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Insolvency Reform Developing Metrics, Tracking Outcomes



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“The Code was an imperative need for the nation to try and catch up with the rest of the world, be it in the matter of ease of doing business, elevating the rate of recovery of loans, maximization of the assets of ailing concerns and also, the balancing the interests of all stakeholders.”

Supreme Court in the judgement dated January 19, 2021 in the matter of Manish Kumar Vs. Union of India & Anr (WP No. 26/2020)

“The Code has brought about significant behavioural changes among the creditors and debtors thereby redefining debtor-creditor relationship. The inevitable consequence of a resolution process (the control and management of the firm move away from existing promoters and managers, most probably, forever) deters the management and promoter of the firm from operating below the optimum level of efficiency. Further, it encourages the debtors to settle default expeditiously with the creditor at the earliest, preferably outside the Code.”

Chapter 4, Economic Survey 2020-21

“To ensure faster resolution of cases, NCLT framework will be strengthened, e-Courts system shall be implemented and alternate methods of debt resolution and special framework for MSMEs shall be introduced.”

Hon’ble Minister of Finance and Corporate Affairs, Smt. Nirmala Sitharaman, Budget Speech on February 1, 2021

From Chairperson's Desk

Insolvency Reform: Developing Metrics, Tracking Outcomes

The question that I have been asked the most is: "How do you assess outcomes of the Insolvency and Bankruptcy Code, 2016 (Code)?" The questioner often does not expect a professional response, but a validation of his own assessment. He has assessed the outcome based on his own perception of a transaction value, a process flow, a design feature, an implementation issue, a deviation from expectation, a comparison with the erstwhile regimes, etc. depending on his exposure, caliber, interests, and ideological inclination.

Every economic reform, including insolvency reform, does somewhat recast the rules of the game for market participants with a view to increase overall economic wellbeing. As such, it may affect interests of participants differently: some may stand to gain while others may lose, as compared to the old order. It is unlikely that a loser or a gainer, who is generally blinded by his self-interest, will use a metric that holistically and objectively assesses outcome of the reform. He tends to cite purposive examples to buttress his perspective. A beneficiary of the old order, for example, may cite the likes of Ghotaringa Mineral Limited and Orchid Healthcare Private Limited to cry foul of the insolvency reform. He may claim that insolvency proceedings of these two companies under the Code realised precious little for creditors as against their claims of a few thousand crore rupees. He may not, however, posit that these companies had absolutely no assets when they entered the insolvency proceedings. Thus, the choice of metric depends on which side of the table the participant sits.

A dispassionate analyst, who looks at the reform from a macro perspective, is likely to use a metric that is readily available, easily understood, and amenable to analysis, rather than what is the most appropriate. Authentic figures about recovery through insolvency proceedings are readily available. Recovery, both in absolute and relative sense, is easily understood. It can be used to compare resolution of one company with that of another, or to compare different options for resolution and recovery. Some analysts may prefer to use recovery as a metric to assess the outcome as a matter of convenience, even though it is not an objective of insolvency reform, and it arises only as a by-product of the insolvency proceedings. Time taken for closure of an insolvency proceedings is another convenient metric. An optimist analyst may observe time taken under the Code as compared to that under erstwhile regimes, while a passionate critic may focus on the gap between time taken and the time envisaged under the Code.

Some of the convenience metrics could be misleading. Recovery, though a precise metric, is not unambiguous. The resolution plans under the Code recover, on an average, about X% of admitted claims of creditors. Such level of recovery could be good for someone as, of the available options, it recovers the best. This may not be so good for another, as it entails a haircut of Y% for creditors. Further, recovery as a percentage of admitted claim, which most often is not in sync with the reality, may not make much sense. What could be realised is reflected by liquidation value of the assets available in the books of the debtor. What should be realised is reflected by the written down value of the debt in the books of the creditor. Recovery as compared to what should or could be realised presents a picture entirely different from X% or Y%.

A student of law and economics looks at insolvency reform from a much deeper perspective. He believes that every economic actor has bounded rationality and cannot anticipate all possible contingencies. It enters into contracts, and renegotiates and modifies its terms, as and when circumstances change, and yet every contract at any point of time remains an incomplete one, with gaps and missing provisions. Nobel laureate in Economic Sciences, Mr. Oliver D. Hart argues that a firm enters into a series of incomplete contracts which allow every creditor foreclosure rights over firm's assets in lieu of credit. Every creditor feels comfortable on standalone basis and the firm meets commitment towards each creditor in normal course and the life goes on. However, when the firm is stressed, it can honour claims of one or a few creditors fully, but not all creditors simultaneously. It is a situation where claim of an individual creditor is consistent, but claims of all creditors together is inconsistent, with the

assets of the firm. If every creditor sticks to its pre-insolvency rights, neither resolution of stress is possible nor can a creditor realise its dues.

The insolvency framework endeavours to resolve such a stress while discharging obligations towards creditors to the extent realistically possible under the circumstances. Insolvency reform is thus an overarching contract, that completes all incomplete bilateral and multilateral contracts, makes claims of all creditors consistent and prevents a value reducing run on the assets of the firm and thereby tries to rescue the debtor and creditors. But for the overarching contract, the parties would enforce a series of incomplete contracts, which may wipe out the debtor and write off some creditors. A student of economics may find a metric in the lives of the debtors rescued, the loss avoided to creditors and improved capacity utilisation. Where contract enforcement takes years as compared to time bound closure of insolvency proceedings, the time saved in contract enforcement may serve as the metric for a student of law. Given that contract enforcement is fundamental to markets, a policy maker may consider improvement in ease of doing business and consequently economic development as the metric.

Economies compete to make the environment easier for doing business. It is easier to do business in an economy, which provides, protects and enforces economic freedom at marketplace. Freedom is paramount for a businessman. He needs freedom to start a business whenever he finds an opportunity, freedom to compete at marketplace, and freedom to exit when the business fails. He typically commences a business when he has the reassurance of exit in case of failure. He may fail when he becomes a victim of Schumpeter's "gale of creative destruction", where his business is failing to earn normal profits, either because it is outdated or the space is overcrowded. Higher the intensity of competition and innovation in an economy, higher is the rate of failure, higher is the incidence of sunrise businesses replacing the sunset ones, and higher is the need for freedom to exit. An honest businessman uses the degree and quality of freedom to exit from business as the metric to assess the outcome of insolvency reform.

We are familiar with the parable of the blind men and an elephant, where each of the seven blind men describes an elephant based on his own limited experience. Like the description of an elephant by one person, a single metric may fail to adequately capture the outcome of insolvency reform. The World Bank Doing Business Report uses a composite metric, which studies the time, cost and recovery of insolvency proceedings and strength of the insolvency framework to arrive at a score for resolving insolvency for an economy. It has its limitations given that the methodology has been drawn up to cater to about 200 countries, each of which has had a unique experience in the insolvency outcomes.

A single metric or a composite metric often does not capture softer aspects such as humanitarian approach while dealing with insolvency, or invisible outcomes in terms of behavioural changes of stakeholders. They generally do not capture the systemic gains such as induced resolutions outside the Code, liberation of entrepreneurs from failure, rescue of companies in deep distress, release of idle resources for productive uses, and meritocratic lending and improved availability of credit. It is because a metric tends to capture what can be measured and it ignores the matters that cannot be measured even if they matter. As Elliot Eisner puts: "Not everything that matters can be measured, and not everything can be measured matters."

A well laid metric, instead of or in addition to measuring outcomes, may influence the outcome. In other words, when we set one parameter as a measure of outcome, there is a tendency to achieve the same, and even game the same, overlooking other equally, or even more important aspects and dimensions of the outcomes. Goodhart's Law cautions: "When a measure becomes a target, it ceases to be a good measure."

A metric is not a onetime affair. After it is conceptualised and its methodology finalised, it needs to be nurtured for years with appropriate modifications with changing times and evolving practices. Systems need to be in place to generate the metric with suitable frequency. Provisions need

to be made for feeding authentic data and information for servicing the metric. In different spheres, specialised organisations have come up to maintain and service different metrics. It is the time to sow the seeds of a sound metric(s) for tracking the outcomes of insolvency reform when it is taking deeper roots in the country. The metric(s) should holistically and objectively measure the outcome, involving evaluation of the structure, processes and designs of the market contributing to the fairness, integrity and credibility of the market in each of the segments, namely, corporate insolvency and liquidation, and individual insolvency and bankruptcy. If no guidance is available as to what is an appropriate metric, and there is no provision of data/ information to service such a metric, the market may use any convenience metrics, which may do more harm than good to the cause of insolvency reform.

While encouraging debate on development of metrics, the scholars may explore metrics to measure outcomes of the Code around its six foundational objectives. These are: (a) resolution of stress; (b) maximisation of value of assets; (c) promoting entrepreneurship; (d) enhancing availability of credit; (e) balancing of interests of all stakeholders; and (f) establishing an ecosystem. These objectives can be translated into six possible layers of outcomes of an insolvency and bankruptcy regime:

(a) The growth, strength and efficiency of the **insolvency ecosystem** consisting of insolvency professionals, insolvency professional agencies,

insolvency professional entities, registered valuers, registered valuer organisations, information utilities, Adjudicating Authority, Appellate Tribunal, IBBI, Government, Courts, etc.;

(b) The strength, efficiency, and efficacy of **the processes**, namely, corporate insolvency resolution, corporate liquidation, voluntary liquidation, pre-packaged insolvency resolution, fresh start process, resolution of personal guarantors to corporate debtors, resolution of proprietorship and partnership firms, individual insolvency resolution, bankruptcy, etc.;

(c) The growth and efficiency of **markets** such as markets for interim finance, resolution plans, liquidation assets, insolvency services, along with cost efficiency, information efficiency, etc.;

(d) The impact **on businesses** in terms of cost of capital, capital structure, availability of credit, entrepreneurship, capacity utilisation, creative destruction, competition, innovation, etc.;

(e) **Behavioural changes** amongst the debtors and creditors, trust of the creditors in debtors, meritocratic lending, non-observable impact, humanitarian considerations, proactive/ preventive impact of the Code, etc. and

(f) The **overall impact** on employment, income and economic growth of the nation.

Table below lists these layers of outcomes and possible indicators for tracking them.

Layer of Outcome	Objective	Indicator
Strength of insolvency ecosystem	To aid the processes in pursuit of objectives of the Code	<ul style="list-style-type: none"> - Strength of each of the elements of the ecosystem. - Performance of each of these elements.
Strength of insolvency processes	To aid stakeholders to pursue the objectives of the Code	<ul style="list-style-type: none"> - Use of the processes under the Code by creditors and debtors as compared to other available options. - Efficiency of the processes in terms of cost-time-recovery framework.
Strength of insolvency markets	To aid the insolvency processes to arrive at competitive market outcomes	<ul style="list-style-type: none"> - Availability of interim finance. - Availability of competitive resolution plans. - Cost and information efficiency of the markets.
Impact on businesses	Enhance availability of credit, promote entrepreneurship, drive competition and innovation	<ul style="list-style-type: none"> - Impact on cost of capital. - Change in capital structure of firms. - Impact on availability of credit. - Entrepreneurship culture in the economy.
Behavioural changes	Desired behaviour through incentives and disincentives	<ul style="list-style-type: none"> - Proactive/ preventive resolutions. - Resolutions in the shadow of or on account of the Code. - Settlements during resolution process. - Meritocratic/ cleaner lending.
Overall impact	Improvement in corporate governance, resource allocation, and economic growth	<ul style="list-style-type: none"> - Employment saved because of resolution of distressed companies. - Amount of recoveries by creditors being ploughed back into the credit cycle. - Capacity utilisation and resource allocation. - Impact on economic growth of the country.

Usually, the data necessary to build metrics for assessing the outcomes of an insolvency regime are scattered and challenging given the dynamics of the market. Given that India's insolvency regime is still nascent and unique, data systems in respect of insolvency are just emerging. The importance of having an *ex-ante* strategy for *ex-post* evaluation highlights the data requirements of the evaluation and, by doing so, allows early collection of the necessary information. The time is ripe to harness the data being generated under the Code and decipher measurable impacts of the Code. It is imperative to have a clearly defined framework of indicators to monitor and measure outcomes of the Code that are tracked and reported on a regular basis against the objectives/benchmarks. It should be strengthened with an institutional arrangement to steer generation and dissemination of relevant data and encourage useful research in matters of policy design and implementation. It will

facilitate informed public debate on policies and thereby help in crowdsourcing of ideas for good policy response. Data driven analysis will not only enrich the policymaker's toolkit for sound policy making, that have a direct bearing on the beneficiaries or stakeholders of the Code but will also be useful for other purposes like supervision of banks and financial institutions, monitoring of financial systems, or general macroeconomic models.

Developing metrics and tracking the outcome of a complex policy-institutional change is not an easy task, unlike in the case of projects or programmes. It is necessary to develop a dynamic multivariate metric, which uses both quantitative and qualitative tools, to capture the outcomes of a poly-centric insolvency reform.

(Dr. M. S. Sahoo)

IBBI Updates

Parliamentary Standing Committee

The Parliamentary Standing Committee on Finance took oral evidence of the representatives of the Ministry of Corporate Affairs (MCA) on the subject "Implementation of Insolvency and Bankruptcy Code-Pitfalls and Solutions" on January 12, 2021. Secretary and other officers of the MCA and Chairperson, IBBI appeared before the Committee.

COVID-19

During the ongoing COVID-19 pandemic, the functioning of the offices of IBBI were regulated in keeping with various instructions from the Government in terms of ensuring hygiene at workplace and strength of staff present in office. The officers/staff attending office continued to follow protocols such as wearing of masks, ensuring social distancing and maintaining hand hygiene. In keeping with the orders of the Government, all officers and staff were required to attend office regularly with effect from February 15, 2021. Staggered office hours were put in place to avoid overcrowding in the offices. Standard Operating Procedure on preventive measures to contain the spread of COVID-19 in offices, as issued by the Ministry of Health and Family Welfare is being strictly adhered to. Apart from these initiatives, periodic RTPCR tests were conducted for staff as preventive measures.

International Women's Day Celebration

To mark the occasion of International Women's Day, the IBBI organised a Seminar on March 8, 2021, on the lines of this year's United Nations' theme "Women in Leadership: Achieving an equal future in a COVID-19 world". Ms. Sumitra Mahajan, former Speaker, Lok Sabha was the Chief Guest at the occasion. She highlighted that women are making a mark in every field, including the budding profession of Insolvency Professionals. Their role during the pandemic has been extra-ordinary.

The other dignitaries who spoke on the occasion were Ms. Sudha R. Relangi, Director (Prosecution), Central Bureau of Investigation; Ms. Madhavi Divan, Additional Solicitor General; and Ms. Tripti Singhal Somani, Founder, Wommenovator & Co-chairperson, MSME Committee, PHDCCI. The technical session on "Insolvency Professionals and Women: Multi Taskers" was moderated by Ms. Jyoti Vij, Dy. Secretary General, FICCI. The Seminar also had an experience sharing session on "Successful Resolutions under the Code", moderated by Ms. Jyoti Jindgar, Advisor, Competition Commission of India. The seminar was live streamed.



International Women's Day celebration, March 8, 2021

Human Resources

Executive Director

Mr. K. R. Saji Kumar, Executive Director, was repatriated to his parent cadre, Legislative Department, Ministry of Law & Justice, on their request, on January 11, 2021.

Employee Trainings and Workshop

IBBI organised the following workshops and trainings for its officers through e-mode:

Date	Nature of Programme/Subject	Faculty
23-01-21	The Right to Information Act, 2005	Mr. Vadali Rambabu, Deputy Secretary, ISTM
08-02-21	Bankruptcy Law - The Role of Credit Channels	Dr. (Ms.) Udichibarna Bose, Assistant Professor in Finance, Essex Business School, University of Essex
09-02-21	Insolvency Law and its impact	Dr. (Ms.) Aparna Ravi, Partner, Samvad Partners on Society
03-03-21	Debt Relief Order Model of UK	Ms. Samantha Ware and Ms. Sam Roberts



Session on Bankruptcy Law - The Role of Credit Channels, February 8, 2021



Session on Insolvency Law and its impact on Society, February 9, 2021



Session on Debt Relief Order Model of UK, March 3, 2021

The officers/Members of IBBI attended the following workshops and training programmes.

Date	Organised by	Nature of the Programme/Subject	No. of Officers
06-01-21 to 10-02-21	IICA	Commercial Mediation & Negotiation	01
04-01-21 to 22-01-21	FOIR	Emerging Regulatory Issues in Digital Era	02
11-01-21	NPC	Good Governance & Transparency through RTI	01
06-02-21	FOIR	Regulatory Governance	02
08-02-21 to 10-02-21	FOIR	Capacity Building Program	02

Legal and Regulatory Framework

Central Government

Suspension of initiation of CIRP

The Government had, through an amendment to the Code on June 5, 2020, suspended filing of applications for initiation of CIRP under sections 7, 9 and 10, in respect of any default arising during the period of six months commencing on March 25, 2020. This suspension was later extended twice by further periods of three months each. Accordingly, the suspension expired on March 24, 2021.

Pre-packaged resolution

The sub-committee of the Insolvency Law Committee (ILC) had submitted its Report on Pre-packaged Insolvency Resolution Process (PPIRP) on October 31, 2020 along with a pre-pack framework within the basic structure of the Code for the Indian market. The MCA, vide notification dated January 8, 2021, invited comments/suggestions from public on this PPIRP framework.

Tenure of members of NCLAT

The Central Government, vide notification dated January 5, 2021, extended the term of Justice (Retd.) Mr. Bansi Lal Bhat and Justice (Retd.) Mr. A.I.S. Cheema as Judicial Members of the National Company Law Appellate Tribunal (NCLAT) till their attaining the age of 67 years, or until further orders, whichever is earlier.

Chennai Bench of NCLAT

The NCLAT, vide notification dated January 23, 2021, notified that its Chennai Bench would start functioning from January 25, 2021 through virtual mode. Therefore, fresh appeals against the orders of the Benches of the National Company Law Tribunal (NCLT) having jurisdiction of Karnataka, Tamil Nadu, Kerala, Andhra Pradesh, Telangana, Lakshadweep and Puducherry shall be made before the Chennai Bench. Further, the filing of Interlocutory Applications / Reply / Rejoinder, etc. in respect of these appeals will also be made before the Chennai Bench as per the NCLAT Rules, 2016 and the standard operating procedure.

Physical hearing by NCLT

The NCLT, vide an order dated February 23, 2021, directed all NCLT benches to start regular physical hearing with effect from March 1, 2021. However, on request of any counsel/representative of parties expressing difficulty in physical hearing, a virtual hearing may be permitted. Further, a few of the Benches (Jaipur, Chandigarh, Guwahati, Cuttack, Kochi and Hyderabad) shall remain attending the matters through video conference.

Mining Rules

Ministry of Mines, vide notification dated March 24, 2021, notified the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession (Amendment) Rules, 2021. The amended Rules specify the manner of transfer of letter of intent to the transferee consequent to the conclusion of insolvency, liquidation, or bankruptcy proceedings, as the case may be, of the original holder of the letter of intent (transferor) by the competent Tribunal or the Court under the provisions of the Code.

IBBI

Amendments to Model Bye-Laws Regulations

IBBI amended the IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016, vide notification dated January 14, 2021, enabling the Governing Board of an IPA to specify the eligibility norms for an individual to be a shareholder director. It provides for self-evaluation of the Governing Board every year within three months of the closure of the year. It requires that an IPA shall designate or appoint a compliance officer, who shall be responsible for ensuring compliance with the provisions of the Code and regulations, circulars, guidelines, and directions issued thereunder. He shall, immediately and independently, report to the Board any non-compliance of the provisions.

Amendments to CIRP Regulations

IBBI amended the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, vide notification dated March 15, 2021 to provide for the following:

- A creditor shall update its claim as and when the claim is satisfied, partly or fully, from any source in any manner, after the insolvency commencement date.
- The IRP/RP shall file Form CIRP 7 within three days of the due date, where any of the following activities is not completed:
 - Public announcement is not made by T + 3rd day;
 - Appointment of RP is not made by T + 30th day;
 - Information memorandum (IM) is not issued within 51 days from the date of public announcement;
 - Request for resolution plan is not issued within 51 days from the date of issue of IM;
 - CIRP is not completed by T + 180 days.

Amendments to Liquidation Process Regulations

IBBI amended the IBBI (Liquidation Process) Regulations, 2016, vide notification dated March 4, 2021, requiring the Liquidator to file the list of stakeholders, as modified from time to time, on the website of the Board. It discontinued the requirement of announcement of filing of list of stakeholders with the Adjudicating Authority in the newspapers.

Circulars

Retention of records relating to CIRP

The Code read with Regulations require an IP to maintain several records in relation to the assignments conducted by him. Regulation 39A of the CIRP Regulations mandates the IRP and the RP to preserve a physical as well as an electronic copy of the records relating to the CIRP, as per the record retention schedule as communicated by the Board in consultation with IPAs. Keeping this in view, in consultation with the IPAs, IBBI issued a circular on January 6, 2021 directing the IPs to preserve an electronic copy of all the records for a minimum period of eight years and a physical copy of all records for a minimum period of three years. An IP shall preserve records relating to that period of a CIRP when he acted as IRP or RP, even though he did not take up the assignment from its commencement or continued the assignment till its conclusion. He shall preserve the records at a secure place and ensure that unauthorised persons do not have access to the same. Notwithstanding the place and manner of storage, the IP shall be obliged to produce records as may be required under the Code and the Regulations.

Applications for insolvency resolution process for PGs to CDs

Rule 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 requires the applicant to provide a copy of the application for initiation of insolvency resolution process of a personal guarantor (PG) to a CD, inter alia, to Board for its records. For the convenience of applicants, IBBI made available a facility on its website for providing a copy of the application online to the Board. A circular to this effect was issued on February 2, 2021.

List of stakeholders under Liquidation Process Regulations

The IBBI (Liquidation Process) Regulations, 2016 require the Liquidator to file the list of stakeholders on the electronic platform of the Board for dissemination on its website. For convenience, IBBI, vide circular dated March 4, 2021, made available a facility on its website for filing of list of stakeholders as well as updating it. The platform permits multiple filings by the Liquidator as and when the list of stakeholders is updated by him. The circular directs the IPs to file the list of stakeholders of the respective CD under liquidation and modification thereof, in the prescribed format, within three days of the preparation of the list or modification thereof.

Guidelines

Administrators Guidelines

IBBI issued the Guidelines for Appointment of IPs as Administrators under the Securities and Exchange Board of India (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018, prepared in consultation with Securities and Exchange Board of India (SEBI) on March 9, 2021 to govern the preparation of a Panel of IPs for appointment as Administrators. These Guidelines are applicable for appointments of Administrators with effect from April 1, 2021.

Online Delivery of Educational Courses

IBBI, extended the IBBI (Online Delivery of Educational Course and Continuing

Professional Education by Insolvency Professional Agencies and Registered Valuer Organisations) Guidelines, 2020 till September 30, 2021 vide notification dated March 11, 2021, in view of the pandemic situation.

Other Authorities

SEBI: Listing and Disclosure Obligations

SEBI, vide its notification dated January 8, 2021, amended the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. The Regulations require disclosure of specific features and details of the resolution plan as approved by the AA under the Code, not involving commercial secrets, namely, pre and post net-worth of the company, details of assets of the company post CIRP, other material liabilities imposed on the company, details of funds infused in the company, creditors paid-off, brief description of business strategy. The Regulations also require disclosure of proposed steps to achieve the minimum public shareholding, quarterly disclosure of the status of achieving such minimum public shareholding and details as to the delisting plans, if any, approved in the resolution plan.

IFSCA: Qualified Financial Contracts

International Financial Services Centre Authority (IFSCA), vide notification dated February 2, 2021, introduced a wide and exhaustive definition of Qualified Financial Contract (QFC) under the Bilateral Netting of Qualified Financial Contracts Act, 2020. The notification defined the QFC as any privately negotiated bilateral financial contract executed outside a stock exchange, including any terms and conditions incorporated by reference in any such financial contract, pursuant to which payment or delivery obligations that have a market price are due to be performed at a certain time or within a certain period. Some of these contracts are currency, cross-currency or interest rate swap; commodity swap; and securities contract etc.

Orders

Supreme Court

Laxmi Pat Surana Vs. Union Bank of India & Anr. [CA No. 2734/2020]

An FC had extended a credit to a proprietorship firm, which failed to repay the amount. The credit was guaranteed by a company. The FC filed an application under section 7 for CIRP of the CD (guarantor company). The application was contested on the ground that the principal borrower was not a corporate person. The AA admitted the application as the CD was coextensively liable to repay the debt, and the NCLAT confirmed it. While dismissing the appeal, the SC held: *"The principal borrower may or may not be a corporate person, but if a corporate person extends guarantee for the loan transaction concerning a principal borrower not being a corporate person, it would still be covered within the meaning of expression 'corporate debtor' in Section 3(8) of the Code."* In law, the status of the guarantor, who is a corporate person, metamorphoses into CD, the moment principal borrower, regardless of not being a corporate person, commits default in payment of debt which has become due and payable.

Indus Biotech Private Limited Vs. Kotak India Venture (Offshore) Fund & Ors. [AP (Civil) No. 48/2019]

The appellant filed an application under section 7 of the Code. The respondent filed an application under section 8 of the Arbitration Act seeking a direction to refer the parties to arbitration. The AA allowed the section 8 application and dismissed section 7 application observing that there was no default. The appellant filed the SLP contending that the AA erred in entertaining section 8 application in the backdrop of the legal duty cast on it to proceed strictly in accordance with the procedure contemplated under section 7. The SC held that a dispute will be non-arbitrable when a proceeding is in rem and a proceeding under the Code is in rem only after it is admitted. It observed: *"On admission, third party right is created in all the creditors of the corporate debtors and will have erga omnes effect. The mere filing of the petition and its pendency before admission, therefore, cannot be construed as the triggering of a proceeding in rem."* It further observed: *"... the process cannot be defeated by a corporate debtor by raising moonshine defence only to delay the process. In that view, even if an application under Section 8 of the Act, 1996 is filed, the Adjudicating Authority has a duty to advert to contentions put forth on the application filed under Section 7 of IB Code, examine the material placed before it by the financial creditor and record a satisfaction as to whether there is default or not."* If the irresistible conclusion by the AA is that there is default and the debt is payable, the bogey of arbitration to delay the process would not arise despite the position that the agreement between the parties indisputably contains an arbitration clause. Since the AA had concluded that there was no default, dismissal of section 7 application was justified.

Jaypee Kensington Boulevard Apartments Welfare Association & Ors. Vs. NBCC (India) Ltd. & Ors. [CA No. 3395/2020]

The AA approved resolution plan, vide order dated March 3, 2020, with certain modifications. The SC, while dealing with appeals related to resolution plan, inter-alia, held as under:

(a) The role of CoC is akin to that of a protagonist, giving finality to the process (subject to approval by the AA), who takes the key decisions in its commercial wisdom and the consequences thereof. The power of judicial review in section 31 of the Code is not akin to the power of a superior authority to deal with the merits of the decision of any inferior or subordinate authority. The AA has limited jurisdiction in the matter of approval of a resolution plan, which is well defined and circumscribed by sections 30(2) and 31 read with the parameters delineated by the SC in its various judgments. Within its limited jurisdiction, if the AA finds any shortcoming in the resolution plan vis-à-vis the specified parameters, it would only send the resolution plan back to the CoC for re-submission after satisfying the parameters delineated by Code and exposted by the SC.

(b) The process of simultaneous voting over two plans for electing one of them cannot be faulted. The legislature itself has made the position clear by way of a later amendment with effect from August 7, 2020, by specifically making stipulations for simultaneous voting over more than one resolution plan by the CoC, particularly with amendment of sub-regulation (3) of regulation 39 of CIRP Regulations and insertion of sub-regulations (3A) and (3B) thereto.

(c) The dissenting financial creditor is entitled to receive the amount payable in monetary terms and not in any other term. It cannot be forced to remain attached to the CD by way of equities or securities.

(d) The homebuyers as a class having assented to the resolution plan of NBCC, any individual homebuyer or any association of homebuyers cannot maintain a challenge to the resolution plan and cannot be treated as a dissenting FC or an aggrieved person.

In exercise of the powers under Article 142, the SC extended the time for completion of CIRP by 45 days while extending opportunity to the resolution applicants (Suraksha Realty and NBCC) to submit modified/fresh resolution plans, which are compliant with the requirements of the Code and the CIRP Regulations and are in accord with the observations and findings in this judgment.

Small Scale Industrial Manufacturers Association (Regd.) Vs. Union of India & Ors. [WP(C) No. 476/2020]

The petitioners had prayed for several reliefs. The SC had granted interim relief earlier not to declare the accounts of respective borrowers as NPA. While disposing of the petitions and vacating interim relief, the SC observed that it is neither within the domain of the courts nor the scope of judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. Nor are the courts inclined to strike down a policy at the behest of a petitioners merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical. Wisdom and advisability of economic policy are ordinarily not amenable to judicial review. Legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review. The SC further observed that no writ of mandamus can be issued directing the Government/ RBI to announce/declare particular relief packages and/or to declare a particular policy, more particularly when many complex issues arise in the field of economy for which the courts do not have any expertise. Whether there shall be a waiver of interest during the moratorium period or whether there shall be sector-wise relief packages and/or RBI should have issued directions which are sector specific and/or whether the moratorium period should be extended beyond August 31, 2020 or the last date for invocation of the resolution mechanism, namely, December 31, 2020 provided in the August 6, 2020 circular should be extended are all in the realm of the policy decisions. Therefore, the petitioners shall not be entitled to any reliefs, namely, (i) total waiver of interest during the moratorium period; (ii) to extend the period of moratorium; (iii) to extend the period for invocation of the resolution mechanism; (iv) that there shall be sector-wise reliefs provided by the RBI; and (v) that the Central Government/RBI must provide for some further reliefs over and above the relief packages already offered.

The SC, however, observed that once the payment of instalment is deferred as per circular dated March 27, 2020, non-payment of the instalment during the moratorium period cannot be said to be willful and, therefore, there is no justification to charge the interest on interest for the period during the moratorium. Therefore, there shall not be any charge of interest on interest for the period during the moratorium from any of the borrowers.

The circular dated March 27, 2020 shall be applicable to all banks, non-banking financial companies, housing finance companies and other financial institutions compulsorily and mandatorily.

Sesh Nath Singh & Anr. Vs. Baidyabati Sheoraphuli Co-operative Bank Ltd. & Anr. [CA No. 9198/2019]

The FC declared the account of the CD as NPA on March 31, 2013. It initiated proceeding under the SARFAESI Act, 2002 in January 2014. The CD challenged the SARFAESI notice through a writ. The HC passed an interim order on July 24, 2017 restraining the FC from taking steps against the CD under the SARFAESI until further orders, on having a prima facie view that the FC being a Cooperative Bank could not invoke the SARFAESI. The FC filed an application under section 7 on August 27, 2018 for initiation of CIRP of the CD. The AA admitted the application. In the appeal before the NCLAT, it was contended that the application was filed on August 27, 2018, after almost five years and five months from the date of accrual of the cause of action, and was, therefore, barred by limitation. While dismissing the appeal, the NCLAT held that the respondent had bona fide, within the period of limitation, initiated proceedings against the CD under the SARFAESI and was thus entitled to exclusion of time under section 14(2) of the Limitation Act.

The SC considered two issues in this appeal:

(a) Whether delay beyond three years in filing an application under section 7 can be condoned, in the absence of an application for condonation of delay made under section 5 of the Limitation Act, 1963? The SC observed that section 5 of the Limitation Act, 1963 does not speak of any application. It enables the Court to admit an application or appeal if the applicant satisfies the Court that it had sufficient cause for not making the application, within the time prescribed. Although, it is the general practice to make a formal application under section 5 of the Limitation Act, 1963 to enable the Court to weigh the sufficiency of the cause for the inability of the appellant to approach the Court within the time prescribed by limitation, there is no bar to exercise by the Court of its discretion to condone delay, in the absence of a formal application.

(b) Whether section 14 of the Limitation Act, 1963 applies to applications under section 7 of the Code? The SC observed that section 238A of the Code makes the provisions of the Limitation Act, as far as may be, applicable to proceedings under the Code. All provisions of the Limitation Act are applicable to proceedings in the NCLT/NCLAT to the extent feasible. Section 14 excludes the time spent in proceeding in a wrong forum, which is unable to entertain the proceedings for want of jurisdiction. Therefore, the entire period consumed during SARFAESI proceedings should be excluded.

The SC further held: *“Legislature has in its wisdom chosen not to make the provisions of the Limitation Act verbatim applicable to proceedings in NCLT/NCLAT, but consciously used the words ‘as far as may be’. The words ‘as far as may be’ are not meant to be otiose. Those words are to be understood in the sense in which they best harmonise with the subject matter of the legislation and the object which the Legislature has in view. The Courts would not give an interpretation to those words which would frustrate the purposes of making the Limitation Act applicable to proceedings in the NCLT/NCLAT ‘as far as may be’.”*

Arun Kumar Jagatramka Vs. Jindal Steel and Power Ltd. & Anr. [CA No. 9664/2019]

Upholding the constitutional validity of regulation 2B of the Liquidation Process Regulations, the SC held that prohibition in section 29A and section 35(1)(f) of the Code must also attach to a scheme of compromise or arrangement under section 230 of the Companies Act, 2013 (scheme), where a company is undergoing liquidation under the Code. Even in the absence of said regulation, a person ineligible under section 29A read with section 35(1)(f) is not permitted to propose a scheme for revival of a company undergoing liquidation under the Code. In case of a company undergoing liquidation pursuant to the provisions of Chapter III of the Code, a scheme is a facet of the liquidation process. It would lead to a manifest absurdity if the very persons who are ineligible for submitting a resolution plan, participating in the sale of assets of the company in liquidation or participating in the sale of the corporate debtor as a ‘going concern’, are somehow permitted to propose a scheme. The same rationale which permeates the resolution process under Chapter II (by virtue of the provisions of section 29A permeates the liquidation process under Chapter III (by virtue of the provisions of section 35(1)(f)).

The SC clarified that three modes of revival are contemplated under the Code. The first is in the form of the CIRP elucidated in the provisions of Chapter II. The second is where the CD or its business is sold as a going concern within the purview of clauses (e) and (f) of regulation 32. The third is when a revival is contemplated through the modalities provided in section 230 of the Companies Act. It further clarified that the scheme cannot certainly be equated with a withdrawal simpliciter of an application, as contemplated under section 12A of the Code.

Alok Kaushik Vs. Mrs Bhuvaneshwari Ramanathan and Ors. [CA No. 4065/2020]

The NCLAT set aside initiation of CIRP and remanded the matter to the AA to decide on CIRP costs. The appellant who is a registered valuer filed an application before the NCLT under section 60(5) challenging non-payment of its fees. However, the NCLT dismissed the application concluding that it had been rendered functus officio. The NCLAT declined to exercise its appellate jurisdiction. The SC held that it is an incorrect reading of the jurisdiction of the AA under the Code. It ordered that the AA is sufficiently empowered under section 60(5)(c) of the Code to determine the amount which is payable to an expert valuer as an intrinsic part of the CIRP costs.

The AA had also observed that the IBBI is the competent authority to deal with allegations against the RP. The SC observed that the availability of a grievance redressal mechanism against an IP does not divest the AA of its jurisdiction under section 60(5)(c) to consider the amount payable to the appellant. The purpose of grievance redressal mechanism is to penalise errant conduct of the RP and not to determine the claims of other professionals which form part of the CIRP costs.

Kalpraj Dharamshi & Anr. Vs. Kotak Investment Advisors Ltd. & Anr. [CA Nos. 2943-2944/2020]

The SC observed: (a) Time taken in diligently pursuing a remedy in a wrong court is a *bona fide* mistake and should be excluded; (b) Waiver is an intentional relinquishment of a right and there can be no waiver unless the person is fully informed of his rights and with full knowledge, intentionally abandons them; and (c) There is an intrinsic assumption that FCs are fully informed about the viability of the CD and feasibility of the proposed resolution plan. The opinion expressed by CoC in its meetings as per voting shares is a collective business decision and so the Code deliberately provides no ground to challenge the commercial wisdom. It is non-justiciable and not to be interfered with, excepting the limited scope as provided under sections 30 and 31 of the Code.

Gujarat Urja Vikas Nigam Limited Vs. Amit Gupta & Ors. [CA No. 9241/2019]

The SC held that the NCLT/NCLAT can exercise jurisdiction under section 60(5)(c) of the Code to stay termination of contracts solely on account of CIRP being initiated against the CD. The NCLT/NCLAT correctly stayed the termination of the Power Purchase Agreement (PPA), since allowing it to terminate the same would certainly result in the corporate death of the CD. The NCLT has jurisdiction to adjudicate disputes, which arise solely from or which relate to the insolvency of the CD. However, in doing so, the NCLT/NCLAT must ensure that they do not usurp the legitimate jurisdiction of other courts and tribunals when the dispute is one which does not arise solely from or relate to the insolvency of the CD. The SC left the broader question of validity / invalidity of ipso facto clauses in contracts open for the legislative intervention and appealed the legislature to provide concrete guidance.

Jaypee Kensington Boulevard Apartments Welfare Association & Ors. Vs. NBCC (India) Ltd. & Ors. [CA No. 3395/2020]

The SC was appalled with the developments leading to arrest of the IRP who was working pursuant to the order passed by the Court and entrusted with the functioning of the CD. It observed that the police official dealing with the case is not familiar with the provision of privilege of IRP appointed by the Court in terms of section 233 of the Code. While directing immediate release of the IRP, the SC directed the Investigation Officer not to take any coercive action against the IRP.

P. Mohanraj & Ors. Vs. M/s. Shah Brothers Ispat Pvt. Ltd. [CA No. 10355/2018]

On commencement of CIRP, the AA stayed further proceedings in the two criminal complaints filed under section 138 of the Negotiable Instruments Act, 1881. The NCLAT, however, set aside this order, holding that section 138, being a criminal law provision, cannot be held to be a ‘proceeding’ within the meaning of section 14. The SC considered whether the institution or continuation of a proceeding under section 138 of the Negotiable Instruments Act can be said to be covered by the moratorium under section 14. It held as under:

(a) A quasi-criminal proceeding which would result in the assets of the CD being depleted as a result of having to pay compensation which can amount to twice the amount of the cheque that has bounced would directly impact the CIRP in the same manner as the institution, continuation, or execution of a decree in such suit in a civil court for the amount of debt or other liability. Judged from the point of view of this objective, it is impossible to discern any difference between the impact of a suit and a section 138 proceeding, insofar as the CD is concerned, on it getting the necessary breathing space to get back on its feet during the CIRP.

(b) Section 14(1)(a) refers to monetary liabilities of the CD and section 14(1)(b) refers to the CD's assets, and together, these two clauses form a scheme which shields the CD from pecuniary attacks against it during the moratorium period so that the CD gets breathing space to continue as a going concern in order to ultimately rehabilitate itself. Any crack in this shield is bound to have adverse consequences.

(c) A moratorium does not extinguish any liability, civil or criminal, but only casts a shadow on proceedings already initiated and on proceedings to be initiated, and such shadow is lifted when the moratorium period comes to an end.

(d) A section 138 proceeding can be said to be a "civil sheep" in a "criminal wolf's" clothing, as it is the interest of the victim that is sought to be protected, the larger interest of the State being subsumed in the victim alone moving a court in cheque bouncing cases.

(e) A quasi-criminal proceeding contained in Chapter XVII of the Negotiable Instruments Act would, given the object and context of section 14 of the Code, amount to a "proceeding" within the meaning of section 14(1)(a) and therefore, the moratorium attaches to such proceeding.

(f) Moratorium would apply only to the CD, and the natural persons mentioned in section 141 of the Negotiable Instruments Act, 1881 shall continue to be statutorily liable under Chapter XVII of the Act.

A Navinchandra Steels Pvt. Ltd. Vs. SREI Equipment Finance Ltd. & Ors. [CA Nos. 4230-4234/2020]

The SC, while dealing with an insolvency application in respect of CD, against whom a winding up petition has already been admitted, observed that the Code is a special statute dealing with revival of the companies under distress and winding up only being resorted to in cases where all attempts of revival of the CD fail. The Companies Act, 2013 is a general statute; whereas the Code is not only a special statute which must prevail in the event of conflict, but also has a non-obstante clause contained in section 238, which makes it clear that in case of conflict, the provisions of the Code will prevail. The SC held that a petition either under section 7 or 9 of the Code is an independent proceeding which is unaffected by winding up proceedings that may be filed qua the same company. Given the object sought to be achieved by the Code, only where a company in winding up is near corporate death, no transfer of the winding up proceeding would take place to the AA to be tried as a proceeding under the Code.

Kridhan Infrastructure Pvt. Ltd. Vs. Venkatesan Sankaranarayan & Ors. [CA No. 3299/2020]

The order of liquidation was stayed earlier by the SC based on submission of the RA that it would deposit ₹ 50 crore by February 25, 2021. The RA submitted that it would be unable to raise funds from the term lenders who are insisting that the status of the CD should change from a company under liquidation to an active status. The SC observed that ultimately, what the request of the RA reduces to, is that it would raise funds on a mortgage of the assets of the CD and unless the CD is brought out of liquidation, it would not be able to raise funds, and this is unacceptable. It further observed that time is a crucial facet of the scheme under the Code and to allow such proceedings to lapse into an indefinite delay will plainly defeat the object of the Code. A good faith effort to resolve an insolvency is a preferred course. However, an RA must be fair in its dealings as well. Accordingly, the SC forfeited the sum of ₹ 20 crore already deposited by the RA and vacated the stay on liquidation.

Committee of Creditors of AMTEK Auto Ltd. through Corporation Bank Vs. Dinkar T Venkatasubramanian & Ors. [IA No. 58156/2020 in CA No. 6707/2019]

While dismissing an IA filed by Deccan Value Investors (DVI), the SC had ordered on June 18, 2020: "*The application made by the applicant for withdrawal of the offer is hereby rejected and in case he indulges in such kind of practice, it will be treated as contempt of this Court in view of the various orders passed by this Court at his instance.*" Subsequently on July 9, 2020, the AA passed an order approving the resolution plan submitted by DVI. DVI filed an appeal before the NCLAT challenging the order of the AA. While the appeal was pending, DVI, vide mail dated September 3, 2020, sought termination of resolution plan in view of outbreak of COVID-19 which constituted a 'Force Majeure Event'. It filed an IA on September 10, 2020 in the pending appeal before the NCLAT seeking cancellation and return of the performance bank guarantee. The CoC filed a contempt petition on the ground that DVI was in breach of the order of the SC dated June 18, 2020 by seeking to withdraw the resolution plan, while DVI filed an application for rectification of the order dated June 18, 2020 of the SC.

Dismissing the application for rectification, the SC observed that the application is an attempt to renege from the resolution plan which DVI submitted and to resile from its obligations. This is a devious attempt which

must be disallowed. The SC noted that plea seeking to re-examine the impact of the pandemic and to re-negotiate the terms of the resolution plan makes it clear that DVI was not willing to fulfill its obligations. To assert that there was any scope for negotiations and discussions after the approval of the resolution plan by the CoC would be plainly contrary to the terms of the Code.

The SC concluded that undoubtedly, the conduct of DVI has not been bona fide. It noted the statement on behalf of DVI that it will not set-up a plea of force majeure. It held: "*However lacking in bona fides the conduct of DVI was, we must be circumspect about invoking the contempt jurisdiction as setting up an untenable plea (force majeure) should not in and by itself invite the penal consequences which emanate from the exercise of the contempt jurisdiction. Likewise, the default of DVI in fulfilling the terms of the resolution plan may invite consequences as envisaged in law. On the balance, we are of the considered view that it would not be appropriate to exercise the contempt jurisdiction of this Court.*"

Ramesh Kymal Vs. M/s. Siemens Gamesa Renewable Power Pvt. Ltd. [CA No. 4050/2020]

The appellant issued a demand notice on April 30, 2020 specifying April 30, 2020 as the date of default. He filed an application under section 9 on May 11, 2020. During the pendency of the application, an Ordinance was promulgated on June 5, 2020 which inserted section 10A prohibiting filing of applications for CIRP for defaults arising on or after March 25, 2020. The AA did not admit the application. The NCLAT upheld the decision of the AA. The issue before the SC was whether section 10A prohibits an application filed before June 5, 2020 in respect of a default that occurred after March 25, 2020. While upholding the order of the NCLAT, the SC observed that the substantive part of section 10A is to be construed harmoniously with the first proviso and the explanation. Reading the provisions together, it is evident that Parliament intended to impose a bar on the filing of applications for the commencement of CIRP in respect of a CD for a default occurring on or after March 25, 2020. It further observed that the retrospective bar on the filing of applications for the commencement of CIRP during the stipulated period does not extinguish the debt owed by the CD or the right of creditors to recover it.

Phoenix ARC Pvt. Ltd. Vs. Ketulbhai Ramubhai Patel [CA No. 5146/2019]

The CD, by a pledge agreement, pledged 40160 shares of its subsidiary, Gondwana Engineers Limited, in favour of the creditor who had granted a credit facility to another company. The creditor filed a claim in respect of the credit facility in the CIRP of the CD. The RP did not consider the creditor as an FC as the CD's liability was restricted to pledge of shares. The SC held that a person having only security interest over the assets of CD, even if falling within the description of 'secured creditor' by virtue of collateral security extended by the CD, would not be covered by the definition of 'financial creditor' under the Code. The creditor in such a case will at best be secured creditor qua the security/CD but shall not be an FC qua the CD.

Manish Kumar Vs. Union of India & Anr. [WP (C) No. 26/2020]

The SC upheld the Insolvency and Bankruptcy Code (Amendment) Act, 2020 and made important findings and observations as under:

(i) *First proviso to section 7*: The legislative policy reflects an attempt at shielding the CD from what it considers would be either frivolous or avoidable applications. The amendment is likely to ensure that the filing of an application is preceded by a consensus at least by a minuscule percentage of similarly placed creditors that the time has come for undertaking a legal odyssey which is beset with perils for the applicants themselves apart from others. As regards the percentage of applicants contemplated under the proviso, it cannot be dubbed as an arbitrary or capricious figure.

(ii) *Second proviso to section 7*: (a) 'allotment' means allotment in the sense of documented booking as mentioned in section 11(1)(b) of the RERA. A person to whom allotment of a plot, apartment, or a building has been made is an allottee. The allottee would also include a person who acquires the allotment either through sale, transfer or otherwise; (b) To successfully move an application under section 7, there must be a default. Such default need not be qua the applicant or applicants. Any number of applicants, without any amount being due to them, could move an application under section 7, if they are FCs and there is a default, even if such default is owed to none of the applicants but to any other FC; (c) In the case of a joint allotment of an apartment, plot or a building to more than one person, the allotment will be treated as a single allotment. The objective is to ensure that there is a critical mass of allottees, who agree that the time is ripe to submit to the inexorable processes under the Code, with all its attendant perils. If an apartment is taken in the names of 100 persons, the allottees of that apartment would not represent a critical mass of the allottees of the project; and (d) The law does not interdict the creation of a class within a class absolutely. Should there be a rational basis for creating a sub-class within a class, it is not impermissible. A class within a sub-

class is, indeed, not antithetical to the guarantee of equality under Article 14.

(iii) *Third proviso to section 7*: (a) If a petitioner moves application in respect of the same default, as covered in its earlier application under unamended section 7, within a period of two months from the date of the order, in compliance with either the first or the second proviso under section 7(1), it will be exempted from payment of court fees; and (b) If an application under (a) above is accompanied by an application under section 5 of the Limitation Act, 1963, the period of delay shall be condoned for the period, during which the earlier application was pending with the AA.

(iv) *Explanation II to section 11*: The intention of the legislature was always to target the CD only insofar as it purported to prohibit application by the CD against itself, to prevent abuse of the provisions of the Code. It could never have been the intention to create an obstacle in the path of the CD, in any of the circumstances contained in section 11, from maximizing its assets by trying to recover the liabilities due to it from others. Not only does it go against the basic common-sense view, but it would frustrate the very object of the Code. The impugned Explanation clearly amounts to a clarificatory amendment. Being retrospective in nature, a clarificatory amendment will certainly apply to all pending applications also.

(v) *Section 32A*: Attaining public welfare very often needs delicate balancing of conflicting interests. As to what priority must be accorded to which interest must remain a legislative value judgement and if seemingly the legislature in its pursuit of the greater good appears to jettison the interests of some, it cannot, unless it strikingly ill squares with some constitutional mandate, suffer invalidation.

Rajkumar Brothers and Production Pvt. Ltd. Vs. Harish Amilineni Shareholder and erstwhile Director of Amilonn Technologies Pvt. Ltd. & Anr. [CA No. 4044/2020]

The AA admitted an application of an OC. On appeal, the NCLAT set aside the admission as there were pre-existing disputes. It directed the OC to pay the CIRP costs and fees. On further appeal, the SC upheld the impugned order and observed that the CD having succeeded cannot be saddled with the costs of CIRP initiated at the behest of the OC, and fees of the IRP.

Phoenix ARC Private Limited Vs. Spade Financial Services Ltd. & Ors. [CA No. 2842/2020]

The SC held: (a) The collusive commercial arrangements between FCs and the CD would not constitute a 'financial debt'; (b) The objects and purposes of the Code are best served when the CIRP is driven by external creditors, so as to ensure that the CoC is not sabotaged by related parties of the CD. The purpose of excluding a related party of a CD from the CoC is to obviate conflicts of interest; (c) Exclusion under the first proviso to section 21(2) is related not to the debt itself but to the relationship existing between a related party FC and the CD.; and (d) The FC, who *in praesenti* is not a related party, would not be debarred from being a member of the CoC. However, in case where the related party FC divests itself of its shareholding or ceases to become a related party in a business capacity with the sole intention of participating in the CoC and sabotage the CIRP, it would be in keeping with the object and purpose of the first proviso to section 21(2), to debar the former related party creditor.

High Courts

CA V. Venkata Siva Kumar Vs. The Union of India and Ors. [WP Nos. 11059 and 11062/2019]

The petitioner sought a direction to Union of India to constitute committees to look into the suggestions made by him vide his letters dated October 27, 2018 and November 18, 2018. The HC observed that it cannot issue any direction to the legislature to incorporate any suggestion put forth by the petitioner or to the executive as to the manner, in which bodies organized under the Act ought to function. The appropriate authorities will look into the matter and it will be completely open to such authorities to incorporate or reject the petitioner's suggestions or any part thereto.

Skillstech Services Private Limited Vs. Registrar, National Company Law Tribunal, New Delhi & Anr. [W.P.(C) 474/2021 & CM APPL. 1227/2021]

The petitioner filed an application under section 9 with the AA. However, the Registrar did not list the application on the ground that the threshold of the pecuniary jurisdiction of the AA has now been amended by a notification dated March 24, 2020, from ₹ 1 lakh to ₹ 1 crore. The HC held that the question as to whether the AA has jurisdiction to entertain a particular case or not cannot be determined by the Registrar in the administrative capacity. The Registrar would have to place the matter before the AA for the said question to be judicially determined. The question as to whether the notification dated March 24, 2020 applies to a particular application that has been filed prior to

the said notification or not is also a question to be determined by the AA and not by the Registrar.

National Company Law Appellate Tribunal

D & I Taxcon Services Private Limited Vs. Mr. Vinod Kumar Kothari, Liquidator of Nicco Corporation Limited [CA(AT)(Ins.) No. 1347/2019]

The NCLAT held that determination of valuation of claims falls within the domain of the Liquidator. Once it is found that the appellant is not an OC, it cannot seek declaration to adjudge a sale transaction affected by the Liquidator in respect of liquidation estate as being void. Further, the appellant is also not a member or partner of the CD. Therefore, it has no locus standi to seek any direction against the Liquidator as regards alleged undervalued sale transaction.

Supertech Township Project Ltd. Vs. Inderpal Singh Khandpur HUF [CA(AT)(Ins.) No. 17/2021]

The AA directed the CD to provide information about the allottees of the project to the respondent for meeting the threshold criteria to initiate the class action. While dismissing the appeal, the NCLAT observed that no legal right vested in the CD has been infringed by such direction and no prejudice can be claimed by the CD on account of providing such information. It directed the CD to display the information about the allottees with full particulars on its website within two weeks.

Himadri Foods Ltd. Vs. Credit Suisse Funds AG [CA(AT)(Ins.) No. 1060/2020]

The AA disposed of an application under section 7 in terms of the settlement arrived at between the parties after taking the settlement terms on record. As the appellant did not comply with settlement terms, the respondent sought revival of the application. The AA, in exercise of the powers conferred by rule 11 of the NCLT Rules, 2016, revived the application. The appellants preferred an appeal on the ground that revival could not be allowed by invoking rule 11. The NCLAT held that once the terms of settlement providing a repayment schedule was incorporated in the order, thereby making it an order/decree of the Court, the respondent can seek revival of application in case of non-compliance with the terms of settlement.

Sri D. Srinivasa Rao Vs. Vaishnovi Infratech Ltd. [CA(AT)(Ins.) No. 880/2020]

An OC served a demand notice on the CD. The notice returned undelivered as the addressee refused to accept the service. The AA rejected the application for initiation of CIRP on the ground that the demand notice was not served to the CD. On appeal, the NCLAT observed that the AA erred in arriving at a finding that the demand notice was not served on the CD. Where the CD refused to accept delivery of notice, the AA would not be justified to conclude that notice had not been served on the CD. The only inference available in the circumstances is that the CD was aware of the consequences and it deliberately refused to acknowledge the notice. The fault lies on the part of the CD for which it cannot be rewarded. The NCLAT set aside the order and remanded the matter to the AA to pass an order under section 9.

Shubham Jain Vs. Gagan Ferrrotech Ltd. & Anr. [CA(AT)(Ins.) No. 1008/2020]

The AA admitted an application under section 9, after demand notice was served on one of the directors of the CD and two demand notices sent to registered address and functional address of the CD returned with remarks 'addressee moved' and 'unclaimed' respectively. An appeal was preferred on the ground that the demand notice was not served on the CD. The NCLAT observed that the unclaimed notice must be treated as service of notice. It held that under section 2(59) of the Companies Act, 2013, a director is an officer and under section 20 of the Act, a document served on a company or an officer thereof is service recognised. Therefore, the service of notice on the director of the CD would satisfy the requirements of the Code and the same would be a valid service.

Mr. Shailendra Sharma Vs. Ercon Composites & Ors. [CA(AT)(Ins.) No. 159/2020]

The NCLAT observed that the proceedings under section 138 of the Negotiable Instruments Act, 1881 pertain to criminal liability for dishonour of cheques and do not bar an application under section 9. Likewise, the pendency of proceedings under Order 37 of the Civil Procedure Code, 1908 will not prohibit an application under section 9.

Ranjeet Kumar Verma Vs. Committee of Creditors of Straight Edge Contract Pvt. Ltd. [CA(AT)(Ins.) No. 1129/2020]

The CoC decided to replace the IRP with 100% of voting share. The NCLAT

held that the IRP has no *locus standi* to maintain an appeal against the decision of the CoC to replace him with another RP. He cannot claim invasion of any of his legal rights under the Code as he has no vested legal interest and is not a stakeholder. Also, he cannot argue that the constitution of CoC was bad as it was constituted by himself.

Prakash Shanker Mishra & Ors. Vs. Ashok Kriplani & Anr. [CA(AT)(Ins.) No. 34/2020]

It was submitted that the AA did not appoint persons selected by the CoC to serve as an RP and authorised representatives and instead appointed persons of its choice. Setting aside the order of the AA on appeal, the NCLAT held that the AA has no power to impose RP of its choice.

Harkirat Singh Bedi Vs. The Oriental Bank of Commerce & Ors. [CA(AT)(Ins.) No. 40/2020]

The appellant had submitted a resolution plan, which was rejected by the CoC on the ground that it was a wilful defaulter thus being ineligible under section 29A(b). In appeal, it contended that it was declared a wilful defaulter by SBI, State Bank of Travancore and Oriental Bank of Commerce without following the guidelines of RBI. The NCLAT held that determination of wilful defaulter is outside its jurisdiction. The RP cannot go into the correctness or incorrectness of declaration as wilful defaulter and can only rely on the present status of the resolution applicant. The appellant claimed the advantage of section 240A exempting applicability of section 29A. The NCLAT observed that the exemption is available only in respect of clause (c) and (h) of section 29A and not 29A(b).

Sodexo India Services Pvt. Ltd. Vs. Chemizol Additives Pvt. Ltd. [CA(AT)(Ins.) No. 1094/2020]

The AA disposed of an application filed under section 9, directing the CD, in the first instance, to make endeavours for resolution in respect of outstanding debt, failing which the appellant would be at liberty to invoke arbitration clause. The NCLAT found that the finding by the AA is unique and is not in conformity with the provisions embodied in section 9(5). It observed that the AA has only two options, either to admit application or to reject the same and no third option or course is postulated by law. As regards observation of the AA that the CD *prima facie* appears to be a solvent company, the NCLAT observed that the Code does not permit the AA to make a roving enquiry into the aspect of solvency or insolvency of the CD except to the extent of the FC or the OC, who sought triggering of CIRP.

Om Prakash Agrawal, Liquidator of S. Kumars Nationwide Limited Vs. Chief Commissioner of Income Tax (TDS) & Anr. [CA(AT)(Ins.) No. 624/2020]

The NCLAT observed that the Liquidator under the Code is not required to file income-tax return and there is no question of claiming refund of TDS deducted under section 194-IA of the Income-tax Act. It directed R1 to refund the amount of TDS to the Liquidator.

Adish Jain Vs. Sumit Bansal and Anr. [CA(AT)(Ins.) No. 379/2020]

The NCLAT observed that the 'power of review' is not an inherent power and has to be granted by statute and, therefore, it cannot be exercised. It clarified that the error must be a 'patent error' which is 'manifest' and 'self-evident' and the case in hand would amount to reappraisal of evidence and findings of fact, which cannot be revisited within the limited scope of exercise of powers under rule 11 of the NCLAT Rules, 2016.

Tuf Metallurgical Pvt. Ltd. Vs. Impex Metal & Ferro Alloys Ltd. & Ors. [CA(AT)(Ins.) No. 190 of 2020]

The NCLAT observed that section 20(2)(e) gives power to the IRP (subsequently RP) to take all actions as are necessary to keep the CD as a going concern. In managing the business operations of the CD, if advance payments for supply of goods is received, it cannot be treated as raising an interim finance. It is an advance for payment of goods which the CD, as a going concern, may be manufacturing. The goods are either to be supplied, or the amount should be returned. If the goods are not supplied, the purchaser cannot be made to run for his money. If this approach is not changed, it will become difficult to keep the CDs as a going concern. Such amount received as an advance payment for the supply of goods during the CIRP would have to be treated as CIRP costs.

Mr. Avil Menezes, RP of AMW Auto Component Ltd. Vs. Shah Coal Pvt. Ltd. [CA(AT)(Ins.) No. 63/2021]

The AA allowed the application of respondent to include it in the category of FC. The RP filed an appeal against the impugned order. The NCLAT observed that it is flabbergasting to find that the appeal has been preferred by the RP who is part of the CIRP mechanism. In terms of section 21(1), he is only supposed to collate the claims. He is not vested with any adjudicatory powers

and all actions taken by him are subject to control of the AA. Even a decision taken by the Liquidator regarding admission or rejection of the claim cannot be questioned by the Liquidator in appeal and it is only the creditor who can assail the same, being aggrieved party. The RP cannot be an aggrieved party and has no locus to maintain this appeal.

Kuldeep Verma Vs. State Bank of India and Ors. [CA(AT)(Ins.) No. 98/2021]

The NCLAT observed that even after the lapse of 981 days and repeated compliance by the RP of the direction of the AA, the AA has not yet considered initiation of liquidation as per section 33. It noted that whatever power vests in the AA is always available to the Appellate Authority. It passed the order for liquidation.

Surinder Kaur & Ors. Vs. International Recreation and Amusement Ltd. through RP [CA(AT)(Ins.) No. 208/2021]

It was submitted that the resolution plan was pending approval before the AA since 2019 and the matter has been adjourned as many as 18 times. The NCLAT directed the AA to take a call and pass an order on merit on the resolution plan within two weeks. It observed that there is need to introduce provision in the legal framework to vest power of superintendence and control qua AA in the Appellate Tribunal.

Pinakin Shah, Liquidator of Brew Berry Hospitalities Pvt. Ltd. Vs. The Assistant Commissioner of State Tax & Anr. [CA(AT)(Ins.) No. 32/2021]

R1 advised R2 (Kotak Mahindra Bank) to freeze the bank account of the CD under section 44 of the Gujarat Value Added Tax Act, 2003. The Liquidator filed an application with the AA for unfreezing the bank account. The AA dismissed the application and directed the Liquidator to approach the competent authority to redress his grievances. On appeal, the Liquidator contended that R1 is an OC and one OC cannot march over the other claimants without standing in queue under section 53 of the Code. All the creditors are entitled to get their dues only in terms of section 53 and different creditors cannot be allowed to resort to different proceedings and enactments. Further, the Code will override anything inconsistent contained in any other enactment. The Liquidator cannot be made to run to the parties and Authorities under the Sales Tax Act to get the account defrozeed. The NCLAT accepted the submissions of the appellant. It set aside the impugned order and directed R2 to defreeze the bank account of the CD.

Ravindra Chaturvedi (Liquidator of Excel Glasses Ltd.) Vs. Kopran Ltd. [CA(AT)(Ins.) (TR) No. 36/2021]

While disposing of a matter, the AA made certain observations and disparaging remarks against the Liquidator. On appeal, the NCLAT observed: "*Deviation from the procedural requirements would not tantamount to an act of misconduct of such magnitude which would scar a person for life. The conclusion in regard to there being a collusion between the liquidator and the applicant is not justified. The remarks of the Adjudicating Authority scarring the Liquidator as a tainted person cannot be supported.*" It accordingly expunged the disparaging remarks. It directed that if any action was initiated or contemplated to be initiated against the Liquidator, the same shall stand dropped.

National Company Law Tribunal

Mr. Dinesh Changela Windfield Vs. Berkman Wine Cellars India Pvt. Ltd. [CJP(1B) 1420/1&BP/MB/2019]

The applicant had advanced an unsecured short-term interest-free loan to the CD on specific understanding that upon resignation of the applicant from the board of directors of the CD and upon a demand thereafter being made for the same, the CD would immediately repay the said loan without any demur or delay. On failure to repay the amount, the applicant filed an application under section 7. The AA noted that a debt becomes financial debt if it is disbursed against time value of money, while the amount disbursed in the instant case was not against time value of money. Accordingly, it dismissed the application.

Subrata Monindranath Maity (Bhatia Coke and Energy Ltd.) Vs. Surender Singh Bhatia & Ors. [IA/05/2021 in IBA/307/2019]

The AA observed that if every RP is bombarded with criminal prosecution and police investigation, then no RP shall be able to conduct CIRP without fear or favour. For lawful discharge of duty as RP, accelerating criminal charges and using police to register complaint of criminal nature is not appropriate. If there are any irregularities on the part of the RP or his team, the erstwhile directors could have filed necessary complaints with the IBBI. The AA advised that the RP and his family members shall be given adequate protection. It permitted the police to proceed as per Criminal Procedure Code but directed that no action or harassment or arrest shall be made until the disposal of the

application.

IFCI Limited & Ors. Vs. M/s BS Ltd. (in liquidation) [IA No. 1148/2020 in CP(IB) No. 278/7/HDB/2018]

The AA considered whether a Liquidator can be removed by the FCs as members of erstwhile CoC for the actions of Liquidator which have been considered beyond the scope of his powers and duties under the Code. It was held that the erstwhile CoC members have no role to play, and they remain simply a group of claimants and that they cannot move an application for removal of Liquidator as there is no such provision under the law.

State Bank of India Vs. Rajendra Bhuta, IRP of Prabhat Technologies (India) Ltd. & Ors. [IA No. 440/2020 in CP No. 1874/MB/2019]

The AA observed that the amount raised under a Forward Purchase Agreement (FPA) would not come within the definition of a 'financial debt' unless it bears the dual attributes of having been disbursed against the consideration for time value of money and has the commercial effect of a borrowing. It held that since the FPAs in the present case were essentially forward contracts for supply of goods, the deed of guarantee executed by CD to pay the outstanding dues, if any, under the said FPAs would amount to an operational debt under section 5(21).

M/s. Propyl Packaging Limited Vs. Mr. George Varkey, RP [MA No. 162/KOB/2020 in IBA No. 52/KOB/2019]

The applicant sought a direction to RP to permit the Advocate, Chartered Accountant, Company Secretary of the CD to attend the meetings of CoC and to provide the copies of all documents in connection with the CIRP to these professionals. The AA held that no purpose will be served in allowing these professionals to attend CoC meetings. The RP, in his discretion, may appoint accountants, legal and other professionals following the due process as specified by the IBBI under section 25(2)(d). He is not permitted to disclose any information pertaining to the CIRP to any third-party including Advocate/CA/Company Secretary of the CD.

National Aviators' Guild Vs. Ashish Chhawchharia, RP & Anr. [IA No. 1862/MB/2020 in CP(IB) No. 2205/MB/2019]

The AA held that employees of the CD are neither entitled to receive a copy of the resolution plan submitted to the AA, nor to be heard while the resolution plan is considered by the AA for approval. The payments as to their wages and gratuity and other terminal benefits shall be in accordance with the law and in terms of the resolution plan guided by the provisions under the Code. The AA further held that the creditors who are not part of the CoC are only entitled to be informed, within 15 days of the order of the AA approving the plan, of the principle or formula for the payment of their debt under the plan.

K.G. Somani & Co. Vs. Arvind Garg, Liquidator [IA No. 06/2019 connected with IB/302/(ND)/2017]

The applicant was appointed as forensic auditor by an FC on July 18, 2017 while the CIRP commenced on September 25, 2017. The AA held that the work assigned to the applicant by the FC was prior to commencement of CIRP and could not be considered as forming part of CIRP costs.

M/s Punjab National Bank Vs. M/s. KSK Mahanadi Power Company Limited & Ors. [IA No. 32/2020 in CP(IB) No. 492/07/HDB/2019]

The AA observed that if it directs CoCs and RPs of different CDs to resolve insolvencies of different CDs together, there will be a chaotic situation relating to consolidation of assets and liabilities of all the CDs. The inherent jurisdiction of the AA under rule 11 of the NCLT Rules cannot be used to create such a situation. The AA further observed that in its limited jurisdiction, it cannot direct consolidation of CIRPs of different CDs.

George Vinci Thomas & Ors. Vs. Sasitharan Ramaswamy, RP, India Techs Limited & Ors. [IA No. 218/KOB/2020 in TIBA/14/KOB/2019]

The suspended directors of the CD filed an application seeking extension of CIRP by 90 days in order to get a potential RA. Dismissing the application, the AA observed that the RP can file an application for extension of the period of the CIRP, only if instructed to do so by a resolution passed at a meeting of the CoC by a vote of 75% of the voting shares.

Gaurav Jain Vs. Sanjay Gupta, Liquidator of Topworth Pipes and Tubes Pvt. Ltd. [IA No. 2264/2020 in CP (IB) No. 1239/MB/2018]

The AA noted that even though there is no specific provision in the Code for "sale of the Company as a going concern", the Liquidation Process Regulations provide guiding principles in dealing with the case. It held that "going concern" sale, in normal parlance, is transfer of assets along with the liabilities. However, as far as the 'going concern' sale in liquidation is concerned, there is a clear difference that only assets are transferred and the liabilities of the CD has to be settled in accordance with section 53 of the Code and hence the

purchaser of the assets takes over the assets without any encumbrance or charge and free from the action of the creditors. The legal entity of the CD survives and the assets with claims, limitations, licenses, permits or business authorisations remain with the CD. Only the ownership of the CD is acquired by the successful bidder and all creditors of the CD get discharged.

Shri Shakti Dyeing Works Vs. Berawala Textiles Private Limited. [CP(IB) No. 854/NCLT/AHM/2019]

A sole proprietorship concern filed an application under section 9. The AA held that a proprietorship concern is not a person under section 3(23) and hence the application is not maintainable.

M/s. Biogenetics Drugs Private Limited Vs. Themis Medicare Limited [CP(IB) No. 696/9/NCLT/AHM/2019]

An OC secured a decree through a civil suit for recovery of its dues from the CD. It filed an application under section 7 based on the said decree. The AA observed that though a decree holder is classified as creditor under section 3(10), the Code does not spell whether a decree holder be classified as FC or OC for the purpose of filing application. Relying on NCLAT order in the matter of Sh. Sushil Ansal Vs. Ashok Tripathi and Ors., the AA held that a decree holder cannot initiate CIRP with an object to execute a decree.

Phoenix Tech Power Pvt. Ltd. Vs. Dr. K. V. Srinivas & Ors. [IA No. 555/2020 in CP(IB) No. 143/7/HDB/2019]

An FC filed an application seeking removal of Telangana State Trade Promotion Corporation Ltd. (TSTPCL) from CoC, as it was a related party of the CD, holding 11% of shares in the CD, and having two nominee non-executive directors on the board of the CD. The AA noticed that decisions in matters referred to (a) to (r) in Article 61 of the Articles of Association of the CD are required to be taken by affirmative votes of three or more directors, including one director nominated by TSTPCL. It held that the nominee directors of TSTPCL have significant influence in the functioning of the CD. It accordingly found TSTPCL to be a related party as per clauses (a), (h), (j), (l) and (m) of section 5(24) of the Code and directed the RP to reconstitute the CoC by treating TSTPCL as a related party.

Santosh Choraria, RP of Suraj Fabrics Industries Limited Vs. Bipin Kumar Vohra & Ors. [IA(IB) No. 750/KB/2020 in CP(IB) No. 1635/KB/2018]

RP filed an application seeking directions to respondents to repay jointly and severally a sum to the CD in terms of section 44. The AA noted that as per regulation 35A of the CIRP Regulations, RP is required to make determination within 115 days and make an application before the AA within 135 days of commencement of CIRP. It observed that the RP filed the application on the 389th day of the CIRP. He filed the application after he filed application for approval of resolution plan. He did not make any determination, rather he has heavily relied on the Forensic Auditor's Report and has not given any independent reasons for determination of preferential transactions. The AA observed: "The feeling is inescapable that the RP has filed the application under section 43 read with section 44 of the Code only to avoid adverse scrutiny on the part of the IBBI and not with any real intention to pursue the alleged preferential transactions to their logical end." Accordingly, it dismissed the application.

M/s I. A. Dhas Vs. Hemant Sharma, Liquidator Vishwa Infrastructures Finance and Services Private Limited [IA No. 88/2021 in CP(IB) No. 329/7/HDB/2017]

The Liquidator rejected claim of the applicant on the ground that it was filed much later than permissible under the law. The applicant contended that section 38(1) provides for receiving or collating the claims of the creditors within a period of thirty day from the date of commencement of liquidation and there is no express bar that claims cannot be received after stipulated date. It prayed for condonation of delay of 540 days in filing the claim and for directing the Liquidator to accept his claim. The AA observed that there was an abnormal delay in filing the claim before the Liquidator. The applicant has not furnished any justifiable reasons for the delay. It is not convincing to believe that the person who is to get the substantial amount is not keeping track of happening in the CD. Accordingly, the AA dismissed the application.

Yuvraj Agarwal & Anr. Vs. Aspek Media Pvt. Ltd. [CP No. IB/221/ND/2019]

Two OCs filed a joint application under section 9. The AA observed that the application should be filed by OCs individually and not jointly. It held that a joint application by one or more OCs is not maintainable.

Special Courts

During the quarter, Special Courts took cognisance of the offences based on complaints filed by IBBI seeking prosecution of several persons for

contravention of provisions of the Code as under:

Sl. No.	Complaint Details	Special Court	Contraventions
1	IBBI Vs. Vinay Bhadhuriya & Anr. [SC/38/2021]	Gwalior	Ex-directors of NIII Infrastructure Pvt. Ltd. for concealment of property, transactions defrauding creditors and misconduct, which is in contravention of sections 19(1), 68, 69, 70 and 74 read with section 235A of the Code.
2	IBBI Vs. Nitin Jayantilal Sandesara & Ors. [SC/46/2021]	Pune	Ex-directors of PMT Machines Ltd. for statutory non-compliance, misrepresentation to creditors and misconduct, which is in contravention of sections 19(1), 70, and 73 read with 235A of the Code.
3	IBBI Vs. Sudhakar Muley & Ors. [SC/100031/2021]	Mumbai	Ex-directors and resolution applicant of Fortune Pharma Pvt. Ltd. for failure to comply with the terms of resolution plan, which is in contravention of sections 31(1) and 74(3) read with section 235A of the Code.
4	IBBI Vs. Sweety Aggarwal & Anr. [COMA/30/2020]	Gurugram	Ex-directors of Maruti Kesari Nandan Agrofoods Pvt. Ltd. for not extending cooperation to the IRP, which is in contravention of section 70(1)(a), (b), (c) and (e) and section 19(1) read with section 235A of the Code.
5	IBBI Vs. Vijaypal Garg & Ors. [CC/370/2020]	Delhi	Ex-directors of M/s Gee Ispat Pvt. Ltd. for not extending cooperation to the IRP and making false representation to creditors by showing non-existent debtors in their accounts, which is in contravention of sections 19(1), 70, 73 and 235A of the Code.
6	IBBI Vs. Formation Textiles LLC & Ors. [SC/0100303/2021]	Mumbai	Ex-directors and resolution applicant of Mandhana Industries Ltd. for failure to comply with the terms of resolution plan, which is in contravention of sections 31(1) and 74(3) read with section 235A of the Code.
7	IBBI Vs. Utkarsh Trivedi & Ors. [SC/0100852/2020]	Mumbai	Ex-directors of Neo Corp International Ltd. for not extending cooperation to the IRP, which is in contravention of sections 19(1) and 70(1)(a) and (c) read with section 235A of the Code.
8	IBBI Vs. Satyannarayan Malu & Anr. [SC/0100853/2020]	Mumbai	Ex-directors of SBM Paper Mills Pvt. Ltd. for misrepresentations made to creditors, which is in contravention of section 73(a) of the Code and regulation 30A of the CIRP Regulations read with section 235A of the Code.

Central Information Commission

In the matter of Avtar Singh Vinayak [CIC/MOCMI/A/ 2019/104714]

The appellant contended that the information sought could have been obtained by IBBI under section 196(1)(h) of the Code from IRP, who is under its direct supervision and regulatory control. The CIC observed that the information sought is related to a third party and to some extent personal in nature. It held that the information sought is not maintained by IBBI, therefore, no relief can be given to the appellant.

IBBI

During the quarter, the IBBI passed orders for contraventions of the provisions of law as under:

Sl. No.	Order against (IP / RV)	Professional Member of	Contraventions Found	Directions
1	Mr. Anil Goel	IPA ICAI	No contravention found.	No Direction.
2	Mr. A. Arumugam	IPA ICAI	Failed to provide copies of records which formed basis of constitution of CoC, claim receipts and verification to Inspecting Authority.	Shall not accept any new assignment under the Code for a period of two months.
3	Mr. Kedarram Ramratan Laddha	IIP ICAI	No contravention found.	No Direction.
4	Mr. Girish Siriram Juneja	IIP ICAI	No contravention found.	No Direction.
5	Mr. U. Balakrishna Bhat	IIP ICAI	No contravention found.	No Direction.
6	Mr. Vijaykumar V. Iyer	IIP ICAI	No contravention found.	No Direction.
7	Mr. Venkatesan Sankaranarayanan	IIP ICAI	The IP was found (a) to be guided by one of the CoC members while appointing professionals, (b) to be holding CoC meeting through audio mode only which is not permissible, (c) to have raised invoices in the name of his firm instead of his own name; (d) to have outsourced his primary duty of preparation of IM; (e) to have misrepresented by allowing the consulting firm to use his name on correspondence; and (f) to have issued power of attorney without due care and diligence.	Shall not accept any new assignment under the Code for a period of three months.

8	Mr. Kiran Chinubhai Shah	IIP ICAI	Not putting the fee of valuers for the approval/ratification by the CoC and including such fee in the cost disclosures.	Shall not seek or accept any process or assignment or render any services under the Code for a period of two months.
9	Mr. Sagar Dattatray	IIVIRVF	Concealment and misrepresentation of information in the application form, regarding the criminal proceedings pending against him.	Cancellation of the registration.
10	Mr. Lakhnan Lal Gupta	IOV RVF	Technical default.	Warning.

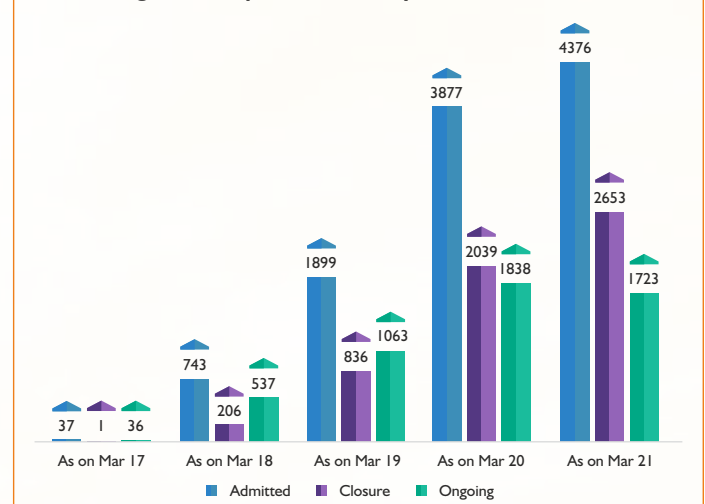
Corporate Processes

The data used in this section relating to corporate processes are provisional. These are getting revised continuously as further information is received from IPs or the information in respect of a process changes. For example, a process may ultimately yield an order for liquidation even after approval of resolution plan or may ultimately yield resolution plan even after an order for liquidation.

Insolvency Resolution

The provisions relating to CIRP came into force on December 1, 2016. Since then, a total of 4376 CIRPs have commenced by the end of March, 2021, as presented in Figure 1. Of these, 2653 have been closed. Of the CIRPs closed, 617 have been closed on appeal or review or settled; 411 have been withdrawn; 1277 have ended in orders for liquidation and 348 have ended in approval of resolution plans (Figure 2). Sectoral distribution of CDs under CIRP is presented in Figure 3-6.

Figure 1: Corporate Insolvency Resolution Process



These CIRPs are in respect of 4289 CDs. Source: Compilation from website of the NCLT and filings by Insolvency Professionals.

Figure 2: Mode of closure of CIRPs

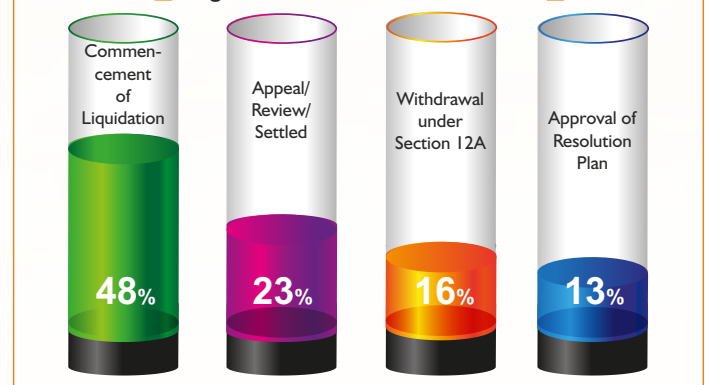


Figure 3: Sectoral Distribution of CIRPs: Admission

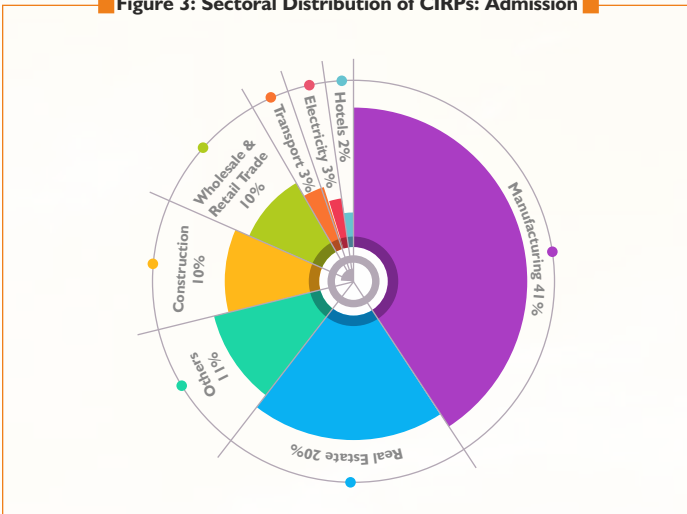


Figure 4: Sectoral Distribution of CIRPs: Appeal/Review/Settled/Withdrawn

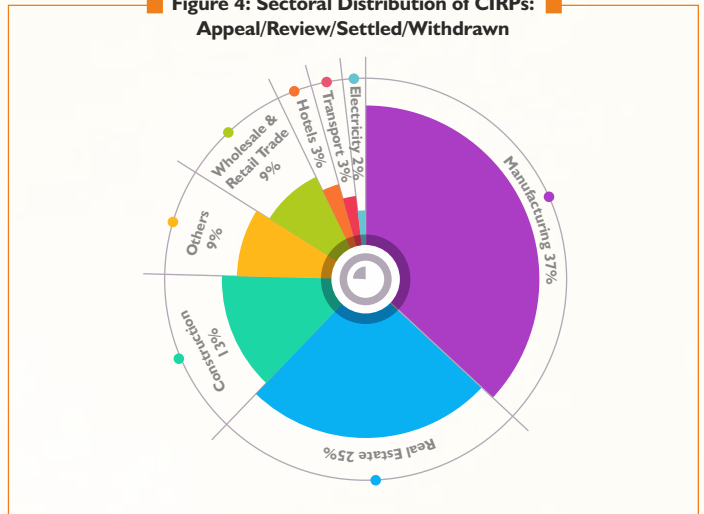


Figure 5: Sectoral Distribution of CIRPs: Resolved

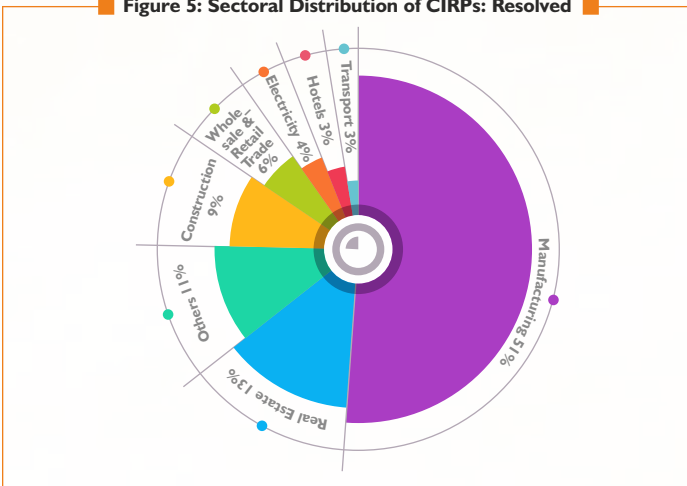
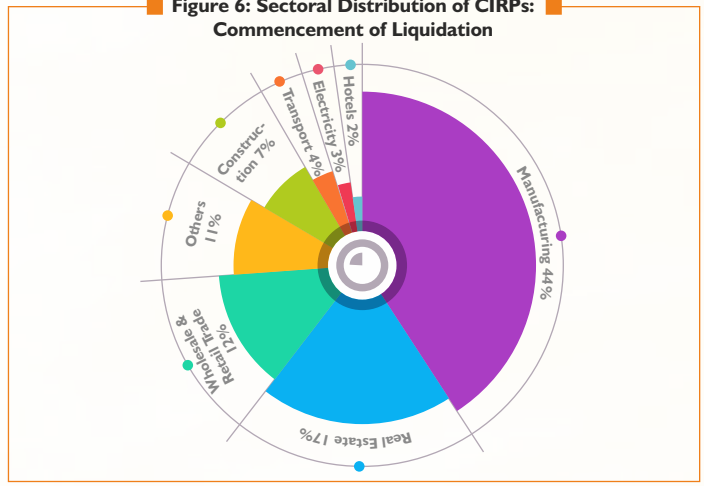
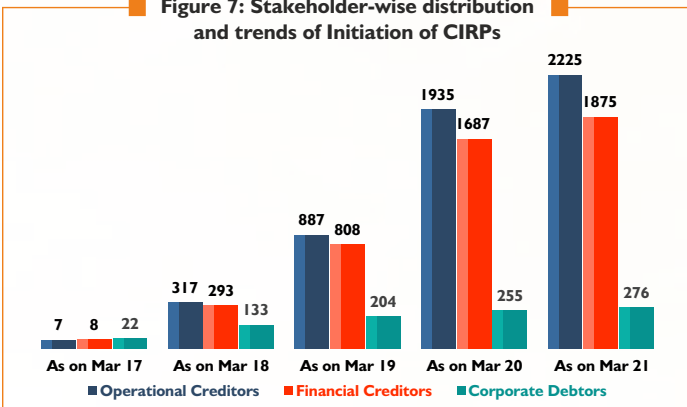


Figure 6: Sectoral Distribution of CIRPs: Commencement of Liquidation



The distribution of stakeholder-wise initiation of CIRPs is presented in Figure 7. OCs triggered 50.85% of the CIRPs, followed by about 42.85% by FCs and remaining were initiated by the CDs. However, about 80% of CIRPs having an underlying default of less than ₹ 1 crore were initiated on applications by OCs while about 80% of CIRPs having an underlying default of more than ₹ 10 crore were initiated on applications by FCs. The share of CIRPs initiated by CDs is declining over time. They usually initiated CIRPs with high underlying defaults.

Figure 7: Stakeholder-wise distribution and trends of Initiation of CIRPs



The outcome of CIRPs, initiated stakeholder-wise, as on March 31, 2021 is presented in Figures 8-10. About 51% of OC initiated CIRPs were closed on appeal, review, or withdrawal. Such closures accounted for about 71% of all closures by appeal, review, or withdrawal.

Figure 8: Distribution of closed CIRPs - Initiated by CD

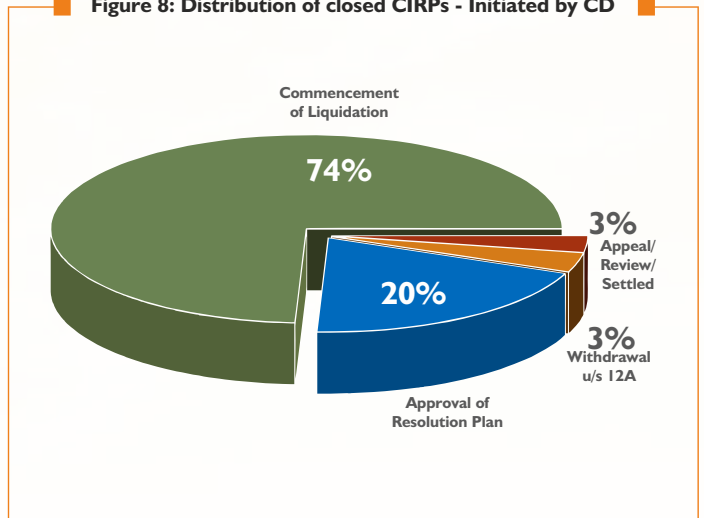


Figure 9: Distribution of closed CIRPs - Initiated by FC

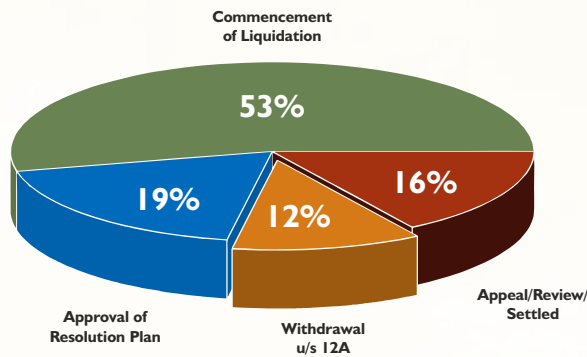


Figure 10: Distribution of closed CIRPs - Initiated by OC

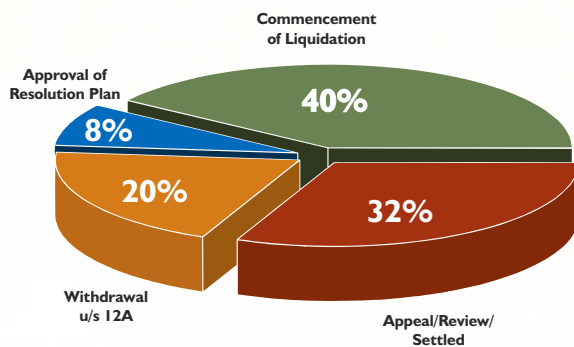


Figure 12: Reasons for Withdrawal of CIRPs

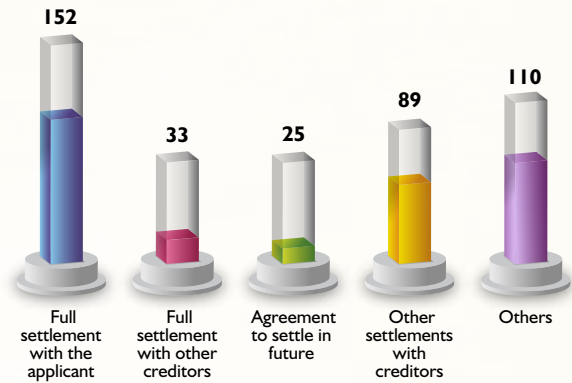
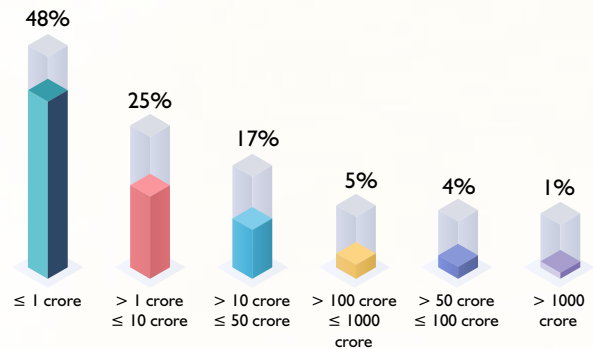
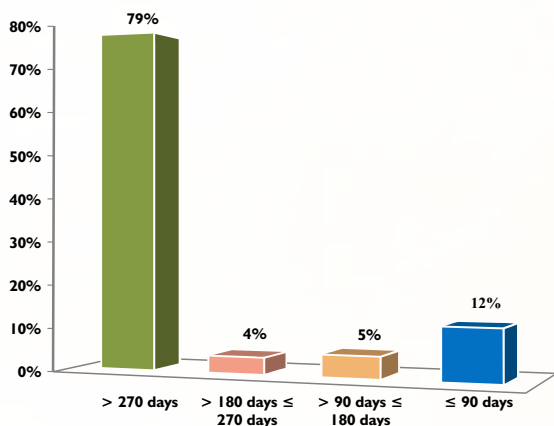


Figure 13: Distribution of CIRPs Withdrawn (as per Admitted Claims)



The status of ongoing CIRPs as on March 31, 2021 in terms of time taken is presented in Figure 11.

Figure 11: Timeline: Ongoing CIRPs



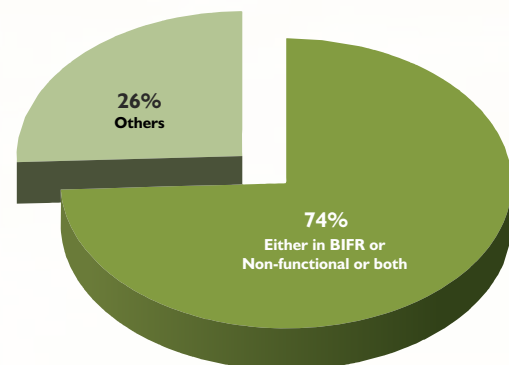
Withdrawals under Section 12A

Till March, 2021, a total of 411 CIRPs have been withdrawn under section 12A of the Code. The reasons for withdrawal and distribution of claims in these CIRPs are presented in Figure 12 and 13.

Resolution Plans

About 48.13% of the CIRPs, which were closed, yielded orders for liquidation, as compared to 13.12% ending up with a resolution plan. However, 74.37% of the CIRPs ending in liquidation (946 out of 1272 for which data are available) were earlier with BIFR and / or defunct (Figure 14). The economic value in most of these CDs had already eroded almost completely before they were admitted into CIRP. These CDs had assets, on average, valued at less than 5% of the outstanding debt amount.

Figure 14: CIRPs ending with Order of Liquidation: State of CD at the Commencement of CIRP

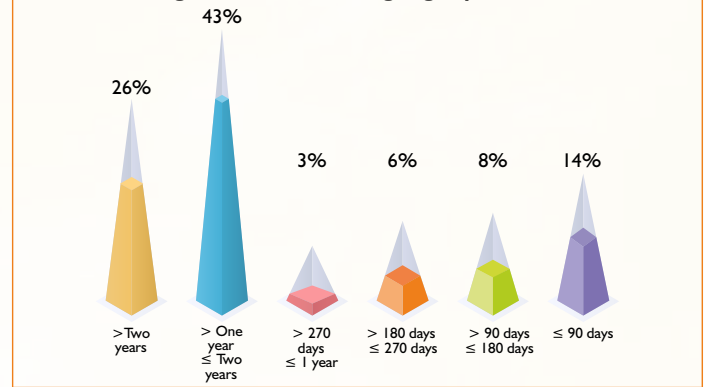


Till December, 2020, 317 CIRPs had yielded resolution plans as presented in the last newsletter. Two more CIRPs were later reported as yielding resolution plans during that period, as presented in Part A of Table I. During January - March, 2021, 29 CIRPs yielded resolution plans with varying degrees of realisation as compared to the liquidation value as presented in Part B of Table I. During the quarter, realisation by FCs under resolution plans in comparison to liquidation value is 131.07%. Till March, 2021, realisation by FCs under resolution plans in comparison to their claims is 39.26%. It is important to note that out of the 348 CDs rescued under the processes under the Code, 120 were in either BIFR or defunct.

Liquidation

Till December, 2020, a total of 1126 CIRPs had yielded orders for liquidation, as presented in the previous Newsletter. Two more CIRPs were later reported as yielding orders for liquidation during that period. During the quarter January - March, 2021, 149 CIRPs ended in orders for liquidation, taking the total CIRPs ending in liquidation to 1277, excluding 10 cases where liquidation orders have been set aside by NCLT / NCLAT / HC / SC. Of these, final report has been submitted in 240 cases. There are 1037 ongoing liquidation processes, whose status as on March 31, 2021 is presented in Figure 15.

Figure 15: Timeline: Ongoing Liquidations



Till December 2020, 100 liquidation processes were closed by dissolution / going concern sale / compromise or arrangement as presented in the last newsletter. Dissolution of four more CDs, which happened during the earlier period were reported later, as presented in Part A of Table 2. During January - March, 2021, 34 more liquidation processes were closed, taking total number of closures by dissolution / sold as going concern / compromise or arrangement to 138. The details of the same are presented in Table 2. At the end of March, 2021, 128 liquidations closed by dissolution, 6 by going concern sale and 4 by compromise/arrangement.

Table I: CIRPs Yielding Resolution

(Amount in ₹ crore)

Sl. No.	Name of CD	Defunct (Yes/No)	Date of Commencement of CIRP	Date of Approval of Resolution Plan	CIRP initiated by	Total Admitted Claims of FCs	Liquidation Value	Realisable by FCs	Realisable by FCs as % of Admitted Claims	Realisable by FCs as % of Liquidation Value
Part A: Prior Period (Till December 31, 2020)										
1	Kharkia Steels Private Limited	NA	20-09-19	21-09-20	FC	411.16	6.52	8.22	2.00	126.07
2	V3 Engineers Private Limited	Yes	02-03-20	21-09-20	OC	0.74	0.14	0.00	0.34	1.79
3	Educomp Infrastructure and School Management Limited	NA	25-04-18	14-12-20	CD	904.04	462.39	499.88	55.29	108.11
Part B: January - March, 2021										
1	Bigmoon Buildcon Private Limited	No	03-09-19	04-01-21	FC	34.43	14.66	18.50	53.73	126.19
2	Garden Silk Mills Limited	No	24-06-20	01-01-21	FC	2090.46	694.18	717.50	34.32	103.36
3	Parabolic Drugs Limited	No	23-08-18	12-01-21	OC	1515.58	110.00	103.68	6.84	94.25
4	Vardhman Chemtech Limited	No	25-09-18	12-01-21	FC	411.92	14.02	27.54	6.69	196.43
5	Shetkari Sakhar Karkhana (Chandapuri) Limited	Yes	14-01-19	22-01-21	OC	69.30	24.85	22.49	32.45	90.50
6	Nijinoy Trading Private Limited	Yes	25-04-19	18-01-21	OC	1.24	0.15	0.10	8.06	66.67
7	Prius Commercial Projects Private Limited	No	09-08-19	04-01-21	FC	844.79	429.07	443.13	52.45	103.28
8	NTL Electronics India Limited	No	27-08-19	07-01-21	OC	139.44	18.74	17.84	12.79	95.20
9	Capital Auto Rubber Products Private Limited	Yes	06-09-19	08-02-21	OC	9.70	4.55	5.20	53.59	114.36
10	Prosperity Steels Limited	Yes	04-10-19	18-02-21	OC	3.04	1.62	0.17	5.59	10.49
11	Sungracia Tiles Private Limited	Yes	04-12-19	18-02-21	OC	13.15	11.04	11.21	85.25	101.54
12	Uniwold Sugars Private Limited	Yes	29-05-18	17-03-21	OC	138.03	52.69	45.77	33.16	86.87
13	Ashtavinayak Auto Private Limited	Yes	06-11-18	05-03-21	OC	7.18	0.30	0.09	1.20	28.27
14	AVK Automall Private Limited	Yes	06-11-18	05-03-21	OC	7.20	0.32	0.09	1.21	27.46
15	AVK Automart Private Limited	Yes	06-11-18	05-03-21	OC	50.25	0.34	0.52	1.03	151.29
16	Aristo Developer Private Limited	No	20-11-18	23-03-21	OC	2403.85	754.84	1820.24	75.72	241.14
17	Shree Vindhya Papers Mills Limited	Yes	07-06-19	02-02-21	FC	1816.17	4.11	10.60	0.58	257.91
18	SEL Manufacturing Company Limited	No	11-04-18	10-02-21	FC	7242.28	997.88	1089.50	15.04	109.18
19	Celestial Estate Private Limited*	NA	11-03-19	15-03-21	FC	-	-	-	-	-
20	NS Papers Limited*	NA	09-07-19	23-02-21	FC	-	-	-	-	-
21	Fortuna Urbanscape Private Limited	Yes	09-08-19	29-01-21	FC	167.21	18.07	37.87	22.65	209.62
22	Panel Boards and Laminates Limited	Yes	20-08-19	01-03-21	OC	18.28	7.02	5.13	28.06	73.08
23	Perfect Boring Private Limited*	NA	30-09-19	16-03-21	OC	-	-	-	-	-
24	PVS Memorial Hospital Private Limited	No	16-10-19	22-02-21	OC	146.11	122.91	114.56	78.41	93.21
25	Skipper Homes Private Limited	No	21-10-19	11-02-21	FC	10.52	1.41	4.63	44.01	328.37
26	RD Alloys Private Limited	Yes	25-10-19	24-03-21	FC	11.82	14.36	4.87	41.20	33.91
27	Churakulam Tea Estates Private Limited	No	28-11-19	08-01-21	FC	17.32	41.74	17.32	100.00	41.49
28	Hindustan News Print Ltd	No	28-11-19	29-01-21	FC	209.09	162.70	72.30	34.58	44.44
29	Bristo Foods Private Limited	No	20-12-19	29-01-21	FC	11.38	2.43	1.87	16.40	76.89
Total (January - March, 2021)						17389.73	3504.00	4592.71	26.41	131.07
Total (Till March, 2021)						516046.95	112643.66	202617.81	39.26	179.88

Defunct: Not Going Concern/ Erstwhile BIFR.

*Data awaited in 3 CIRPs.

Table 2: Details of Closed Liquidations

(Amount in ₹ crore)

Sl. No.	Name of CD	Date of Order of Liquidation	Amount of Admitted Claims	Liquidation Value	Sale Proceeds	Amount Distributed to Stakeholders	Date of Order of Dissolution
Part A: Prior Period (Till December 31, 2020)							
1	ABXL Retails (India) Private Limited	02-07-18	4.97	NA	NA	NA	04-12-18
2	Optic Advisory Services Private Limited	03-06-19	34.83	NA	NA	NA	27-11-20
3	Gee Pee Infotech Pvt Ltd	31-01-20	210.67	NA	NA	NA	14-12-20
4	Vipul Travels Private Limited	03-12-19	7.29	NA	NA	NA	14-12-20
Part B: January - March, 2021							
1	Reliable Insupacks Private Limited**	11-10-19	19.83	8.00	8.90	8.54	05-01-21
2	Bunt Solar India Private Limited	05-09-19	8.75	NA	NA	NA	06-01-21
3	Bhaskar Marine Services Private Limited*	06-01-21	0.92	NA	NA	NA	06-01-21
4	Innovative Studios Private Limited**	06-01-20	84.24	75.52	37.99	37.43	08-01-21
5	Well Pack Paper and Containers Limited	07-06-18	7.84	NA	NA	NA	08-01-21
6	Shriramrathi Steels Private Limited	10-06-19	218.00	14.19	15.30	13.39	12-01-21
7	Special Prints Ltd	10-02-20	3.12	NA	NA	NA	12-01-21
8	Diamond Polymers Private Limited	06-02-18	70.43	0.89	0.50	NA	15-01-21
9	Bumblebee Electronics Private Limited	28-03-18	21.38	0.51	0.25	0.13	18-01-21
10	Ruby Cables Limited	05-02-18	40.92	4.49	5.10	4.72	28-01-21
11	Linus Processors Private Limited	19-12-18	30.14	2.39	2.19	1.93	28-01-21
12	Carnation Auto India Private Limited	01-08-18	220.80	0.47	0.48	NA	28-01-21
13	SGP Software Solutions Private Limited	26-08-20	3.84	0.01	0	NA	01-02-21
14	Baffin Engineering Projects Limited	19-07-19	0.82	NA	NA	NA	02-02-21
15	Four Coins Global India Private Limited	01-07-20	4.23	NA	NA	NA	03-02-21
16	Chaitra Glaze Private Limited	12-03-20	2.68	0.49	0.48	0.02	04-02-21
17	Winwind Power Energy Private Limited#	08-08-19	856.77	78.00	64.28	61.62	08-02-21
18	Alucast Auto Parts Limited	02-09-20	255.09	0.08	0.08	NA	10-02-21
19	Pack Tech Systems Private Limited	24-04-19	3.81	NA	NA	NA	10-02-21
20	Nagarjuna Oil Refinery Limited	26-11-19	20.37	1.32	1.51	1.11	11-02-21
21	R.E.Cables & Conductors Private Limited	20-09-19	134.79	8.19	10.98	10.91	17-02-21
22	Avni Energy Solutions Private Limited	01-05-19	36.91	1.85	1.93	1.58	26-02-21
23	Arrow Resources Limited	04-07-18	0.58	0.14	0.07	0.04	03-03-21
24	Sarvottam Vegetable Oil Refinery Private Limited	08-08-19	62.20	3.31	4.00	3.38	04-03-21
25	Ceeyes Software Technologies Private Limited	29-11-19	0.15	NA	NA	NA	05-03-21
26	Shreem Wires Private Limited	11-07-19	103.48	1.82	1.52	1.39	08-03-21
27	S3 Electrical & Electronics Private Limited	26-11-19	13.09	0.61	0.49	0.25	08-03-21
28	Vibha Overseas Exim Private Limited	17-10-19	167.72	0.25	0.29	0.10	08-03-21
29	Topworth Pipes & Tubes Private Limited#	12-06-20	2731.82	152.00	190.90	186.78	09-03-21
30	Shree Padmavati Sortex Private Limited	27-11-19	24.88	2.55	2.55	2.43	10-03-21
31	Zed Fabs India Private Limited	20-09-19	1.24	0.17	0.06	NA	11-03-21
32	Narayanaa Electrical Solutions Private Limited	20-09-19	58.97	0.16	0.16	0.11	11-03-21
33	Sharnam Industries Private Limited	14-02-19	2.05	NA	NA	NA	23-03-21
34	Bansal International Private Limited	06-08-20	0.06	0	0	NA	24-03-21
Total (January - March, 2021)			5211.92	357.41	350.01	335.86	NA
Total (Till March, 2021)			17523.49	651.97	632.61	600.60	NA

'0' means an amount below two decimals.

NA means Not realisable/Saleable or no asset left for liquidation or Not applicable.

* Direct Dissolution; Claims pertain to CIRP period

Sale as a Going concern.

** Compromise or arrangement under section 230 of the Companies Act, 2013

Sale as a Going Concern

Till March 31, 2021, six CDs, namely, M/s. Emmanuel Engineering Private Limited, M/s. K.T.C. Foods Private Limited, M/s. Southern Online Bio Technologies, M/s. Smaat India Private Limited, M/s. Winwind Power Energy Private Limited and M/s. Topworth Pipes & Tubes Private Limited were closed by sale as a going concern under liquidation process. These six CDs had claims amounting to ₹4325.16 crore, as against the liquidation value of ₹290.03 crore. The liquidators in these cases realised ₹336.76 crore and companies were rescued.

The AA passes an order for liquidation under four circumstances. As on March 31, 2021, 1277 orders for commencement of liquidation have been passed. The details of liquidation as in terms of these circumstances are presented in Figure 16.

Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016 requires the liquidator to make a public announcement calling upon stakeholders to submit their claims as on the liquidation commencement date, within 30 days from the liquidation commencement date. The details of the claims admitted by the liquidators in 1084 liquidations, for which data are available, are presented in Table 3.

Figure 16: Reasons for Liquidations

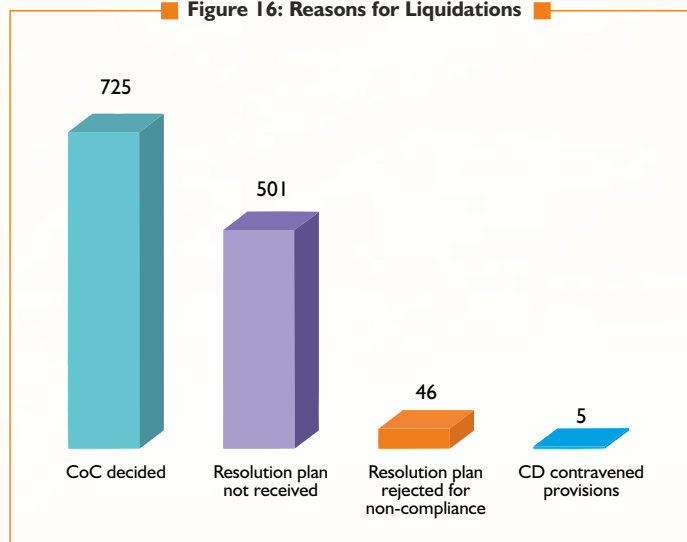


Table 3: Claims in Liquidation Process (Amount in ₹ crore)

Stakeholders under Section	Number of Claimants	Amount of claims Admitted	Liquidation Value	Amount Realised#	Amount Distributed
240 Liquidations where Final Report Submitted					
52	23	726.14	94.52	100.74	100.17
53 (I) (a)	NA	NA			47.99
53 (I) (b)	1409	26961.71			825.29
53 (I) (c)	698	10.87			1.74
53 (I) (d)	270	1325.27			29.15
53 (I) (e)	187	2413.94	1004.67	956.34#	11.79
53 (I) (f)	879	1610.00			34.50
53 (I) (g)	4	11.54			0.10
53 (I) (h)	96	26.27			1.51
Total (A)	3566	33085.74	1099.19	1057.08#	1052.24
Ongoing 844 Liquidations*					
53 (I) (a)					
53 (I) (b)	38128	468093.12			
53 (I) (c)	28055	1278.96			
53 (I) (d)	9027	102724.56			
53 (I) (e)	917	25667.33	32695.29**	Not Applicable	Not Applicable
53 (I) (f)	1960530	31092.71			
53 (I) (g)	0	0			
53 (I) (h)	688	2649.21			
Total (B)	2037345	631505.89			
Grand Total (A+B)	2040911	664591.63	33794.48		

Inclusive of unclaimed proceeds of ₹4.84 crore under liquidation.

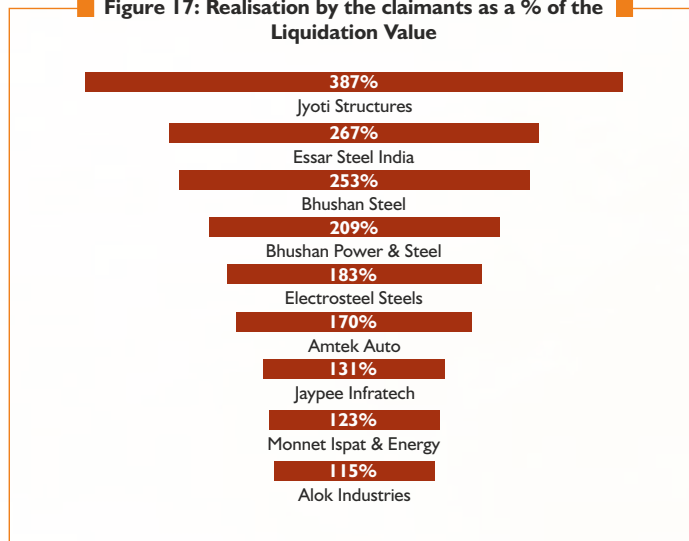
* Data for other liquidations are not available.

** Out of 1037 ongoing cases, liquidation values of only 877 CDs is available. Liquidation values of 614 CDs taken during liquidation process is ₹32695.29 crore and liquidation value of rest of the 263 CDs captured during CIRP is ₹9355.42 crore.

Twelve large accounts

Resolution of 12 large accounts were initiated by banks, as directed by RBI. They had an aggregate outstanding claim of ₹3.45 lakh crore as against liquidation value of ₹73,220 crore. Of these, resolution plans in respect of nine CDs were approved and orders for liquidation were issued in respect of two CDs. Thus, CIRPs in respect of one CD and liquidation in respect of two CDs are ongoing and are at different stages of the process. The status of the 12 large accounts is presented in Figure 17.

Figure 17: Realisation by the claimants as a % of the Liquidation Value



Resolution of FSPs

On an application filed by the RBI to initiate CIRP against Dewan Housing Finance Corporation Ltd (DHFL), the AA admitted the application on December 3, 2019. Mr. R. Subramaniakumar was appointed as the Administrator. This is the first FSP admitted for resolution under the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority)

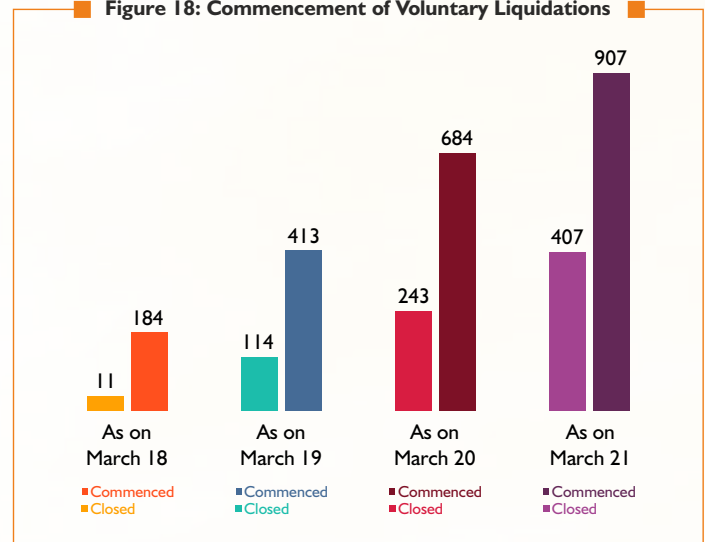
Rules, 2019, which were notified on November 15, 2019.

The CoC of DHFL approved in January 2021 the resolution plan submitted by Piramal Capital and Housing Finance. The Administrator has submitted the resolution plan to the AA for its approval after obtaining no-objection from the RBI.

Voluntary Liquidation

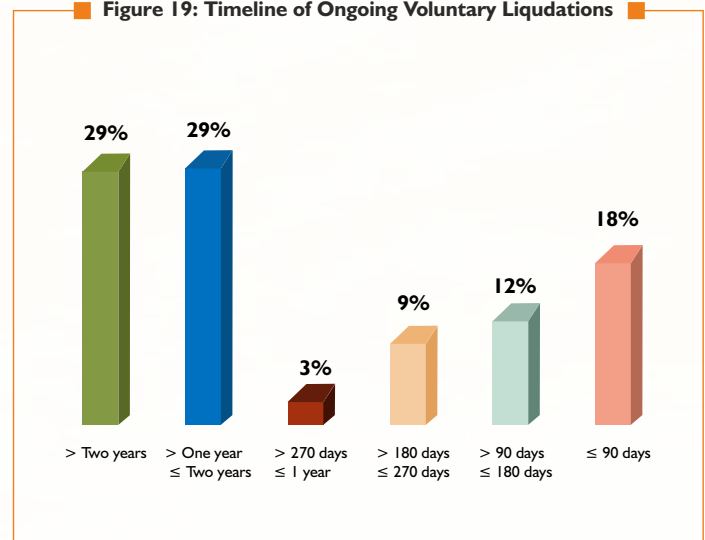
A corporate person may initiate voluntary liquidation proceeding if majority of the directors or designated partners of the corporate person make a declaration to the effect that (i) the corporate person has no debt or it will be able to pay its debts in full, from the proceeds of the assets to be sold under the proposed liquidation, and (ii) the corporate person is not being liquidated to defraud any person. Till the end of March 31, 2021, 907 corporate persons initiated voluntary liquidation (Figure 18). Final reports in respect of 400 voluntary liquidations have been submitted and seven processes have been withdrawn by March 31, 2021.

Figure 18: Commencement of Voluntary Liquidations



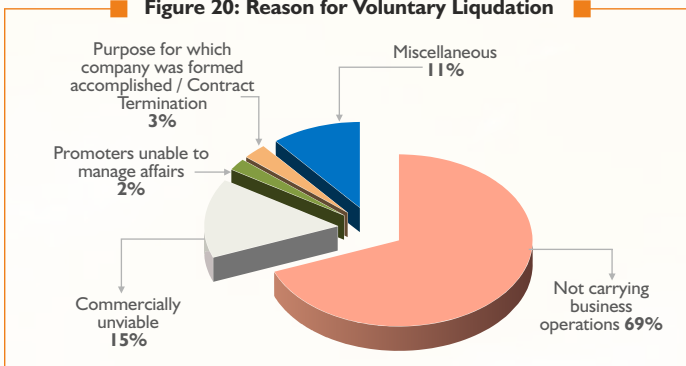
The status of 500 ongoing voluntary liquidations is presented in Figure 19.

Figure 19: Timeline of Ongoing Voluntary Liquidations



Of the 907 corporate persons that initiated voluntary liquidations till March 31, 2021, the reasons for these initiations are available for 792 cases, which are presented in Figure 20.

Figure 20: Reason for Voluntary Liquidation



Most of these corporate persons are small entities. 496 of them have paid-up equity capital of less than ₹1 crore. Only 100 of them have paid-up capital exceeding ₹5 crore. The corporate persons, for which details are available, have an aggregate paid-up capital of ₹5591 crore (Table 4).

Table 4: Details of 900 Voluntary Liquidations (excluding 7 withdrawals)

Details of	No. of Liquidations	Paid-up capital	Assets	Outstanding debt	Amount paid to creditors	Surplus
Liquidations for which Final Reports submitted	400	1570*	3618	25	25	3308
Ongoing Liquidations	500	4021#	1697#	**	**	**
Total	900	5591	5315	**	**	**

* Paid up capital is not available in case of one company as it is a limited by guarantee company where there exist no shareholders and paid-up capital.

** For ongoing liquidations, outstanding debt amount is not available.

Paid up capital and assets of 387 and 377 cases, respectively, are available.

It was reported in the last newsletter that dissolution orders were passed in respect of 182 liquidations. Dissolution orders in respect of 18 more liquidation, which were issued during the earlier period, were reported later, as indicated in Part A of Table 5. During the quarter January - March, 2021, dissolutions orders in respect of 26 voluntary liquidations were issued taking the total dissolutions to 226. These 226 corporate persons owed ₹10.27 crore to creditors and through voluntary liquidation process, they were paid ₹10.27 crore.

Table 5: Realisations under Voluntary Liquidations

Sl. No.	Name of Corporate Person	Date of Commencement	Date of Dissolution	Realisation of Assets	(Amount in ₹ crore)			
					Amount due to Creditors	Amount paid to Creditors	Liquidation Expenses	Surplus
Part A: Prior Period (Till December 31, 2020)								
1	Good Earth Properties and Services Private Limited	31-03-18	06-11-19	9.30	-	-	0.07	9.23
2	Honest Merchandise Private Limited	26-11-18	13-02-20	0.01	-	-	0.01	-
3	Lalit Polymers & Electronics Limited	05-09-19	02-03-20	0.30	-	-	0.13	0.17
4	Homeshine Properties LLP	26-11-18	13-03-20	0.68	-	-	0.02	0.66
5	Witworks Consumer Technologies Private Limited	12-09-18	11-06-20	1.56	-	-	0.18	1.38
6	Sandrome Projects Private Limited	07-08-19	16-06-20	0.17	-	-	0.02	0.15
7	Alexandria Services (India) Private Limited	22-01-18	10-09-20	0.22	-	-	0.07	0.14
8	Sahibganga Bridge Private Limited	30-09-19	28-09-20	0.04	-	-	0.04	-
9	Star Machine Engineers Private Limited	30-03-19	16-10-20	1.29	-	-	0.24	1.05
10	Huawei Digital (India) Private Limited	01-05-19	16-10-20	0.37	0.02	0.02	0.09	0.26
11	Fastbooking India Private Limited	05-04-19	11-11-20	1.87	-	-	0.11	1.76
12	Sterling Fincap Private Limited	13-01-20	23-11-20	2.60	-	-	0.45	2.15
13	Devrelkha Engineers Private Limited	22-04-19	27-11-20	1.29	-	-	0.02	1.27
14	Qplum Software Labs Private Limited	16-08-19	07-12-20	0.20	-	-	0.08	0.12
15	Hatfield Technologies India Private Limited	15-07-19	07-12-20	0.04	-	-	0.03	0.01
16	Prevas India System Development Private Limited	05-08-19	09-12-20	0.20	-	-	0.20	-
17	Blue Foods Private Limited	20-06-19	10-12-20	0.01	-	-	0.01	-
18	Bluskills Education Private Limited	26-12-18	14-12-20	0.04	-	-	0.04	-

Part B: January - March, 2021								
1	Two Roads Technological Solutions Private Limited	05-02-20	05-01-21	2.03	-	-	0.41	1.62
2	Authoria Software Development Private Limited	19-03-18	11-01-21	0.02	-	-	0.02	-
3	Indian Transelectric Company Limited	03-03-20	12-01-21	0.76	-	-	0.03	0.73
4	Qualkraft Engineering Private Limited	27-12-18	22-01-21	2.14	-	-	0.19	1.95
5	Cowgill Holloway Support India Private Limited	14-03-19	27-01-21	0.22	-	-	0.06	0.16
6	Aten Portfolio Managers Private Limited	21-10-19	28-01-21	1.75	-	-	0.03	1.72
7	P N Investment Private Limited	30-09-19	28-01-21	0.24	-	-	0.05	0.20
8	Ascentis India Construction Private Limited	15-01-20	01-02-21	0.71	-	-	0.13	0.58
9	Precon Private Limited	18-02-20	03-02-21	1.32	-	-	0.03	1.29
10	Chudgar Ranchhodlal Jethalal Trade Private Limited	19-02-19	03-02-21	0.70	-	-	0.09	0.62
11	Brics Online Services Private Limited	26-03-19	03-02-21	0.01	-	-	0.01	-
12	Parks Webtech Limited	24-02-18	05-02-21	0.04	-	-	0.01	0.03
13	India Steamship Limited	10-12-18	09-02-21	0.30	-	-	0.02	0.28
14	Vanhtys Pharmaceutical Development Private Limited	05-09-19	10-02-21	3.91	-	-	0.11	3.80
15	Jubilant Innovation (India) Limited	05-09-19	10-02-21	0.33	-	-	0.09	0.23
16	Patnitop Ropeway & Resorts Limited	23-12-19	12-02-21	1.22	-	-	0.01	1.21
17	Win Bluewater Services Private Limited	20-06-18	15-02-21	0.93	-	-	0.85	0.08
18	NCC Finance Limited	27-09-19	19-02-21	0.09	0.04	0.04	0.06	-
19	Invest India Micro Pension Services Private Limited	25-10-18	24-02-21	6.30	-	-	0.96	5.34
20	Savebux Enterprises Private Limited	16-01-20	03-03-21	2.14	0.10	0.10	0.04	2.00
21	DYM Techcom India Private Limited	20-02-20	03-03-21	0.53	-	-	0.03	0.50
22	Zeni Tex Private Limited	25-03-19	03-03-21	0.42	-	-	0.01	0.41
23	OHM Highline Private Limited	11-07-20	08-03-21	0.67	-	-	0.02	0.65
24	Toyo Tanso India Private Limited	31-03-18	11-03-21	1.76	-	-	0.46	1.30
25	Erca Speciality Chemicals Private Limited	14-12-18	24-03-21	0.20	-	-	0.02	0.18
26	Kalpavruksha Finserve Private Limited	18-07-19	30-03-21	2.19	-	-	0.08	2.11
Total (January - March, 2021)				30.93	0.14	0.14	3.82	26.99
Total (Till March, 2021)				2867.32	10.27	10.27	29.26	2827.79

Time for Conclusion of Processes

The average time taken for completion of various processes is presented in Table 6.

Table 6: Average time for approval of Resolution Plans/Orders for Liquidation

Sl.	Average time	As on March, 2020			April, 20 to March, 21			As on March, 2021		
		No. of Processes covered	Time (In days) Including excluded time	Time (In days) Excluding excluded time	No. of Processes covered	Time (In days) Including excluded time	Time (In days) Excluding excluded time	No. of Processes covered	Time (In days) Including excluded time	Time (In days) Excluding excluded time
CIRPs										
1	From ICD to approval of resolution plans by AA	242	414	378	106	563	474	348	459	406
2	From ICD to order for Liquidation by AA	938	309	NA	339	466	NA	1277	351	NA
Liquidations										
3	From LCD to submission of final report under Liquidation	126	307	NA	114	524	NA	240	410	NA
4	From LCD to submission of final report under Voluntary Liquidation	236	324	NA	164	468	NA	400	383	NA
5	From LCD to order for dissolution under Liquidation	71	284	NA	67	496	NA	138	387	NA
6	From LCD to order for dissolution under Voluntary Liquidation	141	453	NA	85	606	NA	226	511	NA

Corporate Liquidation Accounts

The Regulations require a liquidator to deposit the amount of unclaimed dividends, if any, and undistributed proceeds, if any, in a liquidation process along with any income earned thereon, into the corporate liquidation account before he submits an application for dissolution of the corporate person. It also provides a process for a stakeholder to seek withdrawal from the said account. Similar provisions exist for voluntary liquidation processes. The details of these accounts at the end of March, 2021, are presented in Table 7.

Table 7: Corporate Liquidation Accounts as on March 31, 2021 (Amount in ₹ lakh)

Period	Opening Balance	Deposit during the period	Withdrawn during the period	Balance at the end of the period
Corporate Liquidation Account				
2019 - 20	0.00	476.26	0.21	476.05
Apr - Jun, 2020	476.05	41.40	0.00	517.45
Jul - Sep, 2020	517.45	9.60	0.00	527.05
Oct - Dec, 2020	527.05	56.66	0.00	583.71
Jan - Mar, 2021	583.71	8.52	0.00	592.23
Corporate Voluntary Liquidation Account				
2019 - 20	0.00	109.70	0.00	109.70
Apr - Jun, 2020	109.70	8.35	0.00	118.05
Jul - Sep, 2020	118.05	28.46	0.00	146.51
Oct - Dec, 2020	146.51	56.27	0.00	202.78
Jan - Mar, 2021	202.78	18.98	0.00	221.76

Summary of Outcomes

(a) The primary objective of the Code is rescuing lives of CDs in distress. The Code has rescued 348 CDs till March, 2021 through resolution plans, one third of which were in deep distress. However, it has referred 1277 CDs for liquidation. The CDs rescued had assets valued at ₹1.11 lakh crore, while the CDs referred for liquidation had assets valued at ₹0.46 lakh crore when they were admitted to CIRP. Thus, in value terms, around 70% of distressed assets were rescued. Of the CDs sent for liquidation, three-fourth were either sick or defunct and of the firms rescued, one-third were either sick or defunct.

(b) The realisable value of the assets available with the 348 CDs rescued, when they entered the CIRP, was only ₹1.11 lakh crore, though they owed ₹5.67 lakh crore to creditors. The resolution plans recovered ₹2.09 lakh crore, which is around 189% of the realisable value of these CDs. Any other option of recovery or liquidation would have recovered at best ₹100 minus the cost of recovery/liquidation, while the creditors recovered ₹189 under the Code. The excess recovery of ₹89 is a bonus from the Code. Though recovery is incidental under the Code, the FCs recovered around 39.6% of their claims, which only reflects the extent of value erosion by the time the CDs entered CIRP, yet it is the highest among all options available to creditors for recovery. These realisations are exclusive of realisations that would arise from resolution of PGs to CDs and from disposal of applications for avoidance transactions.

(c) Of the 1277 CDs ending up with orders for liquidation, data in respect of 1272 CDs are available. These had an aggregate claim of ₹6.47 lakh crore. However, they had assets, on the ground, valued only at ₹0.46 lakh crore. Till December, 2020, 240 CDs have been completely liquidated. Many of these CDs did not have any job or asset when they entered the IBC process. These included likes of Ghotaringa Minerals Limited and Orchid Healthcare Private Limited, which owed ₹8,163 crore, while they had absolutely no assets and employment. These 240 CDs together had outstanding claims of ₹33086 crore, but the assets valued at ₹1099 crore. ₹1057 crore were realised through liquidation of these companies. It is important to note that the creditors had written off most of the debt in many cases which came to CIRP for resolution. In such cases, the entire realisation either through resolution plan or liquidation accrue to their profit loss account.

(d) A distressed asset has a life cycle. Its value gradually declines with time if distress is not addressed. The credible threat of the Code, that a CD may change hands, has changed the behaviour of debtors. Thousands of debtors are endeavouring to resolve distress in early stages of distress. CDs are resolving the distress at the stages when default becomes imminent; on receipt of a notice for repayment but before filing an application; after filing application but before its admission; and even after admission of the application and making best effort to avoid consequences of losing control over CD through CIRP. Most companies are rescued at these stages. Till March, 2021, 17,305 applications for

initiation of CIRPs of CDs having underlying default of ₹5,33,145 crore were resolved before their admission. Only a few companies, who fail to address the distress in any of earlier stages, pass through the entire resolution process. At this stage, the value of the company is substantially eroded, and hence some of them are rescued, and others liquidated. The recovery may be low at this stage, but recovery in early stages of distress is much higher, and it is primarily because of the Code.

(e) The Code endeavours to close the various processes at the earliest. It prescribes timelines for some of them. The 348 CIRPs, which have yielded resolution plans by the end of March, 2021 took on average 406 days (after excluding the time excluded by the AA) for conclusion of process. The average period for resolution in the 242 CIRPs completed by March, 2020 was 414 days, whereas the 106 resolutions since then took an average of 563 days. Similarly, the 1277 CIRPs, which ended up in orders for liquidation, took an average of 351 days for conclusion. The average period for liquidation ordered in the 938 CIRPs by March 2020 was 309 days, whereas liquidation orders in the 339 CIRPs since then took an average of 466 days. The average time taken for closure by resolution or liquidation orders has increased by around 150 days owing primarily to the pandemic and the subsequent lockdowns. Further, 240 liquidation processes, which have closed by submission of final reports till March, 2021 took on average 410 days for closure against the 126 liquidation processes, which had taken on average 307 days for submission of final reports till March, 2020. Similarly, 400 voluntary liquidation processes, which have closed by submission of final reports till March, 2021, took on average 383 days for closure against the 236 voluntary liquidation processes, which had taken on average 324 days for submission of final reports till March, 2020. The increase in the average number of days for submission of final reports in both liquidation and voluntary liquidation processes upto March, 2021 vis-a-vis March, 2020 can be substantially attributed to the delays / lockdown resulting from the onset of COVID-19 pandemic in 2020 in the country (Table 6).

(f) Till March, 2021, a total of 348 CIRPs have yielded resolution plans. The cost details are available in respect of 322 CIRPs. The cost works out on average 0.92% of liquidation value and 0.49% of resolution value.

(g) The implementation of the Code got reflected in the Global innovation Index. The 2020 edition released on September 2, 2020 indicates improvement of India's rank in 'Ease of Resolving Insolvency' to 47 from 95 in the last year.

Report on Trends and Progress of Banking in India

RBI released its annual publication, the Report on Trend and Progress of Banking in India 2019-20 on December 29, 2020. The Report presents a comparison of recoveries under CIRP and other mechanisms. Recoveries by scheduled commercial banks (SCBs) through the IBC channel increased to about 61% of the total amount recovered through various channels in 2019-20 against 56% in 2018-19. RBI data indicates that as a percentage of claims, SCBs have been able to recover 45.5% of the amount involved through IBC for the financial year 2019-20, which is the highest as compared to recovery under other modes and legislations such as the Lok Adalats, DRTs and the SARFAESI Act, 2002.

Individual Processes

The provisions relating to insolvency resolution and bankruptcy relating to PGs to CDs came into force on December 1, 2019. As per the information received from IPs, 132 applications have since been filed as of March 31, 2021. Out of them 16 applications have been filed by the debtors and 116 applications by the creditors under sections 94 and 95 of the Code, respectively. Among them seven have been filed before different benches of DRT and 125 have been filed before different benches of NCLT (Table 8).

Table 8: Insolvency Resolution of Personal Guarantors

(Amount in ₹crore)

Period	Applications filed by						Total			Adjudicating Authority	
	Debtors (u/s 94)			Creditors (u/s 95)			Number	Debt Amount	Guarantee Amount	NCLT	DRT
	Number	Debt Amount	Guarantee Amount	Number	Debt Amount	Guarantee Amount					
Dec - Mar, 2020	3	50.28	44.50	13	3254.26	4472.86	16	3304.54	4517.36	15	1
Apr - Jun, 2020	2	277.92	34.00	2	36.02	NA	4	313.94	34.00	4	0
Jul - Sep, 2020	5	107.01	36.75	12	2152.00	213.25	17	2259.01	250.00	15	2
Oct - Dec, 2020	0	0.00	0.00	38	5743.70	4759.19	38	5743.70	4759.19	38	0
Jan - Mar, 2021	6	2369.75	1004.30	51	3013.21	1818.26	57	5382.96	2822.56	53	4
Total	16	2804.96	1119.55	116	14199.19	11263.56	132	17004.15	12383.11	125	7

NA : Not Available

Default data not available in 5 cases and Guarantee data not available in 29 cases.

Service Providers

Insolvency Professionals

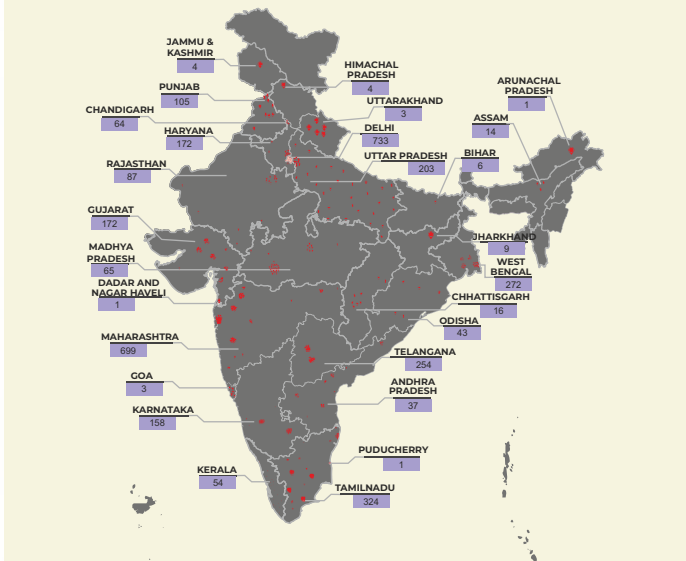
An individual, who is enrolled with an IPA as a professional member and has the required qualification and experience and passed the Limited Insolvency Examination, can register as an IP. An IP needs an Authorisation for Assignment (AFA) to take up an assignment under the Code with effect from January 1, 2020. IBBI made available an online facility from November 16, 2019 to enable an IP to make an application for issuance / renewal of AFA to the concerned IPA. Thereafter, an IPA processes such applications electronically. The details of IPs registered as on March 31, 2021 and AFAs held by them, IPA-wise, is presented in Table 9. A geographical distribution of IPs as on March 31, 2021 is presented in Figure 21.

Table 9: Registered IPs and AFAs as on March 31, 2021

(Number)

City / Region	Registered IPs				IPs having Authorisation for Assignment			
	IIIPi	ICSI IIP	IPA of ICAI	Total	IIIPi	ICSI IIP	IPA of ICAI	Total
New Delhi	404	253	75	732	306	193	59	558
Rest of Northern Region	396	188	59	643	291	149	38	478
Mumbai	375	138	34	547	263	99	26	388
Rest of Western Region	266	105	38	409	192	78	26	296
Chennai	128	83	12	223	78	61	7	146
Rest of Southern Region	349	195	61	605	236	133	50	419
Kolkata	199	35	21	255	145	25	17	187
Rest of Eastern Region	60	23	7	90	36	18	6	60
Total Registered	2177	1020	307	3504	1547	756	229	2532

Figure 21: Geographical Distribution of IPs as on March 31, 2021



Of the 3520 IPs registered till date, registrations of four IPs have been cancelled through disciplinary action, and registrations of two IPs cancelled on failing to fulfil the requirement of fit and proper person status. As per information available, ten IPs have passed away. The registrations and cancellations of registrations IPs, quarter wise, till March 31, 2021 are presented in Table 10.

Table 10: Registration and Cancellation of Registrations of IPs

Year / Quarter	Registered at the beginning of the period	Registered during the period	Cancelled during the period on account of			Registered at the end of the period
			Disciplinary Process	Failing to Meet Eligibility Norms	Death	
2016 - 2017 (Nov - Dec) #	0	977	0	0	0	977
2016 - 2017 (Jan - Mar)	0	96	0	0	0	96
2017 - 2018	96	1716	0	0	0	1812
2018 - 2019	1812	648	4	0	0	2456
2019 - 2020	2456	554	0	1	5	3004
Apr - Jun, 2020	3004	120	0	1	1	3122
July - Sep, 2020	3122	61	0	0	1	3182
Oct - Dec, 2020	3182	129	0	0	2	3309
Jan - Mar, 2021	3309	196	0	0	1	3504
Total	NA	3520	4	2	10	3504

Registrations with validity of six months. These registrations expired by June 30, 2017.

An individual with 10 years of experience as a member of the ICAI, ICSI, ICAI (Cost) or a Bar Council or an individual with 15 years of experience in management is eligible for registration as an IP on passing the Limited Insolvency Examination. Table 11 presents distribution of IPs as per their eligibility (an IP may be a member of more than one Institute) as on March 31, 2021. Of the 3504 IPs as on March 31, 2021, 318 IPs (constituting about nine per cent of the total registered IPs) are female.

Table 11: Distribution of IPs as per their Eligibility as on March 31, 2021

Eligibility	No. of IPs		
	Male	Female	Total
Member of ICAI	1748	157	1905
Member of ICSI	523	101	624
Member of ICAI (Cost)	168	15	183
Member of Bar Council	204	24	228
Managerial Experience	543	21	564
Total	3186	318	3504

The Regulations provide that an IP shall be eligible to obtain an AFA if he has not attained the age of 70 years. Table 12 presents the age profile of the IPs registered as on March 31, 2021.

Table 12: Age Profile of IPs as on March 31, 2021

(Number)

Age Group (in years)	Registered IPs				IPs having AFA			
	IIIPi	ICSI IIP	IPA ICAI	Total	IIIPi	ICSI IIP	IPA ICAI	Total
≤ 40	255	63	6	324	174	49	4	227
> 40 ≤ 50	775	363	50	1188	564	272	40	876
> 50 ≤ 60	684	277	78	1039	497	211	55	763
> 60 ≤ 70	429	288	163	880	312	224	130	666
> 70 ≤ 80	30	26	8	64	NA	NA	NA	NA
> 80 ≤ 90	3	3	2	8	NA	NA	NA	NA
> 90	1	0	0	1	NA	NA	NA	NA
Total	2177	1020	307	3504	1547	756	229	2532

NA: Not Applicable

Panel for Administrators

In accordance with the Guidelines for Appointment of Insolvency Professionals as Administrators under the SEBI (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018, the IBBI invited interest from IPs to act as Administrators, prepared the panel of IPs having AFAs for appointment as Administrators during April, 2021 - September, 2021, and shared the same with SEBI on March 30, 2021. Table 13 presents zone wise number of IPs empaneled for the period from April, 2021 - September, 2021.

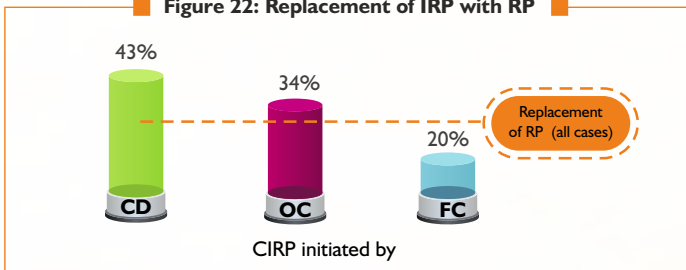
Table 13: Zone-wise IPs in the Panels

Zone	No. of IPs
Ahmedabad	48
Allahabad	33
Amravati	7
Bengaluru	19
Chandigarh	74
Chennai	41
Cuttack	12
Guwahati	1
Hyderabad	57
Indore	11
Jaipur	23
Kochi	10
Kolkata	50
Mumbai	80
New Delhi	151
Total	617

Replacement of IRP with RP

Section 22(2) of the Code provides that the CoC may, in its first meeting, by a majority vote of not less than 66% of the voting share of the FCs, either resolve to appoint the IRP as the RP or to replace the IRP by another IP to function as the RP. Under section 22(4) of the Code, the AA shall forward the name of the RP, proposed by the CoC, under section 22(3)(b) of the Code, to IBBI for its confirmation and shall make such appointment after such confirmation. However, to save time in such reference, a database of all the IPs registered with the IBBI has been shared with the AA, disclosing whether any disciplinary proceeding is pending against any of them and the status of their AFAs. While the database is currently being used by various Benches of the AA, in a few cases, IBBI receives references from the AA and promptly responds to the AA. Till March 31, 2021, as per updates available, a total of 1006 IRPs have been replaced with RPs, as shown in Figure 22. It is observed that IRPs in 43% of CIRPs initiated by CD are replaced by RPs, in 34% of CIRPs initiated by OCs and in 20% of CIRPs initiated by FCs.

Figure 22: Replacement of IRP with RP



Insolvency Professional Entities

During the quarter under review, six IPE were recognised. As on March 31, 2021, there were 83 IPEs (Table 14).

Table 14: IPEs as on March 31, 2021

Quarter	No. of IPEs		
	Recognised	Derecognised	At the end of the Period
2016 - 2017 (Jan - Mar)	3	0	3
2017 - 2018	73	1	75
2018 - 2019	13	40	48
2019 - 2020	23	2	69
Apr - Jun, 2020	4	0	73
Jul - Sep, 2020	1	0	74
Oct - Dec, 2020	3	0	77
Jan - Mar, 2021	6	0	83
Total	126	43	83

Insolvency Professional Agencies

IPAs are front-line regulators and responsible for developing and regulating the insolvency profession. They discharge three kinds of functions, namely, quasi-legislative, executive, and quasi-judicial. The quasi-legislative functions cover laying down standards and code of conduct through byelaws, which are binding on all members. The

executive functions include monitoring, inspection, and investigation of professional members on a regular basis, addressing grievances of aggrieved parties, gathering information about their performance, etc., with the overarching objective of preventing malicious behaviour and malfeasance by IPs. The quasi-judicial functions include dealing with complaints against members and taking suitable disciplinary actions.

There are three IPAs registered in accordance with the Code and Regulations. IBBI has monthly meetings with the Managing Directors (MDs) of the IPAs on the 7th of every month, to obtain feedback on areas of concern for the profession and discuss the ways and means to deal with them. During these meetings, issues like disposal of grievances, use of technology in processes, conduct of IPs, addressing concerns emanating from COVID-19, etc. are discussed. Table 15A presents the details of activities by the IPAs. Table 15B gives details of number of CPE hours earned by IPs.

Table 15A: Activities by IPAs

Period	Number of					
	Pre-registration Courses conducted	CPE Programmes conducted	Training Workshops for IPs	Other Workshops/Webinars/Roundtables/Seminars	Disciplinary Orders Issued	Complaints Disposed
2018 - 2019	16	-	07	100	04	19
2019 - 2020	11	30	09	157	09	84
Apr - Jun, 2020	03	107	47	43	01	09
Jul - Sep, 2020	02	18	0	14	23	33
Oct - Dec, 2020	04	39	07	17	14	09
Jan - Mar, 2021	05	29	12	28	04	09
Total	41	223	82	359	55	163

Table 15B: CPE Hours earned by the IPs

Period	Number of CPE Hours earned by members of			
	IIPI	ICSI IIP	IPA ICAI	Total
Jan - Mar, 2020	1160	695	320	2175
Apr - Jun, 2020	8191	5575	2373	16139
Jul - Sep, 2020	778	527	344	1649
Oct - Dec, 2020	5634	1584	885	8103
Jan - Mar, 2021	1889	1060	800	3749
Total	17652	9441	4722	31815
Average CPE hours per registered IP	8.11	9.26	15.38	9.08

Information Utility

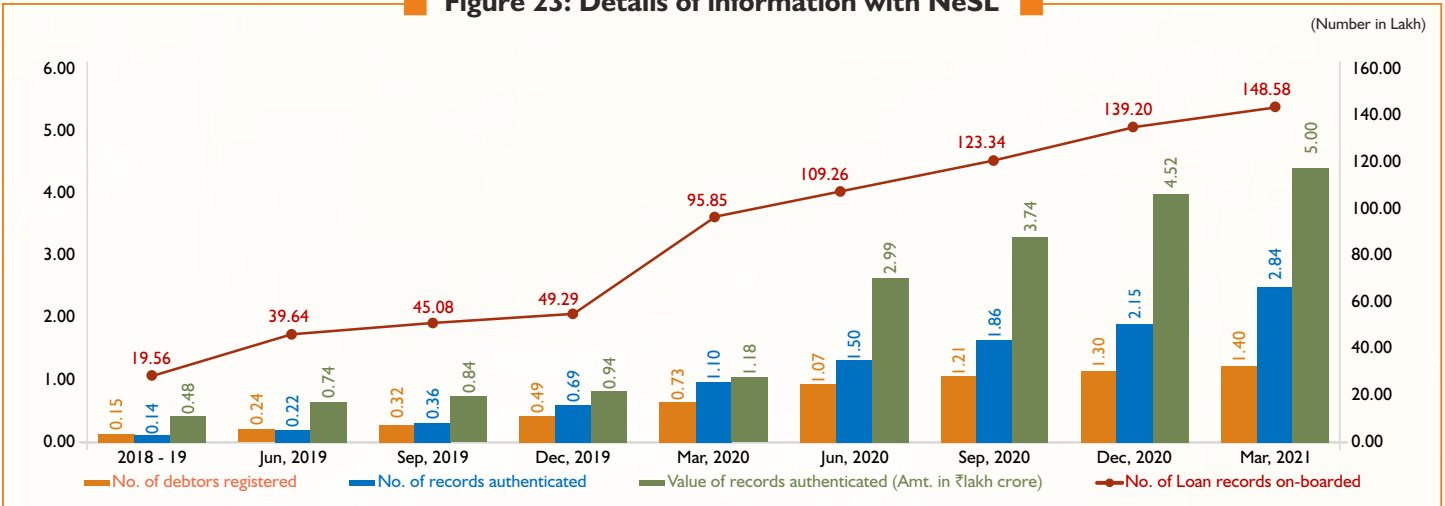
There is one Information Utility (IU), namely, the National E-Governance Service Limited (NeSL). IBBI meets the MD & CEO of the IU along with the MDs of IPAs on 7th of every month to discuss the issues related to receipt and authentication of financial information. It has requested IPAs to encourage their members to make use of the information stored with the IU for verification of claims during CIRP. Figure 23 provides details of the registered users and information with NeSL, as provided by them.

Registered Valuer Organisations

The Companies (Registered Valuers and Valuation) Rules, 2017 (Valuation Rules) made under the Companies Act, 2013 provide a unified institutional framework for development and regulation of valuation profession. Its remit is limited to valuations required under the Code and the Companies Act, 2013. IBBI performs the functions of the Authority under the Valuation Rules. It recognises RVOs and registers RVs and exercises oversight over them, while RVOs serve as front-line regulators for the valuation profession.

An individual having specified qualification and experience needs to enroll with an RVO, complete the educational course conducted by the RVO, pass the examination conducted by IBBI and subsequently, seek registration with IBBI as RV. There are currently 16 RVOs, Assessors and Registered Valuers Foundation being the latest RVO, recognised on March 31, 2021. IBBI meets MDs / CEOs of RVOs on the 7th of every month to discuss the issues arising from the valuation profession, to resolve queries of the RVOs and to guide them in discharge of their responsibilities. The details of individual RVs, RVO-wise, as on March 31, 2021, are given in Table 16A. A total of 3908 individuals have registrations, two of them are registered for all three asset classes, 55 are registered for two asset classes and the balance 3851 are registered for one asset class. The registration of one individual has been cancelled through disciplinary action. A geographical distribution of RVs as on March 31, 2021 is presented in Figure 24.

Figure 23: Details of information with NeSL



Authenticated records and amount includes deemed authentication.

Table 16A: Registered Valuers as on March 31, 2021 (Number)

Sl. No.	Registered Valuer Organisation	Asset Class			Total
		Land & Building	Plant & Machinery	Securities or Financial Assets	
1	RVO Estate Managers and Appraisers Foundation	58	12	13	83
2	IOV Registered Valuers Foundation	1245	199	148	1592
3	ICSI Registered Valuers Organisation	0	0	161	161
4	IIV India registered Valuers Foundation	140	40	47	227
5	ICMAI Registered Valuers Organisation	21	16	244	281
6	ICAI Registered Valuers Organisation	NA	NA	782	782
7	PVAI Valuation Professional Organisation	281	49	82	412
8	CVSRTA Registered Valuers Association	189	57	NA	246
9	Association of Certified Valuers and Analysts	NA	NA	2	2
10	CEV Integral Appraisers Foundation	77	24	2	103
11	Divya Jyoti Foundation	24	8	28	60
12	Nandadeep Valuers Foundation	0	0	0	0
13	All India Institute of Valuers Foundation	2	2	9	13
14	International Business Valuers Association	1	0	4	5
15	All India Valuers Association	0	0	0	0
16	Assessors and Registered Valuers Foundation	0	0	0	0
Total		2038	407	1522	3967

Note: NA signifies the RVO is not recognised for that asset class.

RVs are permitted to form an entity (Partnership / Company) for rendering valuation services. There are 40 such entities registered as RVs as on March 31, 2021, as presented in table 16B. Eighteen of them are registered for three asset classes, four are registered for two asset classes and eighteen are registered for one asset class.

Table 16B: Registered Valuers (Entities) as on March 31, 2021 (Number)

Registered Valuer Organisation	Number of Entities Registered	Registrations in the Asset Class		
		Land & Building	Plant & Machinery	Securities or Financial Assets
RVO Estate Managers and Appraisers Foundation	3	3	2	2
IOV Registered Valuers Foundation	15	12	9	12
ICSI Registered Valuers Organisation	1	0	0	1
IIV India registered Valuers Foundation	1	1	1	1
ICMAI Registered Valuers Organisation	6	3	4	6
ICAI Registered Valuers Organisation	8	NA	NA	8
PVAI Valuation Professional Organisation	2	2	2	2
All India Institute of Valuers Foundation	1	1	1	1
CEV Integral Appraisers Foundation	1	1	1	0
Divya Jyoti Foundation	2	1	1	2
Total	40	24	21	35

Note: NA signifies the RVO is not recognised for that asset class.

The registration of RVs till March 31, 2021 is given in Table 17.

Table 17: Registration of RVs till March 31, 2021 (Number)

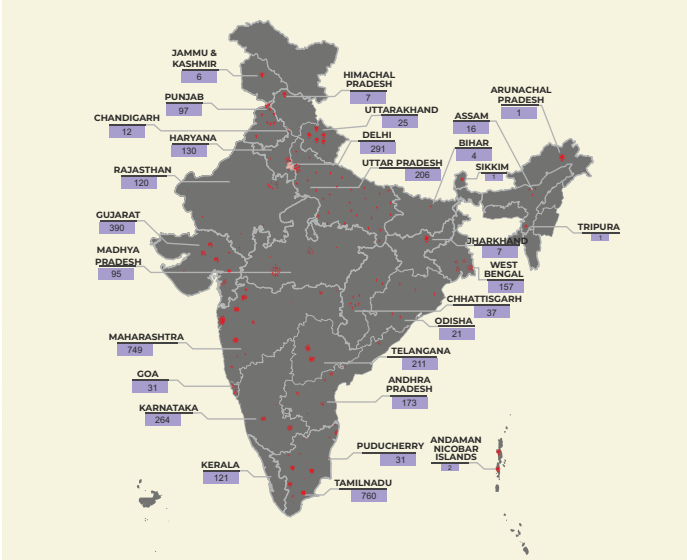
Year / Quarter	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
2017 - 2018	0	0	0	0
2018 - 2019	781	121	284	1186
2019 - 2020	848	204	792	1844
Jun, 2020	20	8	72	100
Sep, 2020	149	27	104	280
Dec, 2020	130	22	185	337
Mar, 2021	110	25	85	220
Total	2038	407	1522	3967

Of the RVs registered as on March 31, 2021, 1075 RVs (constituting 27% of the total RVs registered) are from metros, while 2892 RVs (constituting 73% of the total RVs registered) are from non-metro locations (Table 18).

Table 18: Region wise Registered Valuers as on March 31, 2021 (Number)

City / Region	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
New Delhi	69	33	186	288
Rest of Northern Region	312	56	253	621
Mumbai	104	48	237	389
Rest of Western Region	562	107	244	913
Chennai	110	36	120	266
Rest of Southern Region	828	106	361	1295
Kolkata	23	14	95	132
Rest of Eastern Region	30	7	26	63
Total	2038	407	1522	3967

Figure 24 : Geographical Distribution of RVs as on March 31, 2021



The average age of RVs as on March 31, 2021 stood at 47 years across asset classes. It was 49 years for Land & Building, 53 years for Plant & Machinery and 43 years for Securities or Financial Assets (Table 19). Of the 3967 RVs as on March 31, 2021, 372 RVs (constituting about nine per cent of the total registered valuers) are female.

Table 19: Age profile of RVs as on March 31, 2021 (Number)

Age Group (in years)	Land & Building			Plant & Machinery			Securities or Financial Assets			Total
	Land & Building	Plant & Machinery	Securities or Financial Assets	Land & Building	Plant & Machinery	Securities or Financial Assets	Land & Building	Plant & Machinery	Securities or Financial Assets	
≤ 30	117	6	103	226						
> 30 ≤ 40	288	57	609	954						
> 40 ≤ 50	512	93	451	1056						
> 50 ≤ 60	856	123	243	1222						
> 60 ≤ 70	230	86	113	429						
> 70 ≤ 80	34	40	3	77						
> 80	1	2	0	3						
Total	2038	407	1522	3967						

Complaints and Grievances

The IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017 enable a stakeholder to file a grievance or a complaint against a service provider. Beside this, grievance and complaints are received from the Centralised Public Grievance Redress and Monitoring System (CPGRAMS), Prime Minister’s Office, MCA, and other authorities. The receipt and disposal of grievances and complaints till March 31, 2021 is presented in Table 20.

Table 20: Receipt and Disposal of Grievances and Complaints till March 31, 2021 (Number)

Year / Quarter	Complaints and Grievances Received						Total		Under Examination
	Under the Regulations		Through CPGRAM/PMO/MCA/Other Authorities)		Through Other Modes		Received	Disposed	
	Received	Disposed	Received	Disposed	Received	Disposed			
2017 - 2018	18	0	6	0	22	2	46	2	44
2018 - 2019	111	51	333	290	713	380	1157	721	480
2019 - 2020	153	177	239	227	1268	989	1660	1393	747
Apr - Jun, 2020	20	52	62	88	324	623	406	763	390
Jul - Sep, 2020	82	32	97	95	183	422	362	549	203
Oct - Dec, 2020	64	66	83	86	218	129	365	281	287
Jan - Mar, 2021	102	110	116	109	265	190	483	409	361
Total	550	488	936	895	2993	2735	4479	4118	361

Note: The data have been revised.

Examinations

Limited Insolvency Examination

The IBBI publishes the syllabus, format etc. of the Examination under regulation 3(3) of the IBBI (Insolvency Professionals) Regulations, 2016. It reviews the Examination continuously to keep it relevant with respect to dynamics of the market. It has successfully completed five phases of the Limited Insolvency Examination. Fifth phase of the Examination concluded on December 31, 2020 and sixth phase commenced on January 01, 2021. It is a computer based online examination available on daily basis from various locations across India. Currently, NSEIT Limited is the test administrator. The details of the Examination are given in Table 21.

Table 21: Limited Insolvency Examination

Phase	Period	Number of Attempts (some candidates made more than one attempt)	Successful Attempts
First	Jan - Jun, 2017	5329	1202
Second	Jul - Dec, 2017	6237	1112
Third	Jan - Oct, 2018	6344	1011
Fourth	Nov, 2018 - Jun, 2019	3025	506
Fifth	Jul, 2019 - Dec, 2020	5860	1016
Sixth	Jan - Mar, 2021	464	66
Total		27259	4913

Valuation Examinations

The IBBI, being the authority, under the Companies (Registered Valuers and Valuation) Rules, 2017, commenced the Valuation Examinations for asset classes of: (a) Land and Building, (b) Plant and Machinery and (c) Securities or Financial Assets on March 31, 2018. It reviews the Examinations continuously to keep it relevant with the changing times. The second phase concluded on May 31, 2020 and the third phase commenced on June 1, 2020. It is a computer based online examination

available from several locations across India. Currently, National Institute of Securities Markets is the test administrator. The details of the Examinations are given in Table 22.

Table 22: Valuation Examinations

Phase	Period	Number of Attempts (some candidates made more than one attempt) in Asset Class			Number of Successful Attempts in Asset Class		
		Land & Building	Plant & Machinery	Securities or Financial Assets	Land & Building	Plant & Machinery	Securities or Financial Assets
First	Mar, 2018 - Mar, 2019	9469	1665	4496	1748	324	707
Second	Apr, 2019 - May, 2020	3780	757	4795	380	95	656
Third	Jun, 2020	64	7	99	1	0	6
	Jul - Sep, 2020	1471	248	1781	138	14	217
	Oct - Dec, 2020	1449	404	1571	119	28	137
	Jan - Mar, 2021	1049	334	967	74	27	73
Total		17282	3415	13709	2460	488	1796

Building Ecosystem

Training of IES probationers

IBBI organised a one-week training programme for 2019 batch of 30 Indian Economic Service (IES) officers from February 15 to 19, 2021. The programme exposed the officers comprehensively to the insolvency reforms, its implementation and outcomes, the ecosystem, the issues and challenges, and the road ahead. They were also provided a special opportunity to undertake the Limited Insolvency Examination. The three best performers, namely, Mr. Anshuman Kamila, Ms. Archana Kumari and Ms. Saumya Gautam were felicitated by awarding Gold, Silver and Bronze medals, respectively.

The eminent external faculty included Dr. K. P. Krishnan, IEPF Chair Professor, NCAER; Dr. Shashank Saksena, Senior Economic Adviser, Ministry of Finance; Mr. B. Sriram, Former MD, IDBI Bank; Dr. (Ms.) Aparna Ravi, Partner, Samvad Partners; Mr. Ashok Haldia, Chairman, IIPI; Mr. S. Ramann, MD, NeSL; Dr. Subhashis Gangopadhyay, Research Director, IDF; Mr. Anurag Das, MD, International Asset Reconstruction Company; Mr. Satish Kumar Gupta, IP; Dr. (Ms.) Renuka Sane, Associate Professor, NIPFP and Ms. Sriprya Kumar, IP.



Award to best performer in the training of IES probationers, February 19, 2021

Committees and Working Groups

Committee on Cross Border Insolvency

The Committee on Cross Boarder Insolvency Rules, constituted by MCA, is also tasked with examining UNCITRAL Model Law for Enterprise Group Insolvency. It held its sixth meeting on January 30, 2021 under the chairmanship of Dr. K. P. Krishnan.

Advisory Committee on Service Providers

The 7th meeting of the Advisory Committee on Service Providers was held on March 22, 2021 through e-mode. Mr. T. V. Mohandas Pai, Chairperson of the Committee, chaired the meeting. The Committee discussed and made its recommendations on various matters such as limiting number of assignments to be handled by an IP, monetary penalties by IPAs on its professional members, creation of a cadre of Insolvency Advisers and Debt Advisers for individual insolvency matters, etc.



Meeting of Advisory Committee on Service Providers, March 22, 2021



Sixth CoC Workshop, February 3, 2021.

Roundtables

During the quarter, IBBI, in association with the three IPAs conducted three roundtables for IPs on “Issues faced by Insolvency Professionals during Liquidation Process” on February 12, 13 and 15, 2021.

CoC Workshops

IBBI has been organizing workshops for senior officers of banks to build their capacity as members of the CoCs. It organised three more such workshops, fifth, sixth and seventh in the series, on January 29, 2021, February 3, 2021, and February 11, 2021, on the theme “Committee of Creditors: An Institution of Public Trust”. 31 senior officers (General Managers and above) representing 15 SCBs and Financial Institutions (FIs) participated in the workshop On January 29, 2021. 35 senior officers representing 20 SCBs and FIs participated in the workshop on February 3, 2021. Similarly, 35 senior officers representing 16 SCBs and FIs participated in the workshop on February 11, 2021.

These workshops were organised in e-mode, in association with the State Bank of India and Indian Banks' Association. The faculty in these workshops included Hon'ble Justice B. S. V. Prakash Kumar, Acting President, NCLT; Mr. Rajesh Verma, Secretary, MCA; Mr. G. K. Singh Joint Secretary, MCA; Mr. M. Rajeshwar Rao, Deputy Governor, RBI; Mr. Dinesh Kumar Khara, Chairman, SBI; Mr. C. S. Setty, MD, SBI; Mr. Sunil Mehta, Chief Executive, Indian Banks' Association; Mr. S. S. Mallikarjuna Rao, MD, Punjab National Bank; Mr. Sanjeev Krishan, Chairman, PWC India; Mr. Sumant Batra, Managing Partner, Kesar Dass B & Associates; Mr. Bahram Vakil, Managing Partner, AZB and Partners; Mr. Mohit Saraf Senior Partner, L&L Partners; Mr. Shailendra Ajmera, Partner, EY; Mr. Rashesh Shah, Chairman, Edelweiss Group; Mr. Shardul Shroff, Managing Partner, Shardul Amarchand Mangaldas; and Dr. M. S. Sahoo, Chairperson, IBBI.



Fifth CoC Workshop, January 29, 2021.



Seventh CoC Workshop, February 11, 2021.

Webinars

IBBI, in association with the Foreign Commonwealth and Development Office, United Kingdom organized a Webinar on “Determination of Avoidance Transactions under the IBC”, on February 5, 2021. The participants were given an overview of the avoidance transactions and the regulatory landscape which impacts transaction audits. Practical examples and case studies with useful insights for detection of avoidance transactions and information sources which can be utilized to collect evidence were also covered.



Determination of Avoidance Transactions under the Code, February 5, 2021

IBBI organised a Webinar on “Pre-Pack Insolvency Resolution Process: Report of the Sub-Committee of the ILC” on March 19, 2021, based on the recently released report of the sub-committee of the ILC on Pre-Packaged Insolvency Resolution Process, as an additional tool for resolution of insolvency.



Pre-Pack Insolvency Resolution Process: Report of the Sub-Committee of the ILC, March 19, 2021

IBBI, in association with the British High Commission jointly organised a webinar on “Sale under Liquidation Process and UK best practices for better realisation for stakeholders” on March 23, 2021, for the benefit of stakeholders of the IBC ecosystem. The Panelists explained the effective sale process and practical challenges which are usually faced by the Liquidators. Sale process in the UK, best practices and learnings which can be applied to in the Indian context were also discussed.



Sale under Liquidation Process and UK best practices for better realisation for stakeholders, March 23, 2021

Graduate Insolvency Programme

IBBI allowed the National Law Institute University, Bhopal, to offer the two-year GIP programme starting from the 2021-22 academic year.

The Indian Institute of Corporate Affairs (IICA) has been offering the course for the last two years. The second batch of GIP, with 38 students, had commenced on July 1, 2020. After completing coursework at the campus, the students proceeded for one year of internship with an average stipend of ₹5.63 lakh per annum, and the highest stipend of ₹9.6 lakh per annum. The admission process for the third batch of GIP at IICA commenced during the quarter.

Research Initiative

IBBI promotes research - legal, economic, and interdisciplinary - and discourse in areas relevant for the evolving insolvency and bankruptcy regime in general, and that in India, in accordance with the Insolvency and Bankruptcy Board of India Research Initiative, 2019.

Two research scholars, namely, Dr. (Ms.) Neeti Shikha and Ms. Urvashi Shahi, completed a research paper on the topic “Assessment of Corporate Insolvency and Resolution Timeline” during the quarter. This paper examines the stage wise delay in CIRP and the relationship of delay to sectoral differentiations and debt size of the CD. The study finds that delays in CIRP are happening due to reasons such as non-cooperation by

CD, lack of proper documentation of information by the CD, inadequate capacity of NCLT and difficulty in marketing stressed assets. The paper is available on the website of IBBI.

IP Workshops

IBBI has been organising Basic Workshops for registered IPs with the aim to delivering basic understanding of IBC and its ecosystem. It organised the 19th such Basic Workshop for the IPs during the quarter through online mode on March 17, 2021. The detail of the workshops conducted till March 31, 2021 is given in Table 23.



19th Basic Workshop for IPs, March 17, 2021

Table 23: Capacity Building Programmes for IPs till March 31, 2021

Year / Period	Basic Workshops	Advanced Workshops	Other Workshops	Webinars	Roundtables	Trainings	Total
2016 - 2017	1	-	-	-	8	-	9
2017 - 2018	6	-	-	-	44	-	50
2018 - 2019	7	-	-	-	22	-	29
2019 - 2020	4	6	5	1	22	-	38
Apr - Jun, 2020	-	-	-	16	4	-	20
Jul - Sep, 2020	-	1	-	5	8	-	14
Oct - Dec, 2020	-	1	-	5	4	1	11
Jan - Mar, 2021	1	-	6	3	2	1	13
Total	19	8	11	30	114	2	184

Handbook on Ethics for Insolvency Professionals

Dr. Navrang Saini, Whole Time Member, IBBI, in presence of Ms. Natalie Toms, Chief Economist and Counsellor, British High Commission, released a publication titled “Handbook on Ethics for Insolvency Professionals: Ethical and Regulatory Framework”, in a webinar on March 19, 2021.

The Handbook prepared by the IBBI in association with British High Commission is based on inputs on the best practices followed by the IPs in the United Kingdom and aims to stimulate the highest standards of ethics and professionalism among the IPs. This Handbook serves as a ready reckoner and a tool to assist the IPs and other stakeholders in the insolvency ecosystem, for imbibing and practicing an ethical code of conduct.



Release of Handbook of Ethics for IPs, March 19, 2021

Advocacy and Awareness

Essay Competition

IBBI, in its endeavour to create awareness about the insolvency and bankruptcy regime amongst the students of Institutes of higher learning, conducted an essay competition in collaboration with Institute of Law, Nirma University on the topic “Contemporary Issues in Corporate Insolvency Law”. 48 students participated in the competition and the following were adjudged as best essays:

Rank	Name of Author(s)
The Best Essay	Ms. Kumari Saloni
Second best Essay (Co-Author)	Ms. Malika Tiwari and Ms. Palak Jain

Moot Competition

The National Law University Delhi, in collaboration with IBBI, INSOL India, Society of Insolvency Practitioners of India and the UNCITRAL Regional Centre for Asia and the Pacific, had instituted a Moot Competition on Insolvency and Bankruptcy (IBMC) in 2017. It was conceived as a platform to enable students at the Law Universities and Schools of Management and Economics to engage with various stages of the insolvency process with simulations as close as possible to the actual proceedings before the NCLT.

The 4th edition of IBMC was virtually conducted on January 8-10, 2021. About 50 teams representing institutions from around the world registered and participated in the competition. School of Law, Christ University, Bengaluru was adjudged winners of the moot, while Ram Manohar Lohiya National Law University, Lucknow was runners up. National University of Singapore bagged the award for the best newcomer performance. Dr. M. S. Sahoo, Chairperson, IBBI chaired the jury for IBMC and shared his thoughts as the Guest of Honour in Valedictory Session. The Chief Guest, Hon'ble Mr. Justice Sanjay Kishan Kaul, Judge, Supreme Court of India, delivered the valedictory address.



Moot Competition by NLU Delhi, January 8-10, 2021

Other Programmes

IBBI, in association with various stakeholders, organised advocacy and awareness programmes as presented in Table 24.

Table 24: Advocacy and Awareness Programmes

Sl. No.	Date	In Association With	Topic	Participation by
1	08-01-21	Government of Madhya Pradesh	IBC	Mr. Shukla, WTM
2	18-01-21	Government of Jharkhand	IBC	Mr. Shukla, WTM
3	25-02-21	NeSL and three IPAs	Services offered by IUs to IPs	Dr. Saini, WTM
4	04-03-21	Government of Bihar	IBC	Mr. Shukla, WTM
5	19-03-21	FCDO UK	Pre-Pack Insolvency Resolution Process: Report of the Sub-Committee of the ILC	Dr. Saini, WTM



Introduction of IBC for officers of Government of Madhya Pradesh, January 8, 2021



Introduction of IBC for officers of Government of Jharkhand, January 18, 2021



Shepherding Valuation Profession, January 21, 2021



Introduction of IBC for officers of Government of Bihar, March 4, 2021



Distressed Debt in Indian Infrastructure Sector, March 9, 2021



Role of IPs under IBC, 2016, March 19, 2021

Senior officers of IBBI participated as guests and faculty in several programmes during the quarter, the details of which are presented in Table 25.

Table 25: Participation of Senior Officers in Programmes

Sl. No.	Date	Organiser	Subject	Participation
1	05-01-21	BCIC	Four Years Journey of IBC: Milestones	Chairperson
2	07-01-21	NLUD & Ors.	Insolvency Resolution, Promoting Entrepreneurship post the Pandemic	Chairperson
3	07-01-21	NLUD & Ors.	Implementing Bankruptcy, Integrating Pre-Insolvency Proceedings, Pre-Packs into the Legal Regime	Dr. Saini, WTM
4	10-01-21	INSOL & Ors.	Insolvency Moot	Chairperson
5	19-01-21	IICA	GIP	Chairperson
6	21-01-21	PNB	IBBI: Shepherding Valuation Profession	Chairperson
7	22-01-21	IEG	Insolvency Reforms	Chairperson
8	22-01-21	ASSOCHAM	National E summit on Udyog jagat- ki -Soch & Manthan for Atma Nirbhar Bharat	Dr. (Ms.) Vijayawargiya, WTM
9	22-01-21	LIC	IBBI: Shepherding Valuation Profession	Mr. Shukla, WTM
10	27-01-21	Central Bank of India	IBBI: Shepherding Valuation Profession	Mr. Shukla, ED
11	30-01-21	PHDCCI	IBC and MSME: The Unfinished Story	Dr. (Ms.) Vijayawargiya, WTM
12	04-02-21	National Defence College	The Constitution of India: Framing and evolution and New India	Dr. (Ms.) Vijayawargiya, WTM
13	05-02-21	NeSL	Leveraging IU for Insolvency Proceedings	Chairperson
14	08-02-21	FOIR	Effective Regulation and Stakeholders Engagement	Chairperson
15	12-02-21	IDBI Bank & Ors.	IBBI: Shepherding Valuation Profession	Mr. Shukla, ED
16	17-02-21	III & Ors.	Pre-arranged Insolvency Proceedings in India: Lessons learned from USA and UK	Chairperson
17	18-02-21	IIPI	Capacity Building of IPs /IBC	Mr. Shukla, WTM
18	23-02-21	IRDAI & Ors.	IBBI: Shepherding Valuation Profession	Chairperson
19	24-02-21	IFSCA	Financial Sector Reforms, Regulations and Emerging Challenges	Chairperson
20	08-03-21	ICMAI RVO	International Women's day: Perspectives on Valuation	Dr. (Ms.) Vijayawargiya, WTM
21	09-03-21	FICCI	Distressed Debt in Indian Infrastructure Sector	Chairperson
22	10-03-21	CII & Ors.	Impact of Covid-19 on Proceedings under IBC	Dr. (Ms.) Vijayawargiya, WTM
23	19-03-21	ICMAI & Ors.	Role of IPs under IBC	Dr. (Ms.) Vijayawargiya, WTM
24	20-03-21	ETCFO & Ors.	IBC at Crossroads - What's next?	Mr. Shukla, WTM
25	26-03-21	CII	Insolvency and Bankruptcy Code	Chairperson
26	26-03-21	CII	Pre-pack framework	Mr. Shukla, WTM
27	27-03-21	MCCI & Ors.	Ethics for Insolvency Professionals	Dr. (Ms.) Vijayawargiya, WTM

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