOF”) of Indian National Rupee (“INR”) 100 Crore at the Group Level in the immediately preceding completed financial year / 31.03.2018
- TNW/NOF shall be computed as aggregate value of paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, and does not include reserves created out of revaluation of assets, write back of depreciation and amalgamation.
- Group may comprise of entities either controlling or controlled by or under common control with the Potential Resolution Applicant. Control means at least 26% ownership

2. For Financial Institution// Investment Company/ Fund House/ Private Equity (“PE”) Investor/ Non-Banking Financial Company (“NBFC”)/ Asset Reconstruction Company (“ARC”), Banks and similar institutions:

- Total Assets Under Management (“AUM”)/Loan Portfolio of at least INR 500 Crore in the immediately preceding completed financial year / 31.03.2018; or
- Minimum committed funds (“Committed Funds”) available for investment/ deployment in Indian companies or Indian assets of INR 150 Crore in the immediately preceding completed financial year / 31.03.2018.

3. For Consortium Potential Resolution Applicant:

- Consortium Potential Resolution Applicant must also satisfy eligibility criteria pertaining to minimum TNW/NOF/AUM/Committed Funds as applicable in addition to other conditions stipulated herein.
- Consortium of investors with aggregate net worth of Rs.100 Crores may also apply.
- In case the consortium is of Private/ Public Limited Companies/ LLPs/ Body Corporates/ any other Potential Resolution Applicants, TNW/NOF of the consortium shall be calculated as weighted average of individual member’s TNW/NOF provided that only such portion of their TNW/NOF as is proportionate to their shareholding in the consortium will count towards the eligibility criteria of TNW/NOF.
- In case the consortium is of Financial Institutions/Investment Companies/ Fund Houses/ PE Investors/ NBFCs/ ARCs/ any other Potential Resolution Applicants, the minimum AUM of consortium shall be calculated as weighted average of individual member’s AUM or Committed Funds available for investment/ deployment in Indian companies/Indian assets shall be calculated as weighted average of individual member’s Committed Funds for investment/deployment in Indian companies/Indian assets provided that only such portion of their AUM/ Committed Funds as is proportionate to their shareholding in the consortium will count towards the eligibility criteria of AUM/ Committed Funds
- Incorporation of an Indian limited company shall be mandatory to enter into definitive agreements post submission and approval of resolution plan.

4. Other Conditions:

- Further conditions/criteria including control, lock-in restrictions, other eligibility conditions and evaluation criteria for the resolution plans at the sole discretion of Committee of Creditors (“CoC”) may be stipulated in the documents which will be provided to Potential Resolution Applicants in due course
- Potential Resolution Applicant must be a fit and proper person not under any legal disability to be a promoter under the applicable laws.
- Potential Resolution Applicant shall submit the following documents along with the expression of interest:
 - Authorization Letter / Board Resolution for submitting the EOI (along with KYC documents for the authorised person)

- Declaration to the effect that applicant is not barred by the provision of section 29A of IBC, 2016 (as stated in Annexure-1)
 - Certified copies of audited annual report with standalone and consolidated financials (for immediate preceding 3 financial years)
 - Proof of address, Incorporation documents
 - Copy of PAN card/ Tax identification number / GST Number and
 - Documents certifying the above-mentioned criteria in Sections 1, 2 or 3 (whichever is applicable)
 - Auditor/ Chartered Accountant Certificate for Private/ Public Limited Company/ LLP/ Body Corporate/ any other Potential Resolution Applicant; and
 - Management Certificate for Financial Institution/ Investment Company/ Fund House/ PE Investor/ NBFC/ ARC.
 - Details of consortium members (if any) along with details of leader of the consortium
 - Details of contact person – Name, Designation, E-mail, Mobile / Tel Number
- In case of consortium, each member of the consortium has to submit these documents.
- The consideration, evaluation and approval of eligible resolution plans approved by the RP to the CoC is within the powers of the CoC under the provisions of IBC and the CIRP Regulations. The CoC may specify evaluation criteria separately for the evaluation of the resolution plans. The detailed process and timelines for submission of resolution plans shall be separately communicated to the Potential Resolution Applicants.
 - Any Potential Resolution Applicant who is desirous of submitting a resolution plan as above will also be required to execute a Non-Disclosure Agreement (“NDA”) as per the requirements of the IBC and the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“CIRP Regulations”) as a condition for receiving the information memorandum (“IM”) and other relevant information in relation to the Corporate Debtor. Potential Resolution Applicants are encouraged to submit their EOIs and adhere to the timeline for executing the NDA once shortlisted, to start receiving the information memorandum and other relevant information in relation to the Corporate Debtor.
 - All Potential Resolution Applicants who are desirous of submitting a Resolution Plan in respect of the Corporate Debtor must read, understand and comply with all requirements under the IBC, the CIRP Regulations and any other applicable law that are in force now or which may come into force subsequently, in relation to the resolution plan and all matters under, pursuant to, in furtherance of or in relation to, this invitation.
 - Potential Resolution Applicants are encouraged to submit their expressions of interest along with the documents (as listed above) **on or before 5PM on March 19, 2019** to ip.orchid@in.ey.com in order to participate in the resolution process.
 - RP / CoC / the Corporate Debtor shall, in no circumstances, be responsible to bear or reimburse any expenses or costs incurred by us in respect of submission of this expression of interest.
 - Resolution Professional (“RP”) may seek additional information from the Potential Resolution Applicants, if required, including as directed by the CoC.
 - Cash balance standing to the credit of any bank account of the Corporate Debtor as on the date of approval of the Resolution Plan of the Successful Applicant by the Adjudicating Authority will not be made available to the Successful Applicant or the Corporate Debtor and will be utilized as may be decided by the CoC.
 - Any proceeds accruing to the Corporate Debtor in terms of any order of Hon'ble NCLT on the applications for avoidance of transactions under Sections 43, 45, 50 and 66 (as applicable) of the Insolvency and Bankruptcy Code, 2016 filed / to be filed by the Resolution Professional before the Adjudicating Authority shall be utilized for distribution among the members of the CoC (excluding any member against whom such order has been passed) in a manner that the CoC may deem fit and the Successful Applicant or the Corporate Debtor shall have no control or right (in any manner whatsoever) to determine the utilization or distribution of such proceeds
 - In case, the submitted Resolution plan is approved under Section 30(4) of the IBC, a performance security of a suitable amount as decided by the CoC has to be provided within 7 days from the date of COC approval for the resolution plan.

The RP, acting on the instructions of the CoC and in accordance with the provisions of India's 'Insolvency and Bankruptcy Code, 2016' (“IBC”) and the rules and regulations thereunder, reserves the right to cancel or modify the process/criteria without assigning any reason and without any liability whatsoever.

Persons not eligible to be resolution applicant

A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly or in concert with such person—

- a) is an undischarged insolvent;
- b) is a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949);
- c) at the time of submission of the resolution plan has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949) or the guidelines of a financial sector regulator issued under any other law for the time being in force, and at least a period of one year has lapsed from the date of such classification till the date of commencement of the corporate insolvency resolution process of the corporate debtor:

Provided that the person shall be eligible to submit a resolution plan if such person makes payment of all overdue amounts with interest thereon and charges relating to nonperforming asset accounts before submission of resolution plan:

Provided further that nothing in this clause shall apply to a resolution applicant where such applicant is a financial entity and is not a related party to the corporate debtor.

Explanation I.- For the purposes of this proviso, the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.

Explanation II.— For the purposes of this clause, where a resolution applicant has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under IBC, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under IBC;

- d) has been convicted for any offence punishable with imprisonment – (i) for two years or more under any Act specified under the Twelfth Schedule; or (ii) for seven years or more under any law for the time being in force: Provided that this clause shall not apply to a person after the expiry of a period of two years from the date of his release from imprisonment: Provided further that this clause shall not apply in relation to a connected person referred to in clause(iii) of Explanation I;
- e) is disqualified to act as a director under the Companies Act, 2013 (18 of 2013): Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I;
- f) is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
- g) has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under IBC:

Provided that this clause shall not apply if a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place prior to the acquisition of the corporate debtor by the resolution applicant pursuant to a resolution plan approved under IBC or pursuant to a scheme or plan approved by a financial sector regulator or a court, and such resolution applicant has not otherwise

contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;

- h) has executed a guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under IBC and such guarantee has been invoked by the creditor and remains unpaid in full or part;
- i) is subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India; or
- j) has a connected person not eligible under clauses (a) to (i).

Explanation I. — For the purposes of this clause, the expression "connected person" means—

- (i) any person who is the promoter or in the management or control of the resolution applicant; or
- (ii) any person who shall be the promoter or in management or control of the business of the corporate debtor during the implementation of the resolution plan; or
- (iii) the holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii):

Provided that nothing in clause (iii) of Explanation I shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of the corporate debtor:

Provided further that the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date;

Explanation II—For the purposes of this section, "financial entity" shall mean the following entities which meet such criteria or conditions as the Central Government may, in consultation with the financial sector regulator, notify in this behalf, namely:—

- a) a scheduled bank;
- b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organisation of Securities Commissions Multilateral Memorandum of Understanding;
- c) any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999 (42 of 1999);
- d) an asset reconstruction company register with the Reserve Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- e) an Alternate Investment Fund registered with Securities and Exchange Board of India;
- f) such categories of persons as may be notified by the Central Government.