



Confederation of Indian Industry

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# ***Decoding the Code:*** Survey on Twenty One Months of IBC in India



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# Preface



The Insolvency and Bankruptcy Code (IBC or Code) is one of the most effective reforms brought in with the potential of transparently and expeditiously resolving India's overwhelming non-performing assets (NPAs) conundrum.

With a strict 180+90 days 'resolve-or-liquidate' diktat, the Code has received commendation, not only from the Indian Industry, but from the global fraternity, including The World Bank and IMF, and has materially contributed to India's 30 place jump in 2018's 'Ease of Doing Business' ranking.

IBC truly enforces the concept of 'creditor in control' instead of 'debtor in possession', and maximises value recovery potential corporate debtors. Once the resolution process starts, the board cedes control of the company, and insolvency professionals, with the help of professional advisors, start managing the company.

IBC has also driven massive M&A momentum in the country; several domestic and international investors (including private equity firms) have been actively participating, given the opportunity to acquire valuable assets at attractive prices, with the prospect of generating higher returns.

The apprehension of losing control over their companies has prompted various promoters to settle or resolve their dues; which presents a huge opportunity for investors. Going forward, IBC legislation should become a significant catalyst for improving debtor behaviour.

This report highlights the perspectives of different stakeholders, on the progress made by the Code, challenges faced and impediments that merit further attention. The report is also backed by a detailed survey of key stakeholders, who have shared their experiences thus far.

We hope this report will be helpful to gain an interesting perspective of the journey of the Code so far.

*Confederation of Indian Industry*



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In the usual course, it is hard for any business to take action against its customers, no matter what challenges it faces. The story has been no different for banks and the wider institutional lending platforms in India. It is quite easy to start debating the reasons why they find themselves in this situation, but that is not the intent of this publication. No wonder then the Reserve Bank of India, underpinned the enactment of the Insolvency and Bankruptcy Code 2016 (IBC or the Code), to get down to ‘resolving’ the challenge that they faced—the mountain of Non-Performing Assets (NPAs) that they carried on their books, which as per the latest estimates, exceed 10.25 lakh crores INR (approximately 150 billion US\$) as on 31 March 2018.

The IBC has been a revelation, both in its original and (current) revised form; it is important to note that the IBC has seen multiple changes since its inception, most of which have been well directed. At the outset, kudos to the regulators for being so agile in plugging potential loopholes in the initial version of the Code. Considering that the Code was initially being tested on the twelve largest NPAs in the banking system, this was much needed. Twenty One months since the enactment, one can say that there is a reasonably robust insolvency law. So much so, that some of the questions that this survey raised with the participants have been “answered” even before the results could be published!

Most of the IBC changes affected the borrower, the outgoing owners and the investor or resolution applicant community. In particular, investor groups and resolution applicants have felt that they have been chasing a ‘moving target’. As far as investors are concerned, while they would like a lot more certainty this has not dimmed their focus on assessing investment options arising from the enactment of the IBC. They have focussed both on determining opportunities to resolve and revive businesses in insolvency, as well as ensuring that they do not miss out on the pre-insolvency investment themes, where promoter groups have become more willing to go that extra mile to resolve issues with banks. This is emerging as the biggest opportunity and more than the IBC, it is the fear of IBC that is generating a lot of investor interest. The bankers have not been far behind and many of them have considered portfolio trades or pre-insolvency single asset resolutions (pursuant to the circular dated 12 February 2018) in recent times.

While various issues that have been raised over the last few months, have been clarified basis interactions with the lending community and investors in particular, some still require additional consideration:

#### ***Conflict amongst lenders:***

Typically, an insolvent company has multiple lenders with multiple charges spread across various assets. The IBC disregards differential rights across the same asset class that lenders have funded differentially. This has resulted in conflicts amongst lenders and subjected resolutions to legal challenges.

#### ***Operational creditors’ rights:***

Many resolution plans are currently being litigated by operational creditors, due to near zero or very small amounts provided for them in resolution plans. While they are eligible to get a share of the liquidation value, in most cases, the liquidation value is very low and insufficient to pay even financial creditors— accordingly they have been challenging resolutions. While some of them have managed to force the issue, most of the operational creditors in the MSME space are not able to do the same, and hence, groups of operational creditors are coming together to litigate.

#### ***Cross border insolvency regulations:***

These need to be urgently notified. Non recognition of Indian laws in overseas jurisdictions, and vice-versa, has created certain challenges. It also leads to uncertainty amongst foreign investors on recovery procedures. Another major drawback are bilateral treaties, which result in non-uniform approaches to a resolution process.

#### ***Group insolvency rules:***

It has been observed, particularly in case of infrastructure and EPC sectors, that the holding company is put through the insolvency process, but the subsidiary companies are not. In these cases, the experience has been that the resolution for individual companies is tough and some of these face liquidation, as opposed to resolution. A combined resolution plan for debts for the group could prevent this from happening and result in maximisation of value for lenders.

#### ***Dissenting creditors given preference:***

More often than not, dissenting creditors are given the benefit of payments as opposed to assenting creditors. This is causing an interesting dynamic to play out—in case the initial or upfront infusion of funds is less, it is quite possible that assenting creditors get nothing to begin with. This is making assenting creditors look at the proposed resolution plans a bit differently—again this will have the effect of pushing many insolvent businesses into liquidation.

#### ***Judicial infrastructure enhancement:***

At the moment, there are 11 NCLT benches and 1 NCLAT bench. There have been challenges to cope with the huge number of cases that have got referred to them, causing further delays.

The IBC has been a landmark legislation and it will continue to evolve. While some of the matters listed above came across as areas, which require more thought and consideration, the issue that IBC deals with is such that there will always be other unforeseen challenges.

This survey presents the feedback received from investors, lenders as well as the legal community.

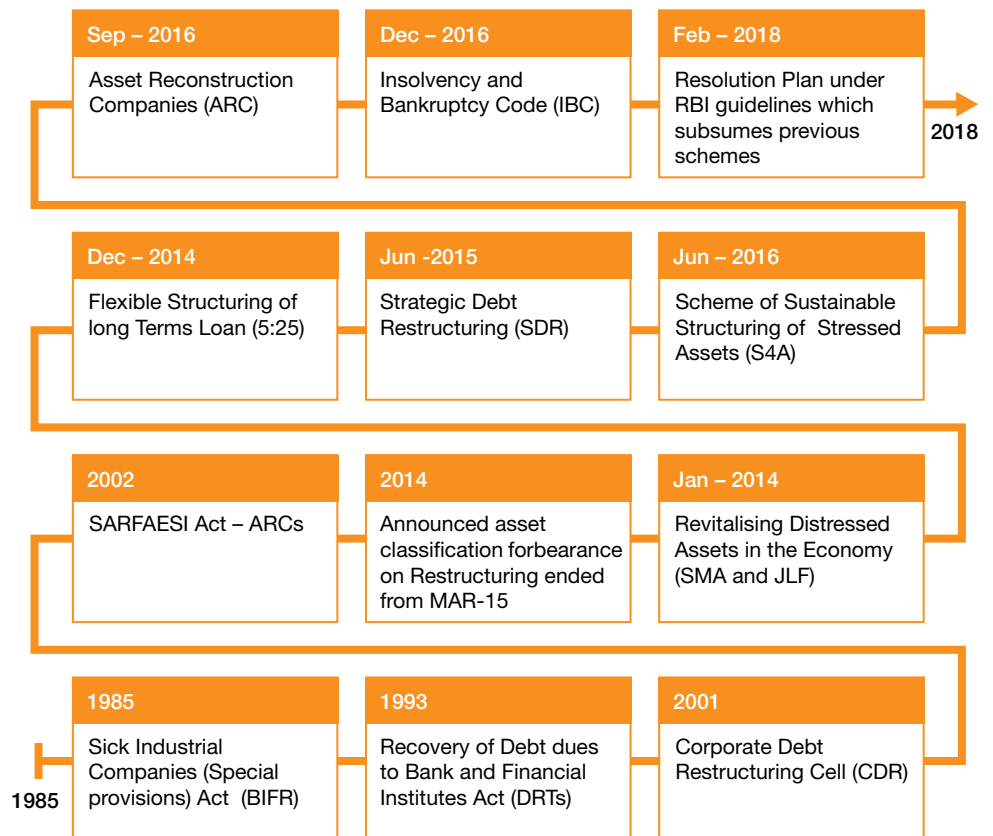
We hope you find the report interesting and informative. We look forward to your feedback.

# Journey of IBC since inception

Non-performing assets (NPAs) have become a major challenge for both public and private sector banks in India. In the exuberant milieu that started around 2005 and continued for three years until the global financial crisis (GFC) of 2008, large corporations conceived major projects in capital-intensive sectors such as power, ports, airports, housing and highway construction. Banks were keen lenders, with their aims of supporting the capacity build up in core sectors such as power and steel, as well as India's infrastructure development across roads, ports and real estate sectors. Considering how under invested India was and the huge consumer market it presented, this seemed to be a big opportunity

and banks invariably got into severe competition with each other to fund mega projects. The GFC followed by a period of policy in action meant that these large projects either remained work-in-progress owing to delayed environmental or approvals, or even if completed, under-utilised. As project owners did not realise anticipated cash flows over extended periods of time, bank loans began to go sour, thereby triggering the significant NPA build up. Accordingly, the NPA story is not new to India and several steps have been taken by the Government on legal, financial and policy level reforms—most of these had moderate to low success.

Figure 1.1 - Debt resolution mechanisms in India had evolved since 1985...





The Sick Industrial Companies (Special Provisions) Act, 1987, popularly known as 'SICA' was enacted to address sickness in the industry. It was under this enactment that the Board for Industrial and Financial Reconstruction (BIFR) was formed to oversee the rehabilitation of sick units. However, instead of addressing sickness in the industry, BIFR itself became a sick institution and a refuge ground for defaulting borrowers who tried to take advantage of the indefinite moratorium under SICA.

Then the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI Act) was enacted to let banks as well as other financial institutions of India auction commercial or residential properties for the purpose of loan recovery. Asset Reconstruction Company India Limited (ARCIL), the first asset reconstruction company, was established under this act. However, SARFESI too had its own set of limitations.

The RBI also instituted several mechanisms to deal with NPAs from time to time, a few of them are as follows:

- Corporate Debt Restructuring (CDR), which was purely a contractual arrangement between the lender and the corporate. It thrived and met with success given the revised prudential norms on restructuring of advances. However, once prudential norms were withdrawn in 2015, the CDR mechanism also lost its purpose.
- The so-called Joint Lenders' Forums (JLFs), which mandated that banks adopt measures for early identification to tackle stressed loans, giving them a jumpstart, especially in large and complex cases of corporate debt where creditors differed on a resolution process. According to the JLF framework, at least 75% of creditors by value of the loan and 60% by number of lenders in the JLF need to agree on the restructuring plan. Obtaining a consensus was a major bone of contention, which in turn, reduced the effectiveness of JLF.
- The Strategic Debt Restructuring (SDR) mechanism, introduced soon after, was also not lucrative for lenders. While the scheme seemed interesting initially, it soon became evident that there were no buyers in cases where it was being invoked.
- The RBI then introduced the S4A Scheme, which only covered projects that had already started commercial production. Furthermore, the scheme was also silent about unsecured creditors, who could always approach a court of law and play spoilsport.

These measures, though in the right direction, did not have the desired result. There was now a dire need to address the growing NPA.



# Insolvency and Bankruptcy Code: a new dawn

## Institution of IBC and its objectives

Insolvency and Bankruptcy Code (IBC) was enacted in 2016, with the objective of ensuring speedy resolutions while signalling a break from the past. There were large macroeconomic objectives at play such as solving the twin balance problem, developing a robust corporate bond market, improving the credit environment, and consequently providing a fillip to India's competitiveness as a business destination. The new code was designed to streamline the corporate insolvency resolution process, which among other things, prevents value destruction if there is corporate distress. The resolution process is a representative action for the general body of creditors and not for the recovery of money of an individual creditor.

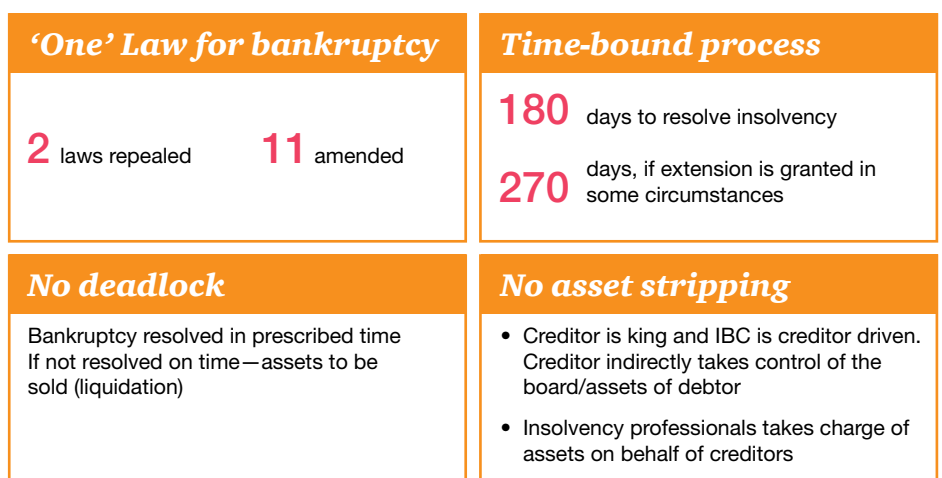
Being a time-bound process to resolve cases within 180 days extendable to 270 days, the IBC has received praise from the World Bank and IMF and has materially contributed to India's 30 place jump in 2018's 'Ease of Doing Business' ranking.

The Code has also received significant attention from foreign investors.

IBC brings about a paradigm shift in the recovery and resolution process by introducing the concept of 'creditor in control' instead of 'debtor in possession'. This encourages value enhancement of the corporate debtor as once this process starts, the board cedes control of the company, and insolvency professionals with the help of advisors start managing the company. Creditors now have guidelines that clarify details till the last mile, including distribution of recovery proceeds.

IBC consolidates multiple schemes announced earlier and focusses on a time-bound resolution coupled with maximisation of value. The RBI, in order to align the resolution mechanism with IBC subsequently withdrew all circulars such as the CDR, the Flexible Structuring of Existing Long Term Project Loans, SDR, Change in Ownership outside SDR, 5 by 25 scheme and S4A. The JLF—as an institutional mechanism for resolution of stressed assets was also discontinued.

Figure 1.2 – recap of IBC



## Infrastructure to support the implementation of IBC

In less than a year of its enactment, new networks of the National Company Law Tribunal (NCLT), the new regulator 'Insolvency and Bankruptcy Board of India' (IBBI), new stream of professionals 'Insolvency Professionals' (IPs), new stream of Information 'Information Utilities' (IUs) and Insolvency Professional Agencies (IPAs) were established to control and monitor the IPs' registrations and proceedings. The IBBI charted the course of its implementation under the guidance of the Ministry of Corporate Affairs (MCA), Government of India.

## Fine tuning IBC

Constant improvements and updates to IBC have followed in response to the feedback received and practical experience of processes under execution. To its credit, the Government has been willing to hear out suggestions. An expert committee was constituted to

suggest modifications required by the IBC to fine tune it and plug-in loopholes. The recommendations of the committee that were accepted were brought in as amendments to the Code. For instance:

- Homebuyers to be treated at par with financial creditors—they can also take builders to bankruptcy court
- Lenders to decide turnaround or liquidation by 66% vote, down from 75%— decision-making easy
- Redefines entities disqualified from bidding for bankrupt firm—widens the pool for bidders
- Withdrawal of application admitted under IBC by approval of 90% lenders—exit opportunity to corporate debtors for better settlement outside IBC purview
- MSME promoters can bid for their enterprises, which are undergoing Corporate Insolvency Resolution (CIR) process provided they are not wilful defaulters—big relief to MSMEs

After the introduction of IBC, there was a possibility of an alternate interpretation of the code. Promoters would bid for their businesses in an attempt to retrieve them at a heavy discount and start afresh with a clean balance sheet. As this was not the intent of IBC, suitable amendments were made, after which it is extremely difficult for defaulting promoters to participate in the resolution process of the corporate debtor.

The amendments are not only limited to IBC, but the entire eco system. One such measure was to raise the minimum upfront payment made by ARCs from 5% to 15%, which discourages the use of ARC platforms by lenders for long-term warehousing of bad loans. Furthermore the market regulator Securities and Exchange Board of India (SEBI) exempted companies under the IBC from adhering to prescribed delisting norms with certain riders.

## Pillars of IBC - Equality, transparency, resolution and pace

IBC is modelled towards maximisation of value of assets, striking a balance between liquidation and reorganisation, ensuring equitable treatment of similarly situated creditors, provision of timely,

efficient and impartial resolution and ensuring a transparent and predictable insolvency law with incentives to gather and dispense information. The judicial orders that are transparently available

in the public domain provide the perfect opportunity to analyse the performance of the NCLT as an institution.



## All is not well...yet: ground realities

The IBC has been touted as the knight in shining armour to salvage the NPA situation, accordingly, expectations from it have surged. Though much ground has been covered over last 21 months, there are certain concerns, which may require attention.

## Lack of momentum from investor community:

The M&A activity in the stressed assets space has not been complemented by the much spoken enthusiasm of investors and a conducive investment landscape. Many investors are waiting on the side-lines to gauge the outcome of the settlement of big cases and evolution of IBC before investing. Furthermore, these modifications to IBC have not put to rest certain looming issues, which are of concern to investors relating to operations of plants in India following transfer of assets under the IBC, period of commitment towards the units and expected timelines to close the allocation process. Certain sector-specific concerns with companies under the IBC may require intervention from the Government.

## Sectoral challenges:

Sectors such as infrastructure and power are facing challenges due to uncertain and unattractive tariffs or realisations, low plant load factors due to raw material uncertainty or lack of support from suppliers to whom amounts are due. Hence, bidding interest and resolution for some types of assets may remain uncertain and accordingly, lenders may appear keen on keeping these assets out of the NCLT.

## Significant delays in resolution:

IBC has been widely acknowledged as a beacon of hope for creditors who have, for years, been waiting for justice. However, in most of the cases the threshold of 270 days has been breached because of procedural inefficiencies, lack of infrastructure and other frivolous matters. Not only does this jeopardise the basic premise of resolution within 270 days but also results in notional loss of interest income for lenders with every day of delay.

## The matter of 'operational' creditors:

As a part of the mandatory contents of the resolution plan, operational creditors should get a share of the liquidation value. However in most of the cases, since the liquidation value is very low and is not even sufficient to pay financial creditors, the value due to operational creditors stands at Nil. This is the major reason for many ongoing cases filed by operational creditors, requesting the NCLT to pass the order of their respective payments.

## Single bidder—liquidation v. resolution:

In some cases companies have received only a single bidder's interest, but lenders have been unable to approve resolution plans as the bid values are much lower than the liquidation value. Lenders have preferred the liquidation route—however, it is quite probable that the liquidation process will extend for months and the value realised at the end may further erode from current estimates considering rising operational costs and insufficient cash flows. Hence, there should be a framework to enable conclusive decision-making where at least one bid is on the table, even if the perceived value creates higher haircuts.

## Dealing with contingent liabilities:

Most companies have varied pending litigations—tax, statutory dues, government dues, labour litigation and other commercial disputes. Resolution applicants have less clarity on whether and to what extent such dues will be discharged as a part of CIRP. Contingent liabilities by nature cannot be reliably estimated. Hence, it will be difficult to value the company and it requires a lot of risk analysis before presenting a resolution plan.

## Lack of clarity in case of security charge on an asset:

A typical corporate debtor has multiple lenders with multiple charges spread across various assets. IBC disregards differential rights across the same asset class that lenders have funded differentially. This results in conflicts amongst lenders with different levels of risk and hamper liquidity in the debt market.

No provisions to curtail number of bids: It is well understood that though it is the mandate of the IBC to promote maximisation of the value of assets of a company, it is often forgotten that the essence of time is equally important and the resolution applicants often get caught at the helm of the lenders call for re-bidding and revision of bids.

## Alignment with other laws and exemptions:

The resolution plan needs to be aligned with all other laws in force at the time and the resolution applicant does not enjoy a lot of exemptions with respect to taking over the management of a company. For example, there is no exemption in the Income Tax Act for payment of tax on book profit due to write-off of liabilities under the resolution plan.





## The road ahead

Following are some key measures that are on the anvil:

### Project Sashakt:

A high-level committee on restructuring stressed assets and creating more value for public sector banks (PSBs) has suggested a transparent market-based solution with a focus on asset turnaround to ensure job protection and creation, i.e., Project Sashakt.

Project Sashakt sketches the resolution of bad loans, depending on their size and is designed to address bad loans and strengthen the credit capacity, credit culture and portfolio of PSBs.

### Cross border insolvency:

IBC currently has provisions relating to cross border insolvency but these are not adequate to effectively deal with many default cases. This does act as a deterrent for attracting investments. A draft bill is in progress and hopefully will be enacted after due diligence.

### Impact of RBI circular dated 12 February 2018:

In an effort to hasten the resolution of bad loans, the RBI tightened its rules to make banks identify and tackle any non-payment of loans rapidly. Lenders will identify incipient stress in loan accounts immediately on default, by classifying stressed assets as special mention accounts (SMA). If the principal or interest payment or any other amount is wholly or partly overdue, the account will be categorised as SMA-0 for one to 30 days, SMA-1 for 31-60 days, and SMA-2 for 61-90 days. Lenders will be required to report defaults on a weekly basis.

The regulation provides for a strict 180-day timeline for banks to agree on a resolution plan in case of a default or else refer the account for bankruptcy. The 180-day deadline for the first set of cases ends in the last week of August 2018 and it will be interesting to see the number of cases that are mandated for insolvency.

## SME resolution approach

Below INR **50** Crore

- Banks to develop template resolution approached
- Set up empowered SME steering committee



## Bank led resolution approach

INR **50-500** Crore

- Lead bank to implement resolution plan in 180 days
- Independent screening committee to validate process in 30 days



## AMC/AIF led resolution approach

INR **500** Crore or more

- PSB takes lead in setting up Asset Management Company
- Assets will be put up for bidding
- AIF will raise funds from Institutional Investors



## Better future!!

IBC has instilled a sense of urgency among all stakeholders to resolve bad loans. The fear of losing control over their companies has prompted various promoters to settle or resolve their dues, which presents a huge opportunity for investors.

In the long run, IBC, Project Sashakt and the RBI circular dated 12 February 2018 will bring a good structural change that could strengthen the banking system. It

will create a sense of transparency and spur investor confidence in the financials of banks while changing the way banks do business. Increased prudence is expected in lending, and there is likely to be improved diligence and appraisal when funding large projects. At the same time, the corporate entities too will need to be more cautious or attentive with loan covenants as the tolerance for defaults is being lowered considerably.



# Survey Results

The Insolvency and Bankruptcy Code (IBC or Code) was introduced with a larger macroeconomic objectives at play such as solving the twin balance problem, developing a robust corporate bond market, improving the credit environment, and consequently, providing a fillip to India's competitiveness as a business destination. The new Code was designed to streamline corporate insolvency resolution process, which among other things, prevents value destruction if there is corporate distress.

The IBC has been in focus given the respite it promises to various stakeholders and its ability to expeditiously resolve large amounts of NPA and debts. With this backdrop, PwC conducted a detailed survey and interviewed various stakeholders representing the Lender community, the Investor community and the Legal fraternity.

## Survey methodology adopted:

Senior management of companies active in IBC participated in our survey. The survey responses were obtained either through an online questionnaire or detailed interviews conducted with the respondents. The survey respondents, who had first-hand knowledge of the challenges and issues faced on the management of stressed assets, took out valuable time to share their experiences and knowledge about the Code.

The survey respondents were a mix of CFOs, Tax Directors, Strategy, Finance and Legal professionals, Private Equity funds, Asset reconstruction companies, Investment Bankers and Bankers of companies across various industries who are actively involved in the IBC process.





## The Investors' Perspective

PwC conducted a detailed survey among private equity funds, asset reconstruction companies and strategic investors, both in India and abroad—to collate investor perspectives.

The enactment of the IBC has caught the attention of domestic and foreign investors who are now looking at the distressed asset space in a new light. An astounding 83% of survey participants

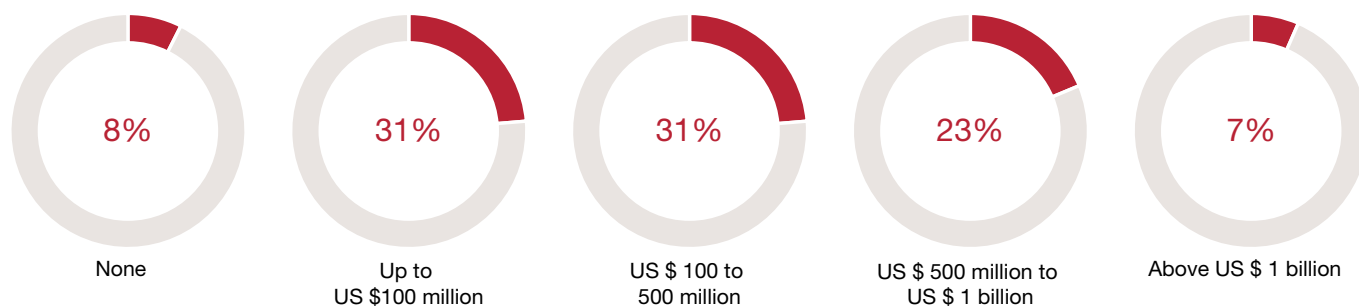
were of the view that the introduction of IBC is the most favourable recent amendment in the tax and regulatory laws aiding investments in the Indian distressed asset space.

### Stressed assets: big, actionable and lucrative

Around 60% of respondents said that they are likely to allocate more than 100 million US\$ to distressed deals—which is

significantly above the average M&A deal size over the last decade (see Figure 1.1).

Figure 1.1 – How much funding will you allocate to distressed assets?



### Opportunities: actionable and attractive?

One in every five participants believed that, of all the distressed deal opportunities that they evaluated in the last year, more than 25% deals represented an actionable and attractive investment opportunity; however, a majority of investors were very choosy about actionable deals and believed that only 10% of all the deals that they evaluated were investible ideas. However, investors across every group expect IRRs in the range of 20-25% on their distressed asset investments.



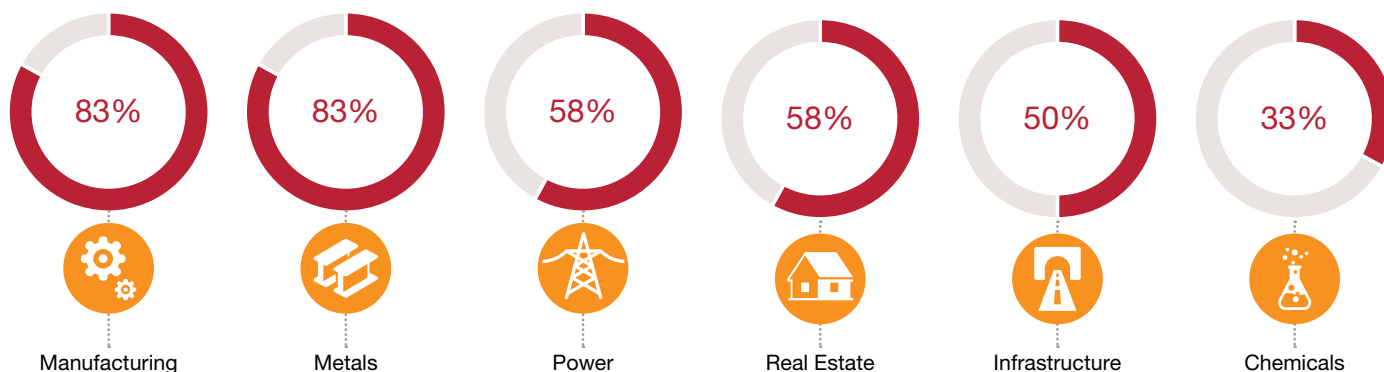
## Sector biases

More than 80% of investors surveyed by PwC had a significant bias towards distressed deals in the manufacturing

sector—spanning industries such as metals, chemicals, pharma, cement and discrete manufacturing. More than half

the investors surveyed also evaluated deals in the infrastructure, power and real estate sectors (see Figure 1.2).

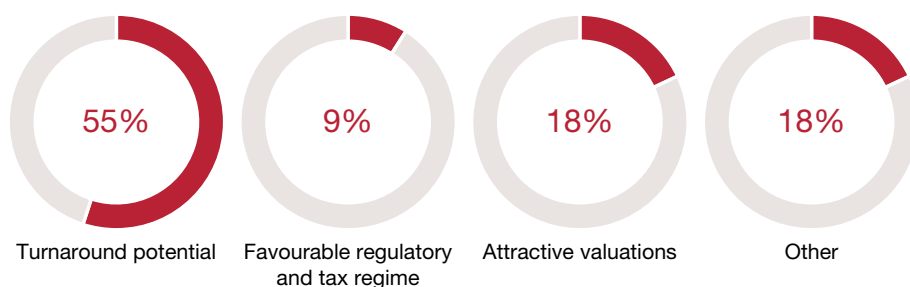
Figure 1.2 – What would be your preferred sectors for distressed deals?



## The dream: turnaround potential

More than half of the survey respondents cited turnaround potential as the key reason why distressed deals were of interest to them—indicating their belief in either positive macro-economic tailwinds or their ability to influence better performance for their investee companies (see Figure 1.3). The sheer scale of the opportunity and the opportunity to make high returns were also cited by investors.

Figure 1.3 – What are your key reasons for investing in distressed deals?

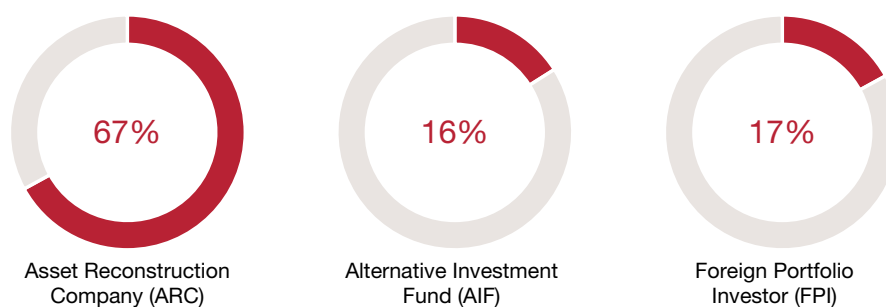


## Vehicle of choice: asset reconstruction company (ARC)

More than two-thirds of investors prefer the ARC route for distressed asset investments (see Figure 1.4). This further underlines the importance and effectiveness of the ARC as an investment vehicle, since it is the only vehicle, which can acquire loans on a secondary basis in an efficient manner.

It will also be important to note that the survey was conducted after the introduction of Foreign Portfolio Investor (FPI) concentration norms. These may have resulted in a reduced preference for FPIs as a vehicle for investing in Indian distressed assets (through Bond investment).

Figure 1.4 – What is your preferred vehicle for investing in distressed assets?



## Investment challenges

According to our survey results, 45% of participants believe that the top challenge for distressed asset investments is the uncertainty in legal processes (see Figure 1.5). In the 20 months since the IBC has become effective, there have been a plethora of amendments including an ordinance to make changes to the original law.

Furthermore, there was a complete overhaul in the framework prescribed for banks in dealing with stressed assets. The frequency of such changes and the magnitude of their impact are a major concern for investors.

Interestingly, valuation mismatch was of least concern, and investors are flexible when seeking to consummate a transaction, provided the deal opportunity shows sound return potential.

Figure 1.5 – What are your biggest challenges when investing in distressed assets?



## Deep dive: legal and regulatory investment challenges

Around 60% of investors cited the introduction of concentration norms for FPIs as the biggest tax or regulatory concern for distressed investments (see Figure 1.6).

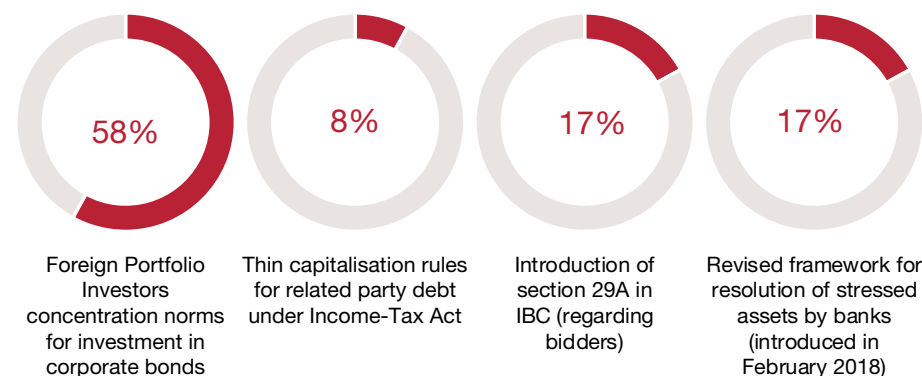
The Government and regulators should take note of this particular concern, given the importance of attracting foreign investment in resolving the distressed assets issue.

Investors also noted the following factors as impairments to distressed asset investments:

- Section 29A in the IBC - pertaining to the eligibility criteria for bidders. This also impacts Indian borrowers, who may be deemed as related parties, by virtue of the quantum of debt investment in the books of the borrower

- Thin capitalisation rules - for related party debt under Indian income tax laws. The provisions of the Income tax laws provide an exemption to banks and insurance companies from the applicability of thin capitalisation rules. However, ARCs - who become lenders pursuant to the acquisition of loans - are not exempted from these provisions

Figure 1.6 – What is the biggest tax/regulatory hurdle that will impact distressed asset investments?



Other significant concerns raised by investors, regarding Income tax laws, were:

- The applicability of Minimum Alternate Tax (MAT) on the write-back of loans
- The inheritance of past tax liabilities of the borrower

When asked about what they would like to change most about the current tax or regulatory guidelines, 80% of participants picked the non-applicability of the provisions of Section 50CA and Section 56(2)(x) of the income tax law, which deal with taxability of shares / assets at a price negotiated below the fair value (as per income tax norms). This is relevant to acquisitions made under Resolution Plan. Participants also desired waiver of stamp duty on the acquisition of the borrower entity.

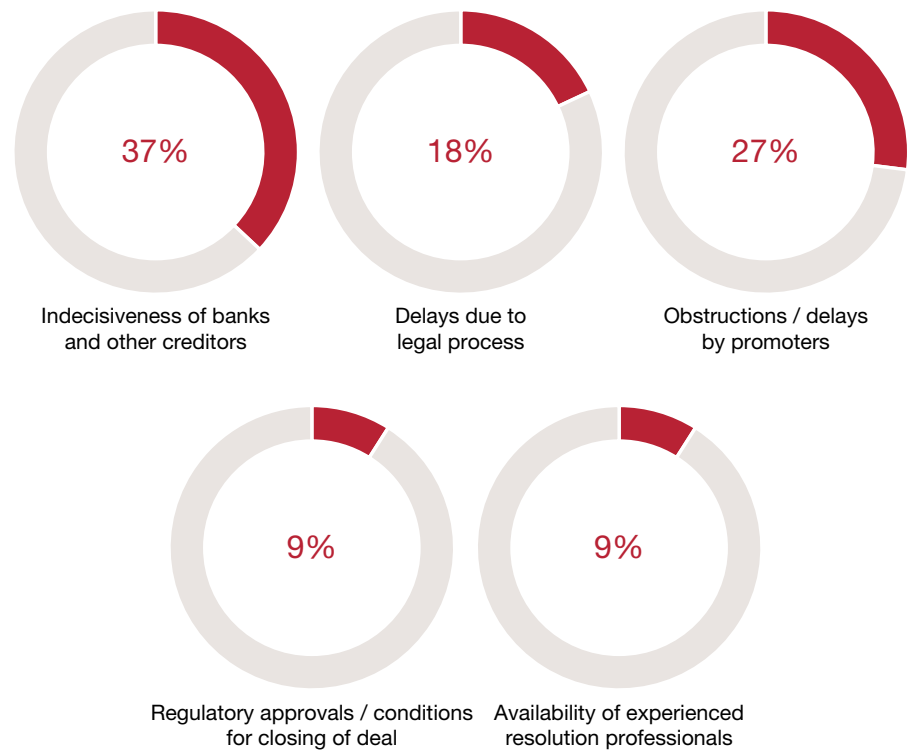
## Restructuring challenges

Unlike the investment phase, where legal, tax and regulatory hurdles were cited by respondents as their biggest challenges, for actual restructuring efforts, indecisiveness of creditors, legal wrangles and non-cooperation of promoters have been flagged as biggest obstacles (see Figure 1.7).

37% of the participants found that the indecisiveness of banks and other creditors was the key obstacle in restructuring efforts. It could be a good feedback for creditors as well as legislators to take note of these concerns voiced by the investor community. It will be useful to have a more conducive environment for banks and other lenders to give them requisite space and authority to take relevant decisions concerning NPAs in a flexible manner.

Furthermore, though IBC has been introduced as a law with time-bound resolution, one needs to work around delays on the ground to ensure that the legal system does not lose its effectiveness.

Figure 1.7 - What are your biggest challenges when restructuring distressed assets?



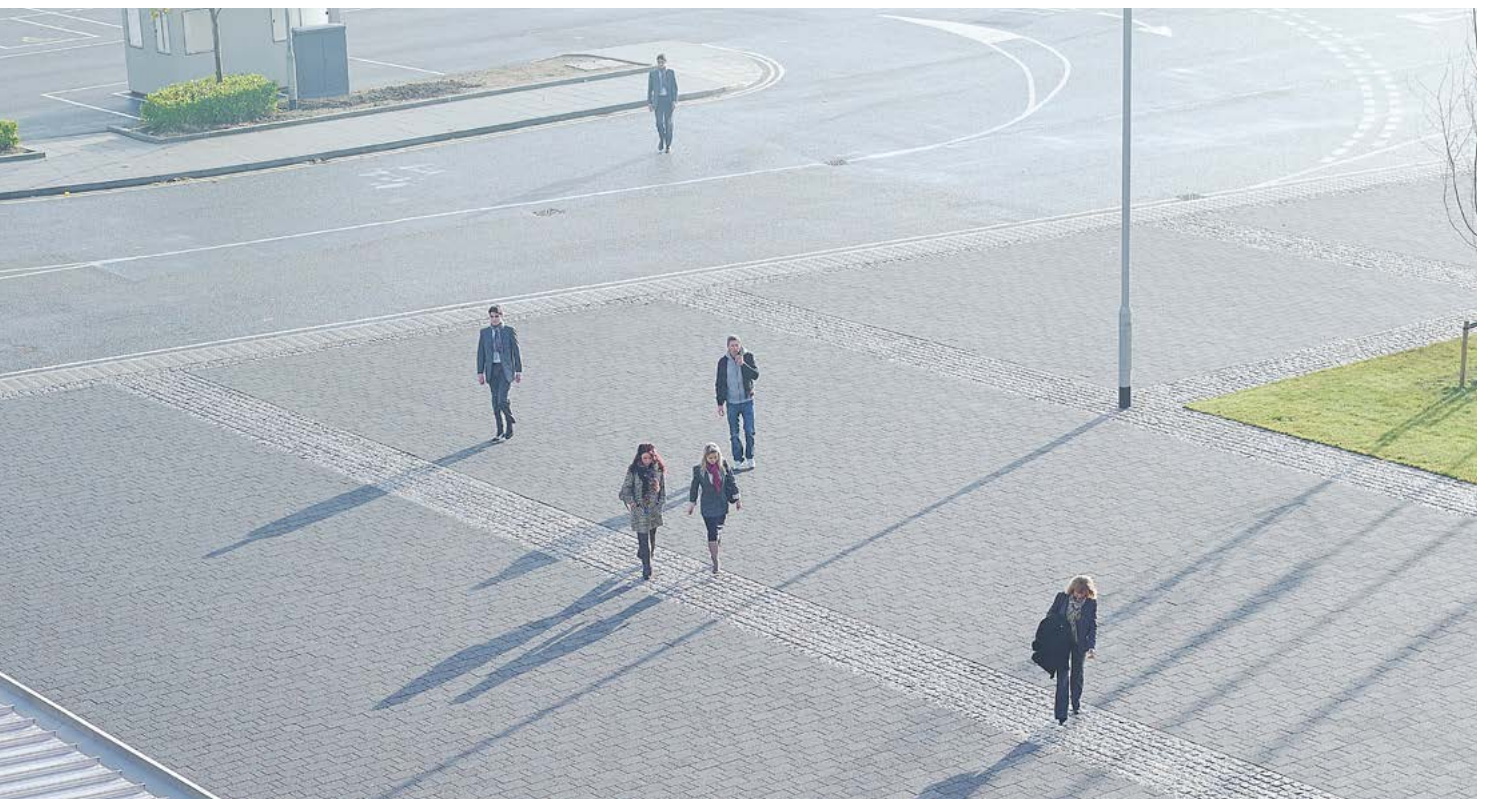
## Well begun is half done, but...

The introduction of IBC has revolutionised the way in which investors, creditors and borrowers interact with each other. It promises a transparent means to creditors to recover dues, sizeable and high-return

opportunities for investors and a warning to defaulting borrowers that they can no longer act with impunity.

However, there are several challenges that need to be ironed out if investments are to be catalysed. These issues

relate to legal, tax and regulatory bottlenecks, inflexibility of creditors and non-cooperation of promoters. The Government has more work to do on these counts, if it expects to accelerate the resolution of this debt debacle.



# The Lenders' Perspective

The IBC brings about a paradigm shift in the resolution process by introducing the concept of 'creditor in control' instead of 'debtor in possession'. This encourages value enhancement of the corporate debtor, since once the process starts, the board cedes control of the company, and insolvency professional, with the help of professional advisors, starts managing the company. It is very essential to understand how lenders perceive IBC, given that in a way they primarily drive the process.

## IBC: preferred resolution mechanism to recover dues

More than two-thirds of lenders (see Figure 2.1) preferred a resolution through IBC for recovery of dues, since it balances their twin objectives of enhancing recovery and turnaround time. The remaining one-third indicated their preference for mechanisms other than IBC, i.e., sale to ARC and restructuring of debt.

Asset Reconstruction Companies (ARCs), created under the ambit of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, aimed to bring about a system to unlock value from stressed loans of banks and financial institutions are a distinct second. ARCs were expected to act as debt aggregators, with the objective to acquire non-performing loans from the banking system, and putting them on a path of resolution. However, the actual journey of ARCs deviated considerably from the envisaged path.

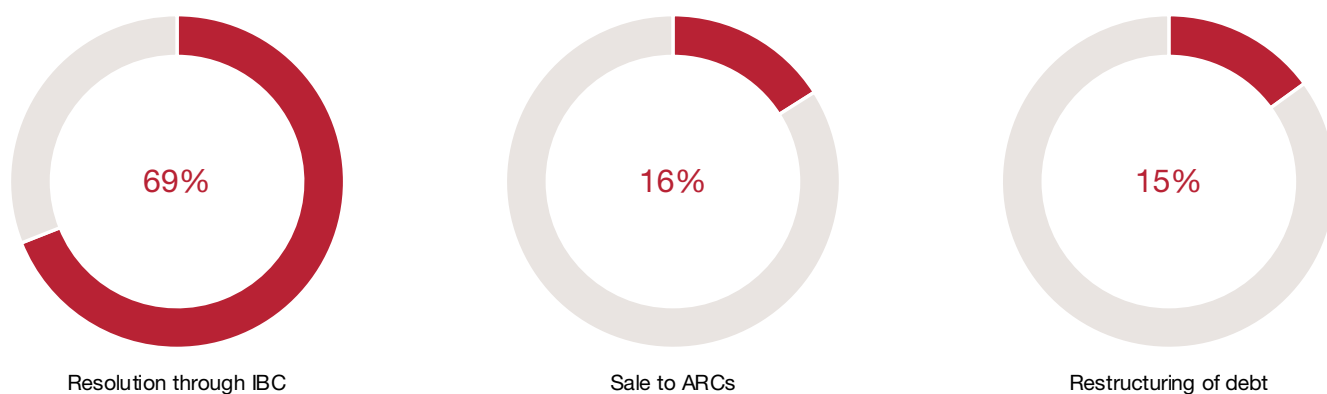
A survey was undertaken on IBC to gauge the responses of bank officials between 1 April 2018 and 30 June 2018 (Survey Period). However, some of the survey questions have already been addressed by amendments to IBC after the launch of the survey. Nevertheless, the survey responses provide some interesting perspectives on the lenders' outlook.

The RBI, on 12 February 2018, ordered lenders to initiate bankruptcy proceedings within 180 days of default on a single payment. Defaulting promoters have to find ways to bring in more capital; else, they face insolvency proceedings. This may have resurrected ARCs, which buy NPAs from financial institutions at a discount to book value and clean up their balance sheets. While guidelines under the recently launched 'Project Sashakt' is awaited, lenders will be able to transfer NPAs onto the books of the AMC immediately, and ARCs will have the opportunity to revive the asset. Hence, these mechanisms could, in the near future become credible avenues for banks to recover dues through sale to ARCs and restructuring of debt.

It must be noted that during the Survey Period, the guidelines of Project Sashakt were not announced and the banks were at nascent stages of complying with the RBI circular dated 12 February 2018.



Figure 2.1 –Preferred resolution mechanism to recover dues



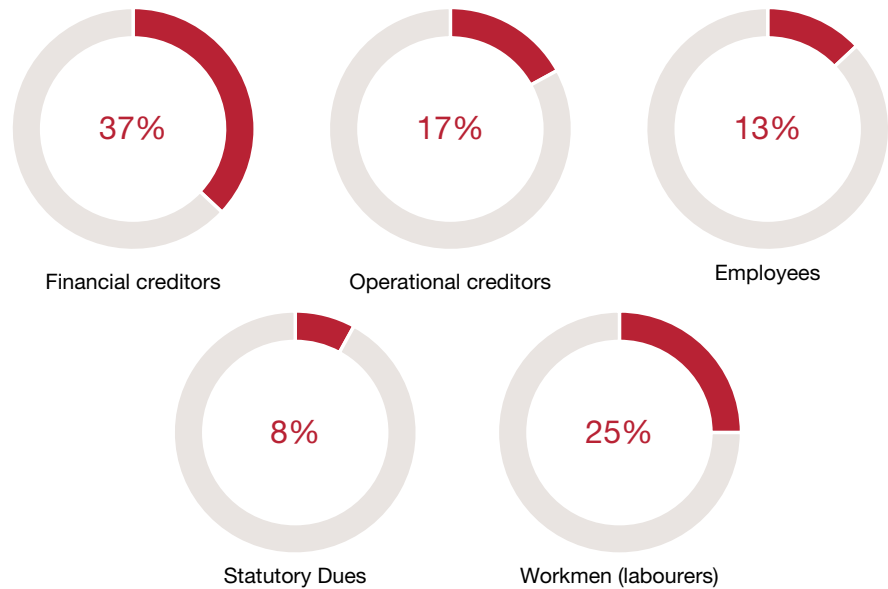
Source: PwC Lenders Survey)

## Financial creditors: most disadvantageous position under IBC ?

Majority of the respondents are of the view that financial creditors are at the most disadvantageous position under IBC given the uncertainty around when a resolution will ultimately be reached (refer Figure 2.2).

Considering that the respondents were lenders themselves and they have indicated that IBC is their best bet to get resolution to their stressed portfolio, this is an interesting outcome, and it appears that this result is based on the 'recovery' achieved on some of the earlier insolvency cases, where they have had to take very deep hair cuts. However, it may be comforting to note that irrespective of the results of this survey, banks continue to believe that the IBC is the preferred resolution mechanism (Figure 2.1).

Figure 2.2 – Most disadvantageous class under IBC



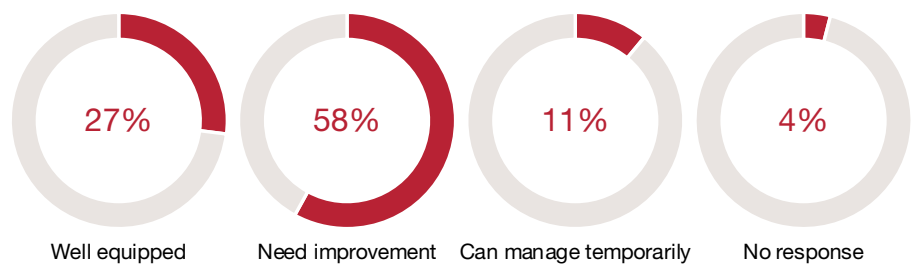
Source: PwC Lenders Survey

## Resolution professionals: can do better

Among our survey respondents, 58% felt that resolution professionals need improvement in managing business affairs during the CIRP process (see Figure 2.3).

The role of insolvency resolution professionals, and their ability to handle day-to-day affairs of bankrupt companies, has come under the spotlight with the NCLT questioning their decision-making power recently in some high-profile insolvency cases. However, it should be acknowledged that the law is new and is undergoing constant changes, which makes the role of insolvency professional quite challenging.

Figure 2.3 – Appraisal of Resolution Professionals



Source: PwC Lenders Survey





Resolution professionals are the fulcrum of the IBC framework. They assume various roles, given that they are in charge of managing the corporate debtor as a going concern and are accountable to the CoC and the adjudicating authority for their actions. The responsibility to take the right decision in the interest and welfare of all stakeholders rests with them. The

challenges they face include lack of cooperation from the promoters and at times lenders, difficulty in running the company given that quite often and particularly at the beginning the operational teams are not supportive and the regulatory framework in which they have to work evolving continuously. Unlike certain other countries such as the UK, resolutorial professionals

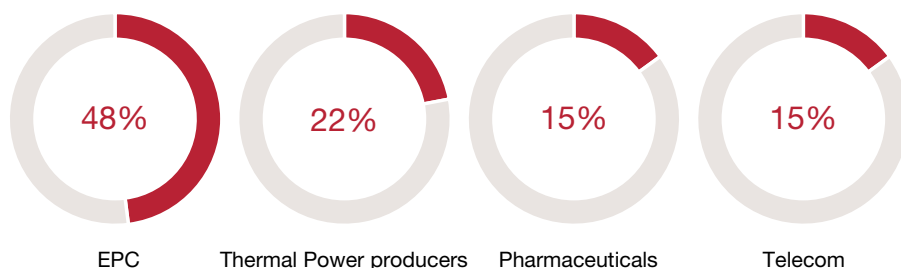
in India are not empowered by law. IBC is a test of the collective resilience and maturity of creditors, debtors, professionals and regulators combined. It is expected that the outlook towards a resolutorial professional may change over a period of time. Moreover, the experience they would have gained over the last year and a half is expected help the profession in the future.

## Core sectors expected to continue dominating NCLT

Majority of lenders are of the view that Engineering, Procurement and Construction (EPC) and power sectors

are likely to evidence maximum number of filings before NCLT for insolvency in the near future (see Figure 2.4).

Figure 2.4 – Sectors likely to evidence significant number of cases before IBC

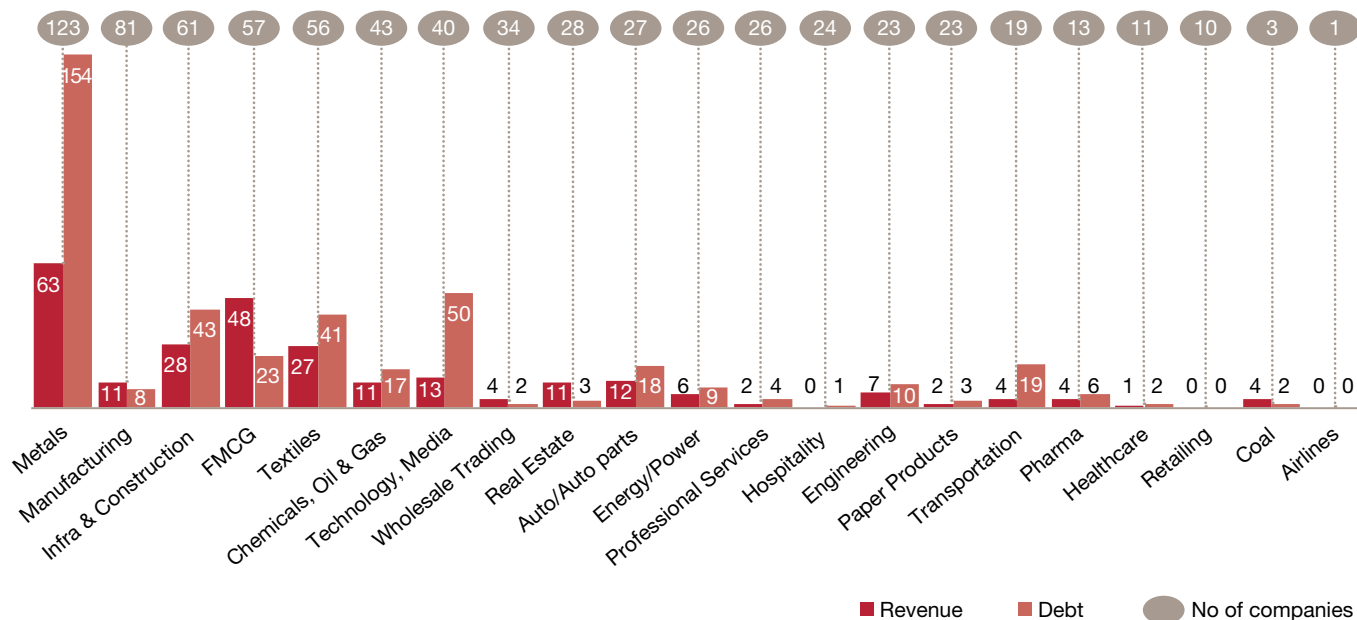


Source: PwC Lenders Survey

The cases before the NCLT as on May 2018 are dominated by two sectors—metals and EPC (see Figure 2.5).



Figure 2.5 – Sector –wise snapshot of cases before NCLT as on May 2018 (Amounts in INR ‘000 Cr)



(Source : Eight Capital Advisory, VCCircle)

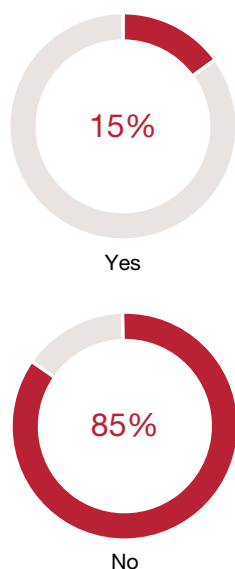
This also raises the relevance of pre-insolvency schemes such as the Samadhan scheme (especially relevant for the power sector)—wherein

promoters are likely to continue to be a part of the company and could well retain a management hold over the company.

## Operational creditors are not welcome to take decisions

85% of our survey respondents believe that major operational creditors should not be included in decision making (in the form of voting rights) in the Committee of Creditors (CoC) (see Figure 2.6).

Figure 2.6 - Should major operational creditors be included in decision making in the CoC?



Source: PwC Lenders Survey)

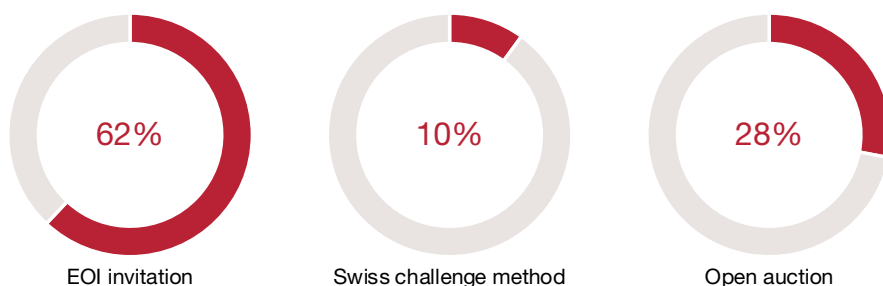
The IBC currently states that the resolutorial professional will give notice of each meeting of the CoC to operational creditors, or their representatives, if the amount of their aggregate dues is not less than 10% of the debt. It also states that representative of operational creditors may attend meetings of the CoC but will not have any voting rights. The NCLT, however, in one of the cases, permitted operational creditors with debt lower than 10% to participate in the CoC.

As the constituents of our survey were lenders, it is not surprising to find that a majority of them felt that operational creditors should not be included in decision making in the CoC. In the UK, all creditors (except secured creditors to the extent of the value of their security), including operational (trade) creditors, have voting power in the CoC, in the ratio of the amount outstanding—particularly for the approval of a resolution plan. However, in India, only financial creditors (secured or unsecured) can vote in a CoC. The operational creditors, are eligible for a proportion of the 'liquidation value due to them', what they get depends on the approved resolution plan.

## Expression of Interest (EOI): preferred method of bidding

The EOI invitation is the most preferred bidding method according to survey respondents followed by open auction and swiss challenge method (see Figure 2.7).

Figure 2.7 – Preferred bidding method



(Source: PwC Lenders Survey)



This assumes significance given recent proceedings related to a cement company, where a bidder offered to increase its bid after another bidder was declared as a top bidder.

Under the 'Swiss Challenge' method, the highest (H1) bid in the first round of bidding becomes the base price for

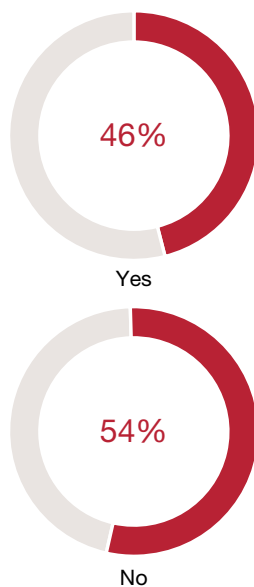
bidders, including the H1 bidder, to place counter-bids in the second round of bidding. The stressed asset will go to the highest bidder in the second round. If no other bidder is able to better the H1 bid, the top bidder in the first round is declared the successful bidder. A few lenders are of the opinion that the

'Swiss Challenge' method will make the insolvency resolution process under the IBC more transparent. It can potentially also help banks realise more value from the bidding process and possibly reduce litigation.

## Bidders should be allowed to improve their offers

Interestingly, survey results indicate that 54% of respondents are of the view that the law should not restrict bidders from improving their financial offers (see Figure 2.8).

Figure 2.8 - Should the law restrict bidders' ability to continuously improve their financial offers till the last bidder remains in the fray?



Source: PwC Lenders Survey

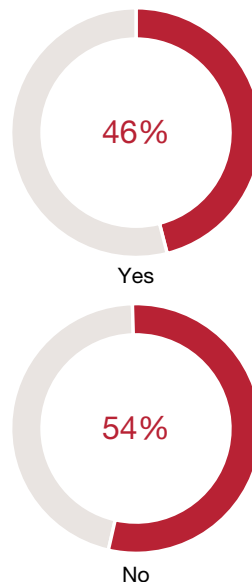
The law currently does not curtail a bidder from improving his offer. Furthermore, the NCLAT in one of the cases has directed the CoC to consider upward revised offers.

IBC is a fairly new legislation, and it has been continually evolving. However, stakeholders should not lose the sight of its spirit and purpose. Value maximisation is a key driver, but at the same time it is important that the resolution takes place in a timely manner and the asset quality does not deteriorate over a prolonged resolution process.

## No requirement for differential framework for small companies

According to our survey results, 54% of respondents feel that there should not be a differentiated framework for Small and Medium Enterprise (SMEs) or Micro, Small and Medium Enterprises (MSMEs) (see Figure 2.9).

Figure 2.9 - Should there be a differentiated framework for SMEs or MSMEs?



Source: PwC Lenders Survey

The key question is that whether one code or framework is sufficient to cater to all size of businesses. The issue has been addressed through an amendment made post the launch of the survey. According to a recent amendment, MSME promoters will be allowed to bid for their companies should they be put through the Corporate Insolvency Process (CIR) process, provided they are not willful defaulters. Hence, an exception has been made.

The survey responses, in this case, are not in consonance with the amendment.

## A ray of hope

The IBC has become the preferred route of resolution for creditors. Also, the rate at which applications for resolution are either being accepted or rejected is commendable as it encourages more and more creditors to take this route for efficient NPA resolution. While the IBC has provided creditors with a new tool to manage their relationship with debtors, its impact on improving the future credit scenario in India and on avoiding bad debts going forward is yet untested. Though the RBI circular of February 12, 2018 and Project Sashakt should be enablers for identification of stress at an early stage and resolution outside of IBC. Given that it is a nascent law the initial hiccups are anticipated, hopefully it will evolve over a period of time and provide the much needed overhaul to the NPA situation in India.



# The Legal Tangle

## IBC has been plagued by a number of legal issues

There are seven key issues of relevance here:

Sr. No	Area	Reason for lack of clarity	Current status
1	<b>Right of customer or depositor as creditor</b>	<ul style="list-style-type: none"> <li>In the case of insolvency proceedings against the Jaypee Group, the amount owed by the Group to the home buyers was much higher than those to financial creditors.</li> <li>However, in the resolution plan, the financial creditors were given 1.6 times higher weightage than customers.</li> <li>The Code allows only a financial creditor to initiate corporate insolvency resolution proceedings.</li> <li>Although the term 'financial creditors' is defined under the Code, there is not much clarity about the inclusion of 'home-buyer' in the definition.</li> </ul>	<ul style="list-style-type: none"> <li>The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 ('Ordinance') recognises the 'home-buyer' as a financial creditor for initiating the corporate insolvency resolution process against fraudulent or defaulting real estate developers.</li> <li>Therefore, the Ordinance now enables home buyers to represent themselves in the Committee of Creditors—giving them a fair chance of receiving repayment of their investments.</li> </ul>
2	<b>Nexus or related party's right to bid</b>	<ul style="list-style-type: none"> <li>Section 29A of the Code provides for persons ineligible to be resolution applicants.</li> <li>Earlier, it defined 'related party' only in the context of a corporate. It was silent on related party and relatives in context of individual or promoters, giving rise to ambiguities and litigations.</li> <li>Furthermore, as a result of section 29A, even genuine investors (e.g., stressed asset funds) were getting disqualified from bidding.</li> </ul>	<ul style="list-style-type: none"> <li>The Ordinance has now defined 'relatives' and 'related party' in relation to individuals who have run a stressed business, covering relatives leading up to fourth generation of an individual.</li> <li>This widens the scope of persons who will be barred from bidding for stressed business.</li> <li>Furthermore, the Ordinance has also made a carve out for pure play financial entities, which are not related to the Corporate Debtor.</li> </ul>
3	<b>Regulatory dues - which class of creditor</b>	<ul style="list-style-type: none"> <li>The definition of operational creditor and financial creditor does not make it very clear whether payments to be made to statutory authorities would fall under which bucket.</li> </ul>	<ul style="list-style-type: none"> <li>The Insolvency Law Committee* in its recommendations has stated that regulatory dues need not form part of operational debt. At the same time, it may be difficult to treat the same as financial debt.</li> <li>Hence, the same remains unclear to that extent.</li> </ul>
4	<b>Decision making required by lenders - is 75% too high</b>	<ul style="list-style-type: none"> <li>Decisions taken by the CoC could be taken only if 75% of the CoC voted in favour.</li> <li>Although the provision was intentioned to ensure acceptability of action, in effect, it led to a lot of logjam over approval of resolution plans and also in routine decisions.</li> </ul>	<ul style="list-style-type: none"> <li>The Ordinance prescribes that decisions of the CoC will be passed if 66% of the CoC vote in favour.</li> </ul>
5	<b>Application of Limitation Act on insolvency proceedings</b>	<ul style="list-style-type: none"> <li>Application of the Limitation Act to the proceedings under the Code was not mentioned in the Code.</li> <li>This led to a lot of hardship in enforcing one's debt—if the debts have become time barred.</li> </ul>	<ul style="list-style-type: none"> <li>The Ordinance has inserted section 238A in the Code whereby it has been clarified that provisions of the Limitation Act should apply to proceedings under the NCLT, NCLAT, DRT or DRAT, as the case may be.</li> </ul>
6	<b>Liability of guarantor</b>	<ul style="list-style-type: none"> <li>In the absence of a specific provision to the contrary, the guarantors of the corporate debtor sought to seek benefit of the moratorium applied under section 14 of the Code when the insolvency petition was admitted against the corporate debtor.</li> </ul>	<ul style="list-style-type: none"> <li>The Ordinance has amended subsection 3 of section 14 of the Code by specifically stating that the moratorium under section 14(1) of the Code will not apply to guarantors of the corporate debtor.</li> </ul>
7	<b>Non alignment of other regulatory laws with the Code</b>	<ul style="list-style-type: none"> <li>Provisions of SEBI laws, Income Tax laws, Companies Act, 2013 were not in consonance with the Code.</li> <li>Hence, there were ambiguities on how a transaction will be treated under the tax laws (for instance change in shareholding beyond 49%), SEBI laws (trigger an open offer on acquisition of a listed company admitted under the Code) etc.</li> </ul>	<ul style="list-style-type: none"> <li>By way of various amendments, the Government is trying to align other laws with the Code.</li> </ul>

\*Report of the Insolvency Law Committee dated March 2018

## Legal wrangles persist

PwC also conducted structured discussions and a survey with law firms—to collate legal and regulatory perspectives and issues relevant to IBC.

Two of the key outstanding issues were the treatment of home buyers and related party rights to bid. The Ordinance dated 6 June 2018, read with the Insolvency and Bankruptcy Board of

India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2018 ('Rules'), has addressed both these issues by providing that home buyers will be treated as financial creditors to initiate a corporate insolvency resolution process, give relaxations to certain classes of related parties and pure play financial entities.



There are, however, several issues that are still outstanding, such as:

### 1. Out of court settlements

In the case of Binani Cement Limited (BCL), a consortium led by the Dalmia Bharat Group, emerged as the highest bidder. UltraTech Cement Limited entered an agreement with Binani Industries Limited (BIL), the parent of BCL, wherein UltraTech agreed to buy BIL's 98.43% in BCL in an event that insolvency proceedings were terminated. Such an agreement between Ultratech and the promoters of BCL raised following questions on the sanctity of the Code:

- Can an application once admitted under the Code be terminated?
- If yes, then who has the power to terminate the proceedings under the Code?

Strong objections were raised by both parties, and accordingly the Government took adequate steps and amended the Code by way of the Ordinance. Section 12A of the Code provides that the adjudicating authority (that is, NCLT) may allow the withdrawal of an application admitted under Section 7 or Section 9 or Section 10 (i.e., initiation of corporate insolvency resolution process by financial creditor, operational creditor and corporate applicant, respectively) of the Code, on an application made by the applicant, with the approval of 90% voting share of the Committee of Creditors, in such manner as may be prescribed. Furthermore, an application for withdrawal can be submitted only before the issue of an invitation for expression of interest. This is a welcome move, which will help facilitate out-of-court settlements for several disputes.

### 2. High value bids submitted after the deadline

In the case of Bhushan Power and Steel Limited, Liberty House submitted the bid after the deadline for submission as per Process Document had expired. The CoC rejected the bid. However, Liberty House then challenged the CoC's decision to reject its bid on the grounds of late submission. Later, the NCLT asked lenders to consider Liberty House's bid, stating bids could only be rejected on substantive grounds, and not due to internal timelines. Tata Steel, seen as the highest bidder for the Resolution, then moved the NCLAT challenging the NCLT's order. The matter is on-going and the NCLAT has allowed all 3 bidders, i.e., Tata Steel, Liberty House and JSW Steel to file revised offers.

While the recent Ordinance resolved various issues, this specific issue has escaped the attention of the Government. There is still no clarity on whether such late bids can be submitted or not. This leads to several outstanding questions, such as:

- What will be the long-term impact if bids are allowed to be submitted after the deadline?
- Is bidding for companies under the Code soon going to be based on the Swiss Challenge method?

### 3. Conditions precedent

For acquisitions or the takeover of any business, a host of regulatory approvals are required. While the Code provides that the Resolution Applicant will acquire control over the corporate debtor on approval of the Resolution Plan, other regulatory laws prevalent in India— such as SEBI laws or Competition Act, 2002— were not aligned with the provisions of the Code. As a result of this 'non-alignment' between the Code and other laws, Resolution Plans submitted to the NCLT contained certain 'conditions precedent' such as potential waivers of stamp duty, approval of the Competition Commission of India and approvals of other specific sector regulators.

While some resolution cases have accepted such conditions precedent, others have not. A key question that remains—in an event where a resolution plan is approved by the NCLT, with conditions precedent, and subsequently these conditions precedent cannot be fulfilled, what happens to such a resolution plan? While till date there has been no such case, it will be better for the Government to clarify on this point to avoid litigation in future.

PwC's survey findings indicate that out-of-court settlements and evaluation of higher bids submitted after the deadline were major obstructions in the implementation of the Code. Furthermore, exemptions and waivers sought in the resolution plan are generally not being given, and the resolution applicant or corporate debtor is being subject to undue hardships. Moreover, in some cases, the NCLT is directing modifications to be made in the relief section of the resolution plan, and there are instances where the NCLT is going into the commercial and business decisions in resolution plans. This may lead to further hardship for potential bidders, thereby, discouraging them from bidding in the first place.

## Proceedings can move faster

The Code prescribes a time frame within which the corporate insolvency resolution process need to be completed. Section 12(1) of the Code provides that the corporate insolvency resolution process should be completed within a period of one hundred and eighty days from the date of admission of the application to initiate such a process. Moreover, Section 12(3) of the Code also provides that, if the adjudicating authority is of the view that the corporate insolvency resolution process cannot be completed within one hundred and eighty days, it may, by an order, extend the duration of such a process

beyond 180 days by such further period as it deems fit, but not exceeding a further 90 days.

For instance, as per the Code, the NCLT should, within 14 days of receipt of an application for initiating a corporate insolvency resolution process, admit or reject the application. Due to the large number of cases pending before the NCLT, the time line mentioned in the Code is rarely being adhered to.

There does not seem to be any urgency on the part of the NCLT to adhere to timelines laid down in the Code. However, the fact that the Code is still

in a development stage and there are a number of issues, which are not yet foreseen or settled, makes the target of 270 days difficult to achieve. Therefore, there may be situations, which may call for an extension or exclusion of certain periods from the computation of 270 days. However, it is imperative that the objective and intent of the Code are not defeated because of repeated extensions, and that extensions or exclusions are granted only in justifiable cases.

Among the legal firms surveyed by PwC, only 50% believed that NCLT proceedings were fast.

## Large backlog of cases

Until 30 November 2017, there were around 2,400+\* fresh cases filed before the NCLT. There are only 11 NCLT benches# in different parts of the country, which are catering to matters under the Code, apart from other

matters. One of the major hurdles being faced in resolving cases under the Code is that there are not enough number of NCLT benches, which can cater to such a large number of cases, thereby resulting in delays.

A large number of cases may get resolved once NCLT members become more aware of how matters are to be resolved. We recommend an increase in the number of NCLT members and benches to remove this bottleneck.

## Landmark judgements and their impact

While there have been many judgements in the last 21 months, which may become landmark judgements as far as

the Code is concerned, based on the PwC survey, more than 75% of respondents believe that the Mobilox case is a

landmark judgement as far as the Code is concerned.

### Case 1: Rights of Operational Creditors - Mobilox Innovations Private Limited v Kirusa Software Private Limited

The Supreme Court of India, in Mobilox Innovations Private Limited (“Mobilox”) versus Kirusa Software Private Limited (“Kirusa”), has finally settled the issue regarding the interpretation of ‘dispute in existence’ under the IBC. The Supreme Court has considered questions raised as to the triggering of the Code, when

it comes to debts owed to operational creditors and as to what would constitute a ‘dispute’ - entitling the debtor company to have the Adjudicating Authority reject the application. This provides much relief and clarity to operational debtors who may have a genuine dispute regarding the debt, but may not have

yet initiated legal proceedings. The Court has acknowledged the fact that situations may exist where a debtor company may have a dispute with an operational creditor, which it may have chosen not to escalate to a court or arbitral tribunal.

### Case 2 – Delayed Claims - Speculum Plast Pvt. Ltd v PTC Techno Pvt. Ltd

The NCLAT has held that the Limitation Act should not apply to the proceedings under the Code. Having stated that, the NCLT holds that in an event where the application under section 7 or 9 is filed after a long delay, the NCLT will give an opportunity to the Applicant to explain the delay, and any negligence on the part of the Applicant may be taken into consideration before rejecting a belated application. The aforesaid opportunity will not be given in case of an application

filed under section 10 by a corporate applicant for initiating insolvency resolution process against itself, since there is no specific claim or debt.

In the case of claims, the NCLT held that it is open for the Committee of Creditors to decide whether a claim made after long delay is acceptable. If a creditor is aggrieved by such decision, he may apply to the NCLT for relief.

The Ordinance released recently has amended the Code by inserting Section 238A, which provides that the provisions of the Limitation Act, 1963 will, as far as may be, apply to the proceedings or appeals before the NCLT, NCLAT, DRT or the DRAT, as the case may be. This is a welcome move, which should put to rest the litigation around the applicability of the Limitation Act to proceedings under the Code.

\* Source- Press Trust of India article dated December 18, 2017

# Source- Economic Times dated April 4, 2018

### Case 3: Certificates for Operational Creditors - Macquarie Bank Limited v Shilpi Cable Technologies Limited

The Supreme Court has held that the requirement for an operational creditor to provide a certificate from a financial institution, under Section 9(3)(c) of the Code, is only directory and not

mandatory. A demand notice for unpaid operational debt can be sent by a lawyer on behalf of an operational creditor. A court must endeavor to interpret the

Code to further its objectives without creating a serious general inconvenience to innocent parties; to that end, creative interpretation is also permitted.

### Case 4: Timeline for Rectification of Defects - JK Jute Mills v M/s. Surendra Trading

In this case, the NCLAT had held that the period of fourteen days prescribed for the Adjudicating Authority to pass such an order is directory, while the period of seven days given to the applicant or operational creditor for rectifying

defects in the application is mandatory. The Supreme Court has held that the period of seven days within which an operational creditor may rectify the application is also directory and not mandatory. However, the Supreme Court

has caveated the same by stating that in an event the defects are not removed within seven days, the applicant should file an application in writing showing sufficient ground as to why the objections could not be removed in seven days.

## Further changes are needed to overcome legal bottlenecks

While the Code has had a positive impact overall, several improvements are recommended to remove legal uncertainty, such as:

- Ease in dealing with other regulatory approvals
- Setting up of more NCLT benches and training of judges
- Restrictions to be imposed on NCLT to prevent interference in commercial decisions of the resolution applicant or creditors
- Increase in number of NCLT judges to cope with the increased work load



# About CII

The Confederation of Indian Industry (CII) works to create and sustain an environment conducive to the development of India, partnering industry, Government, and civil society, through advisory and consultative processes.

CII is a non-government, not-for-profit, industry-led and industry-managed organization, playing a proactive role in India's development process. Founded in 1895, India's premier business association has around 9000 members, from the private as well as public sectors, including SMEs and MNCs, and an indirect membership of over 300,000 enterprises from around 265 national and regional sectoral industry bodies.

CII charts change by working closely with Government on policy issues, interfacing with thought leaders, and enhancing efficiency, competitiveness and business opportunities for industry through a range of specialized services and strategic global linkages. It also provides a platform for consensus-building and networking on key issues.

Extending its agenda beyond business, CII assists industry to identify and execute corporate citizenship programmes. Partnerships with civil society organizations carry forward corporate initiatives for integrated and inclusive development across diverse domains including affirmative action, healthcare, education, livelihood, diversity management, skill development, empowerment of women, and water, to name a few.

As a developmental institution working towards India's overall growth with a special focus on India@75 in 2022, the CII theme for 2018-19, India RISE : Responsible. Inclusive. Sustainable. Entrepreneurial emphasizes Industry's role in partnering Government to accelerate India's growth and development. The focus will be on key enablers such as job creation; skill development; financing growth; promoting next gen manufacturing; sustainability; corporate social responsibility and governance and transparency.

With 65 offices, including 9 Centres of Excellence, in India, and 10 overseas offices in Australia, China, Egypt, France, Germany, Singapore, South Africa, UAE, UK, and USA, as well as institutional partnerships with 355 counterpart organizations in 126 countries, CII serves as a reference point for Indian industry and the international business community.

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# About PwC

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At PwC, our purpose is to build trust in society and solve important problems. We're a network of firms in 158 countries with more than 2,36,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at [www.pwc.com](http://www.pwc.com)

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# Glossary

<b>AIF</b>	Alternative Investment Funds	<b>IPAs</b>	Insolvency Professional Agencies
<b>ARCIL</b>	Asset Reconstruction Company India Limited	<b>IUs</b>	Information Utilities'
<b>BIFR</b>	Board for Industrial and Financial Reconstruction	<b>JLFs</b>	Joint Lenders' Forums
<b>CDR</b>	Corporate Debt Restructuring	<b>MCA</b>	Ministry of Corporate Affairs
<b>CIRP</b>	Corporate Insolvency Resolution Process	<b>MSME</b>	Micro, Small and Medium Enterprises
<b>CoC</b>	Committee of Creditors	<b>NCLT</b>	National Company Law Tribunal
<b>DRT</b>	Debt Recovery Tribunal	<b>NPA</b>	Non-performing assets
<b>EOI</b>	Expression of Interest	<b>SARFAESI Act</b>	Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act
<b>FPI</b>	Foreign Portfolio Investor	<b>SDR</b>	Strategic Debt Restructuring
<b>GFC</b>	Global financial crisis	<b>SEBI</b>	Securities and Exchange Board of India
<b>IBBI</b>	Insolvency and Bankruptcy Board of India	<b>SICA</b>	Sick Industrial Companies Act
<b>IBC</b>	Insolvency and Bankruptcy Code	<b>SME</b>	Small and Medium Enterprise
<b>IMF</b>	International Monetary Fund		



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