



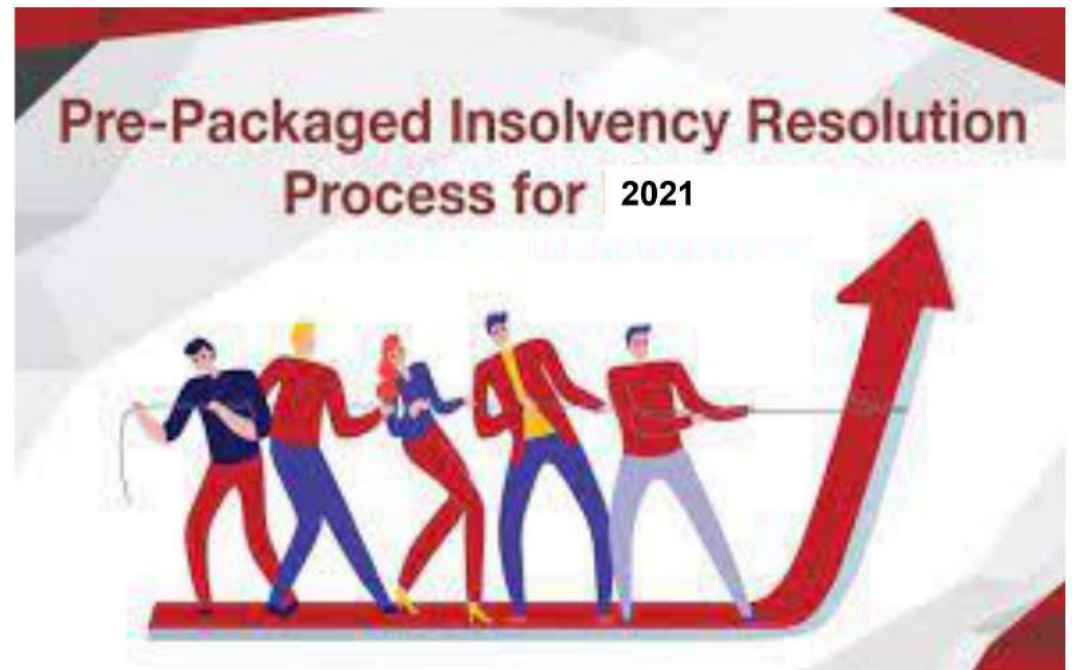
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Pre-packaged Insolvency Resolution Process (PPIRP)

12th May, 2021

***Disclaimer:** This presentation is designed for the sole purpose of creating awareness on the subject and must not be used as a guide for taking or recommending any action or decision, commercial or otherwise.*

Design and Implementation

- Blend of formal and informal resolution processes
 - Informal up to a point, formal thereafter
 - Debtor-in-possession (run the business), but Creditor-in-control (decide commercial matters)
 - Preference for existing promoters, but Swiss Challenge
- Commencement with consent of 66% of unrelated financial creditors and special majority of shareholders
- Liquidation remote: Possibility of closure without any consequence
- Process to be completed in 90 days
- Adequate checks and balances to prevent any abuse
- Implementation in phases – Currently only for MSMEs
- MSMEs with minimum default of INR 10 lakh are eligible for initiating PPIRP

Within Basic Structure of the Code

- Creditor-in-control
- Limited Moratorium during resolution
- Binding nature of an approved resolution plan
- Avoidance transactions and liabilities for offences
- Ineligibility of resolution applicants under section 29A

Extant CIRP Framework Vs PPIRP

Parameter	CIRP	PPIRP
Objective	Resolution through a resolution plan	Resolution through a resolution plan
Applicability	Companies and LLPs	Companies and LLPs
Initiation of process	Default above Rs.1 crore, excluding COVID-19 Default	MSME, Minimum default of Rs.10 lakh
Initiation by	FC, OC, or CD	CD, with consent of 66% 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 proposed by the applicant and then RP by the CoC; Managing affairs of the CD and conducting the process	RP, approved with consent of 66% of unrelated FCs Conducting the process
Claim collation	IRP to invite and collate	CD to provide. RP to confirm.
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

Extant CIRP Framework V PPIRP

Parameter	CIRP	PPIRP
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; Suo moto by CoC
Approval of resolution plan by CoC	66% of voting share	66% of voting share
Consequence of termination of process	No termination allowed	Closure without outcome Option to initiate CIRP
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

Pre-Initiation

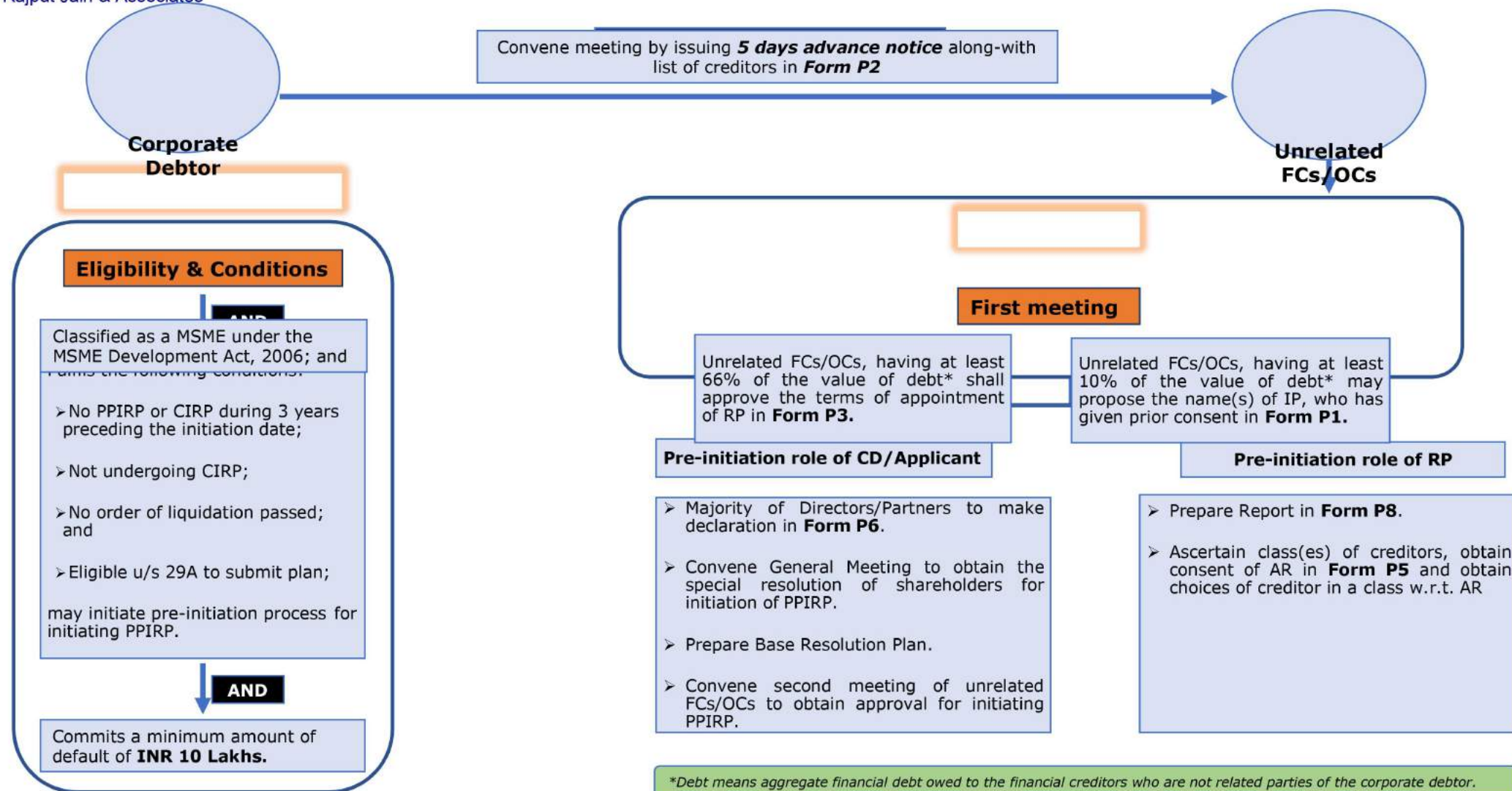
- Pre-initiation process not entirely codified
- IP to ensure pre-initiation due diligence
- Limited time for initiation after creditors' consent
- Admission by way of approval from AA
- Prepack commences on date of admission

No parallel proceedings of CIRP and PPIRP against a CD

- CIRP ongoing - no PPIRP
- PPIRP ongoing - no CIRP
- Cooling off period – 3 years

Pre-requisites for initiation

- Existence of debt and default
- Declaration and disclosures by board of directors
- Consent of unrelated FCs having 66% of value of debt for approving the terms of appointment of IP and initiation of PPIRP
- Approval of shareholders with special resolution
- Unrelated FCs having at least 10% of the value of debt may propose the name(s) of RP



Insolvency Professional

- No IRP
- Appointment of RP with approval of unrelated FCs
- Formal role of RP to begin with admission of pre-pack
- Replacement of RP only by order of the AA
- Conduct
 - To ensure transparency & fairness
 - Safeguard the interest of creditors
 - Ensure compliances with law
- Responsibilities :
 - Attend the Board meetings as observer
 - CoC formation
- Reasonable fees

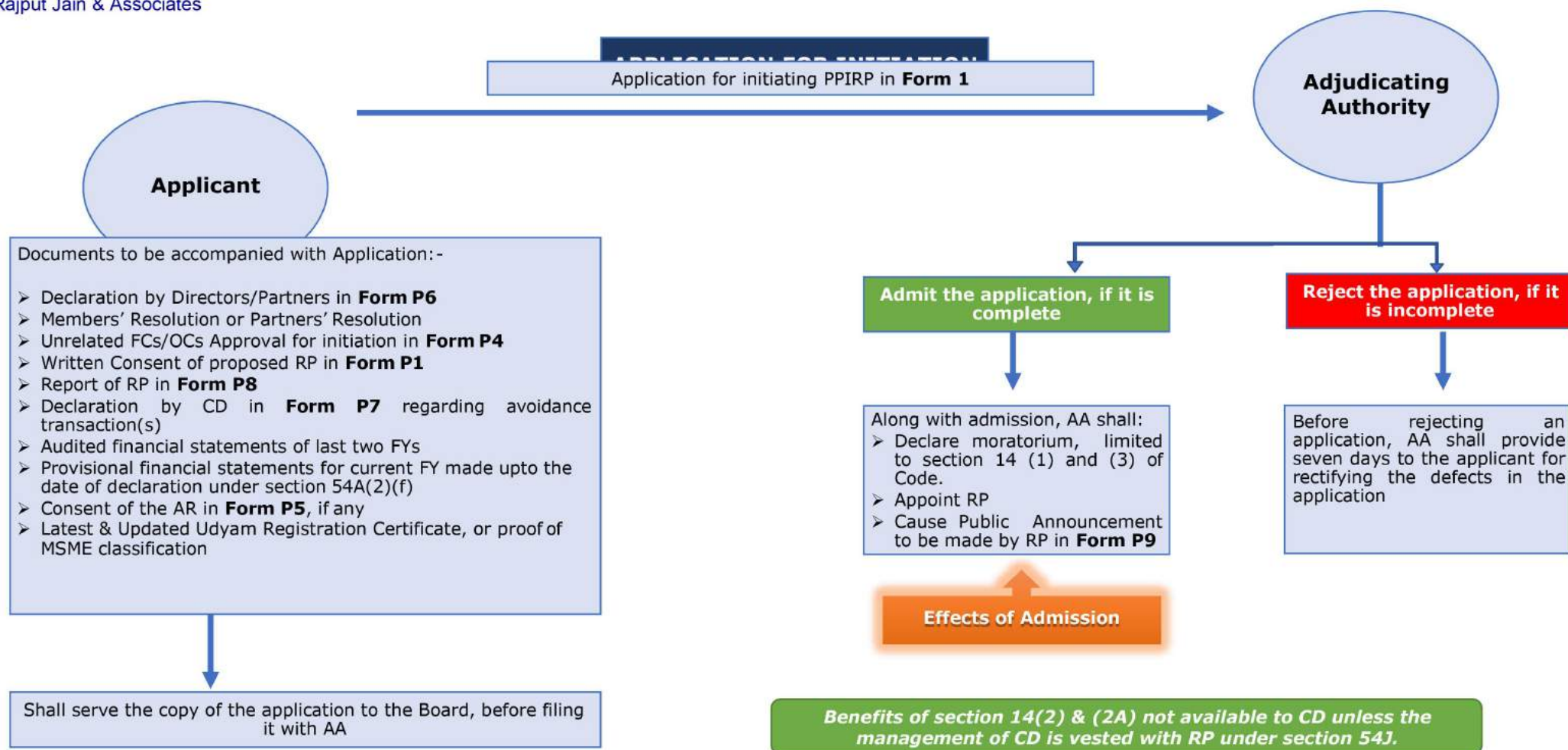
Role of Insolvency Professional

Pre-initiation phase

- Advisory capacity
- Assist in negotiation with FCs
- Advising in preparation of resolution plan
- Oversight
- Consent from requisite number of unrelated FCs
- Report fraudulent or wrongful activity by promoters to the best of her knowledge
- Ascertain class(es) of creditors, obtain consent of AR and choices of creditor in a class w.r.t. AR

Post-initiation

- Running the process,
- No management of affairs of



Committee of Creditors

- CD to provide list of creditors, RP to confirm
- RP to constitute CoC with unrelated FCs
- Voting share in proportion to value of debt
- Authorized Representatives to represent class of creditors
- CoC may terminate the Process or convert to CIRP
- Transactions above a threshold with the approval of CoC

Activities as part of formal process

Public Announcement

- Electronic publication of public announcement
- Dissemination through the

Claim collation

- CD to provide information
- Confirmed by RP in consultation with creditors
- Criminal and civil liability, if willful misinformation/ omission of information

Information Memorandum

- Preliminary IM to be prepared by the CD
- Adequate information similar to that contained in IM
- RP to prepare final IM on the basis of preliminary IM
- Final IM to be submitted before CoC within 14 days of PPIRP commencement date
- Used for inviting resolution plans – prospective resolution applicants will indicate gaps, if any

Valuation of assets of CD

- RP to appoint two registered valuers
- To estimate fair value and liquidation value

Design Elements

Moratorium

- Only by an order of AA
- Available for 120 days from admission
- Does not cover essential and critical services

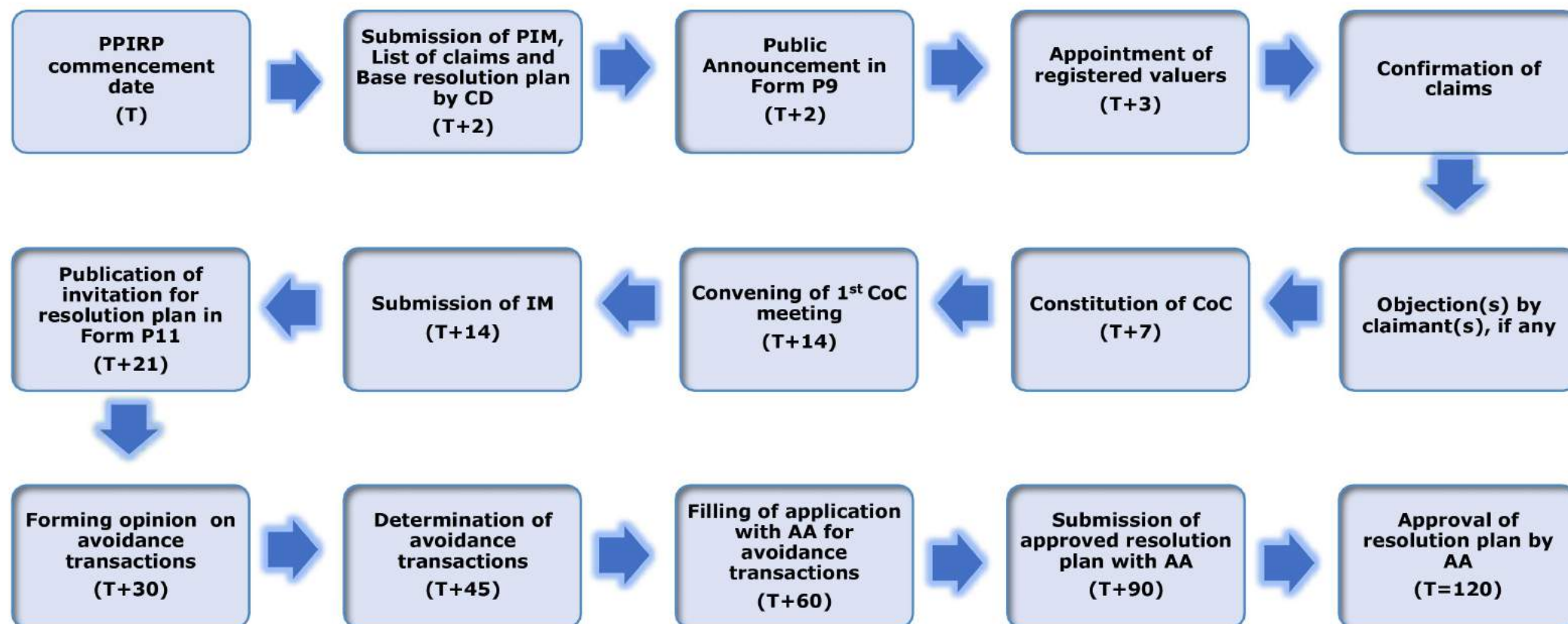
Process Cost

- Does not cover cost incurred on running the business operations to keep the CD as going concern
- Includes
 - interim funding secured during the process,
 - fees of the RP
 - Other process related costs
- Approved by the CoC

Measures to prevent abuse

- Limited access – updated, audited financial statement, creditors' consent
- Avoidance transaction determination
- CD to declare avoidable transactions upfront
- CoC to close the process or migrate to CIRP
- S. 29A applicability
- Value maximisation by Swiss Challenge
- Protection of OCs & dissenting FCs
- Cooling off period

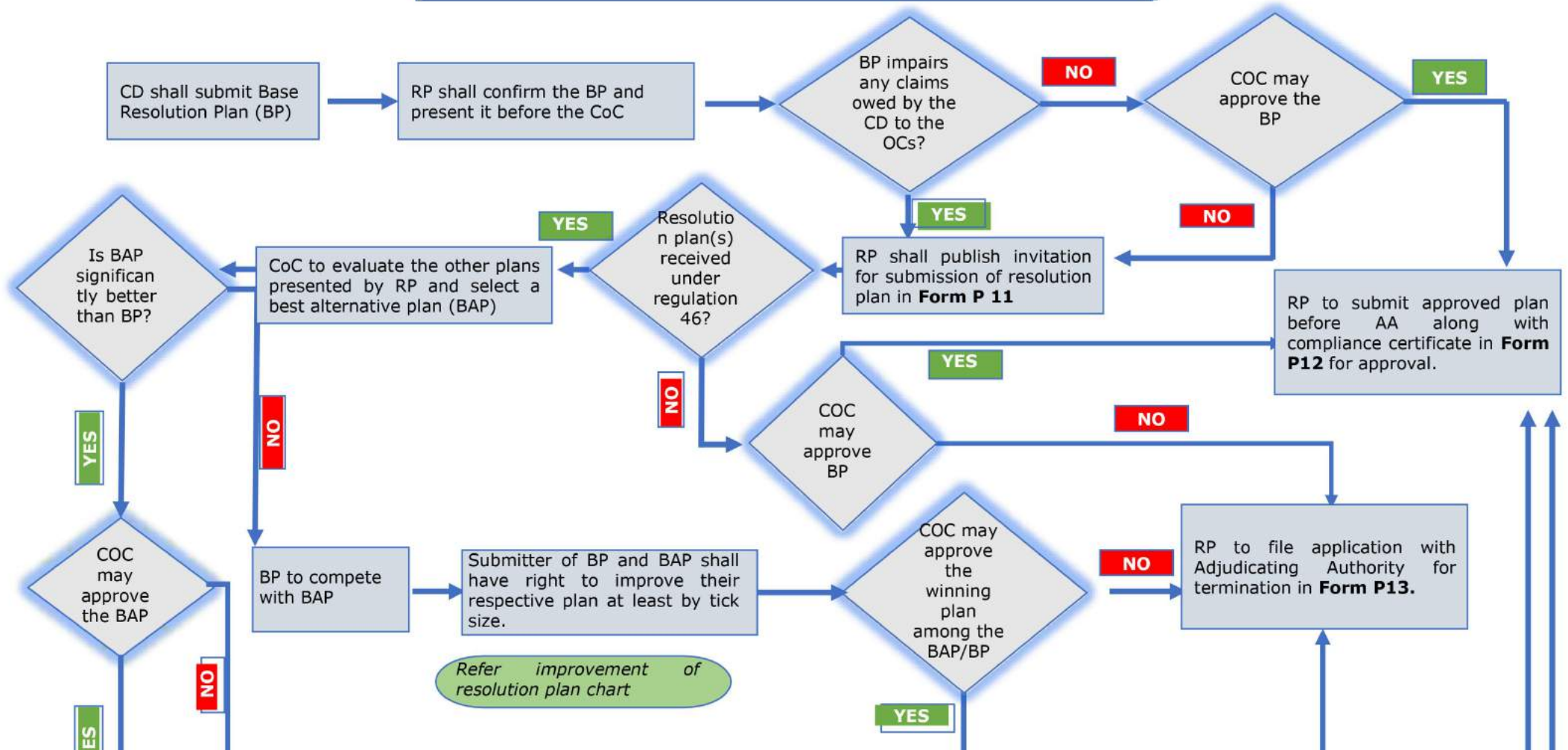
**POST-INITIATION PROCESS
(PPIRP TIMELINE)**

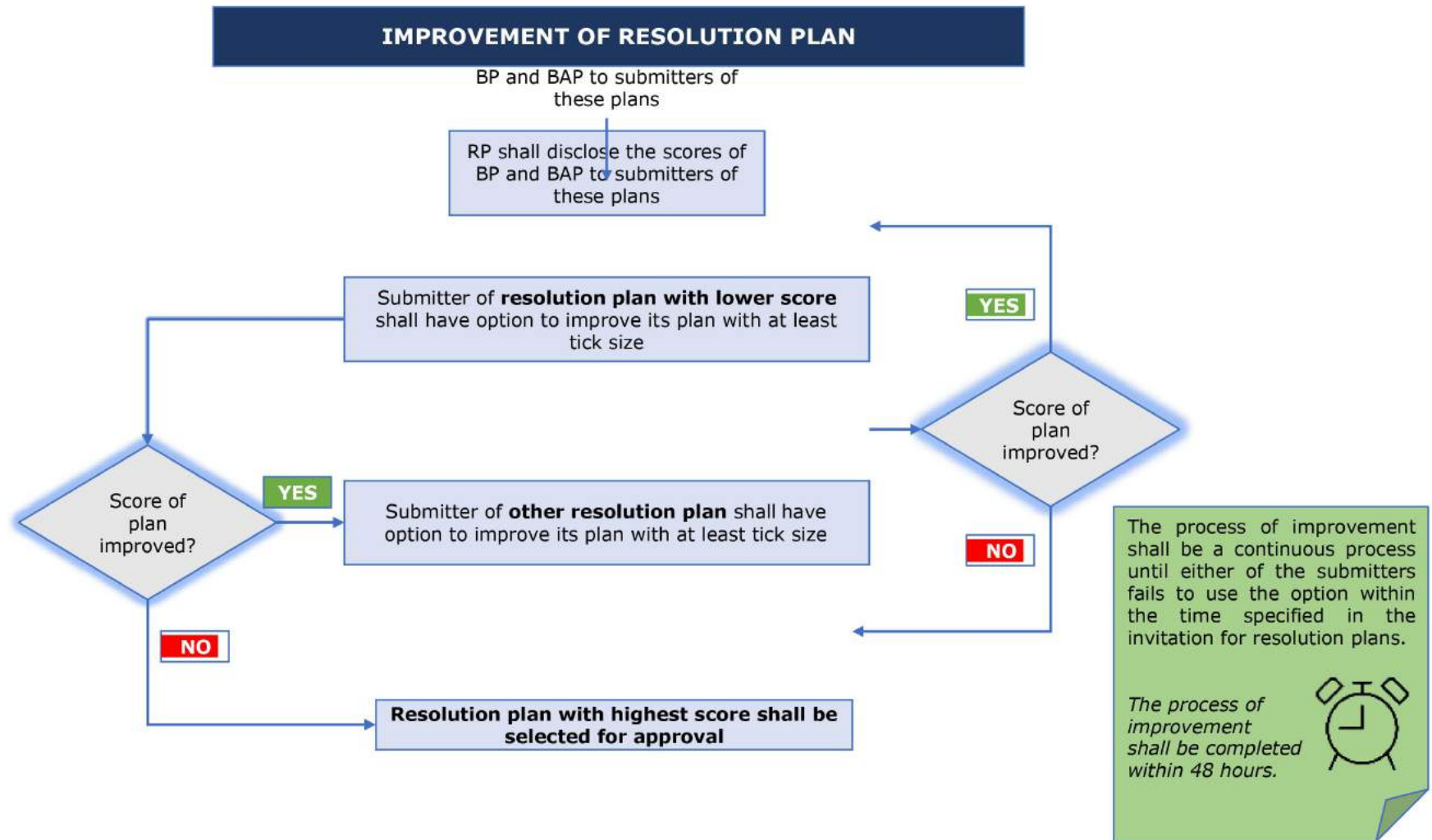


Resolution Plans

- Section 29A to apply to resolution applicants as in CIRP
- Base plan proposed by the CD
- Base plan to offer shares in control to creditors, if they desire
- CoC may approve base plan, if it does not impair rights of operational creditors
- If base plan impairs rights of operational creditors or is not satisfactory otherwise, Swiss Challenge is mandatory
- Swiss challenge for value maximisation
 - Promotor and Challenger to outbid the other
- Resolution plan may provide for any permutation or combination of measures
- All regulatory benefits to be available for resolution plan
- Shall be binding on all stakeholders
- Subject to requirement of section 32A

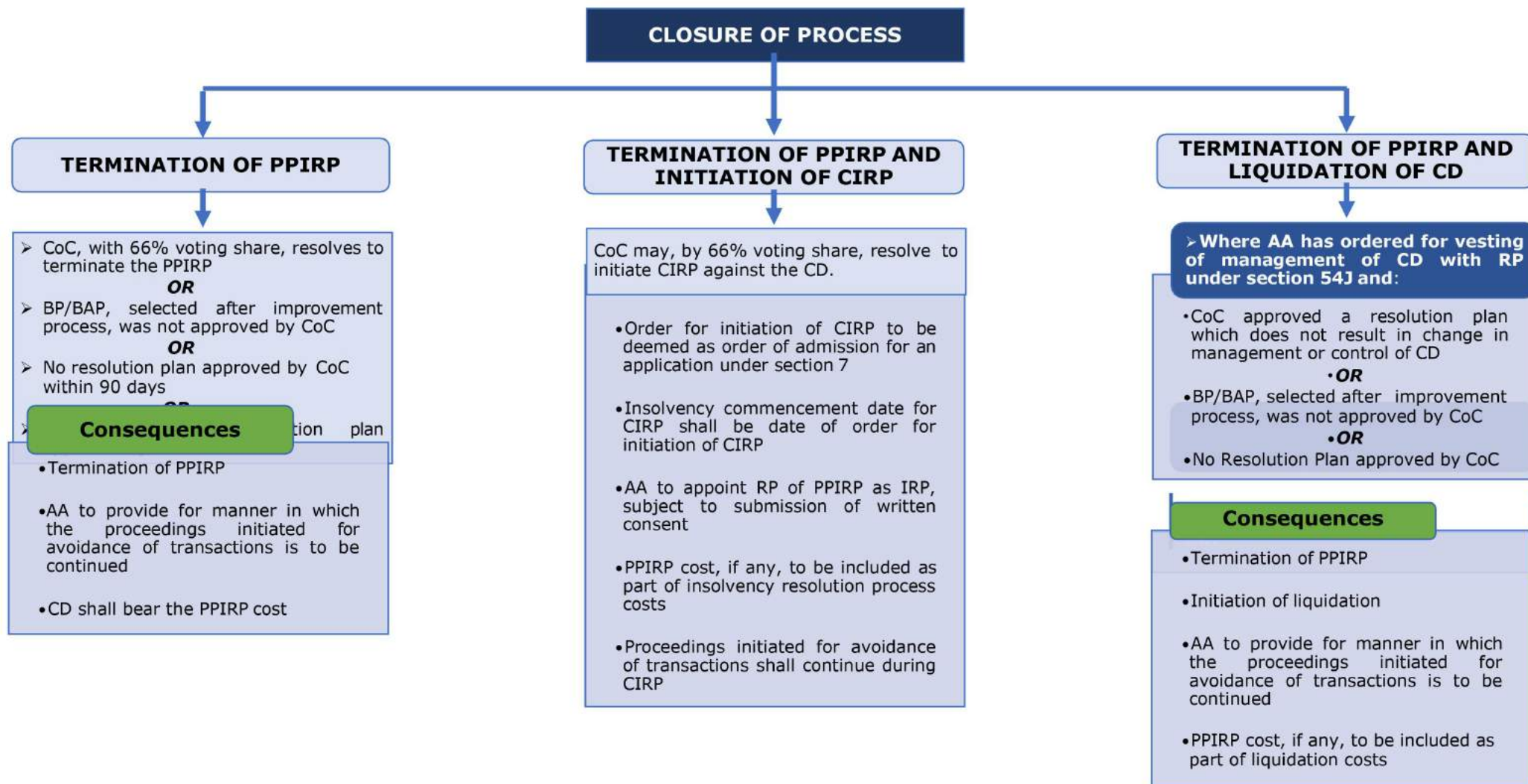
EVALUATION AND CONSIDERATION OF RESOLUTION PLAN(S)





Timeline and Closure of PPIRP

- Resolution Plan to be submitted to AA within 90 days, No extension
- 30 days for AA to approve
- Moratorium for these 120 days
- Process closes
 - If CoC decides to terminate it or to convert it to CIRP
 - If no plan is approved by CoC with 66% of voting power within 90 days
 - On expiry of 90 days: except where application of approval of plan is pending with AA
 - On approval of resolution plan
- Option for CoC to seek control from Debtor



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