

INDIA'S IBC FRAMEWORK – ECONOMY

NEWS: Over eight years since its enactment, India's Insolvency and Bankruptcy Code (IBC), 2016 has significantly altered the country's credit landscape.

WHAT'S IN THE NEWS?

Background and Purpose of IBC, 2016

- **Need for Reform:**
Before IBC, India had fragmented and inefficient mechanisms for debt resolution, with laws like the Sick Industrial Companies Act (SICA), SARFAESI Act, and DRTs proving ineffective in dealing with mounting **Non-Performing Assets (NPAs)**.
- **Objective of Introduction:**
The IBC, enacted in **2016**, was introduced as a **comprehensive reform** to create a unified framework for resolving insolvency for **companies, partnerships, and individuals** in a time-bound and creditor-friendly manner.
- **Shift in Approach:**
The code **replaced the debtor-in-possession model** with a **creditor-in-control mechanism**, where financial creditors, through a Committee of Creditors (CoC), control the resolution process.

Core Objectives of the IBC Resolution Framework

- **Business Revival:**
Focus is on **reviving distressed businesses** rather than direct liquidation, through measures like **debt restructuring, management changes, or mergers and acquisitions**.
- **Maximization of Asset Value:**
The code aims to **preserve and enhance** the value of the assets of the corporate debtor during the resolution process, minimizing value erosion.
- **Encouragement of Credit and Entrepreneurship:**
By ensuring effective recovery mechanisms, IBC boosts **lender confidence**, improves **credit availability**, and promotes a **culture of responsible entrepreneurship**.
- **Equitable Treatment of Stakeholders:**
It seeks to **balance the interests** of all stakeholders—creditors (secured and unsecured), employees, and promoters.

Resolution Process under the IBC (Corporate Insolvency Resolution Process - CIRP)

- **Initiation:**
The insolvency process can be initiated by either a **financial or operational creditor**, or by the **debtor company itself**, through an application before the **National Company Law Tribunal (NCLT)**.
- **Admission and IRP Appointment:**
If the NCLT admits the application, an **Interim Resolution Professional (IRP)** is appointed and a **moratorium** is declared to halt all legal proceedings against the debtor.

- **Public Announcement:**
A public notice is issued inviting claims from creditors, enabling **debt validation and claims registration**.
- **Formation of CoC:**
The IRP identifies financial creditors and forms a **Committee of Creditors (CoC)**, which becomes the decision-making body for resolution.
- **Appointment of RP:**
The CoC may choose to **retain the IRP** as the **Resolution Professional (RP)** or **appoint a new RP** to manage the process.
- **Resolution Plan Invitation:**
The RP invites resolution plans from potential applicants, which may include proposals for:
 - **Restructuring or reduction of debt**
 - **Management overhaul**
 - **Business sale, merger, or acquisition**
 - **Alteration in loan terms or equity conversion**
- **Approval of Plan:**
A resolution plan must receive **at least 66% voting approval** from CoC members (based on their voting share) before being submitted to the NCLT.
- **Binding Approval:**
Once the NCLT **approves** the plan, it becomes **binding** on all stakeholders, including creditors, employees, and shareholders.
- **Liquidation Provision:**
If no resolution is achieved within **330 days**, or if CoC opts for liquidation, the company proceeds to liquidation under IBC.

Timeline and Statutory Provisions

- **330-Day Timeline:**
As per amendments, the maximum time allowed for completion of CIRP is **330 days**, including litigation and judicial delays.
- **Original Timeline:**
Initially set at **180 days**, extendable by 90 days (total 270), but due to frequent delays, the cap was raised.

Achievements and Impact of IBC

- **Improved Global Ranking:**
IBC significantly contributed to India's **Ease of Doing Business** ranking by the World Bank, improving from **136 (2016)** to **52 (2020)** in the category of '**Resolving Insolvency**'.
- **Major Contributor to Recoveries:**
As per the **RBI's Trend and Progress of Banking in India 2024** report, IBC accounted for

48% of all recoveries made by banks in FY 2023–24, showing its role in improving financial discipline.

Key Challenges and Concerns with IBC Implementation

- **Delays in Case Disposal:**

Despite a statutory deadline of 330 days, as of **March 31, 2025**, **78% of ongoing CIRP cases** had exceeded 270 days, primarily due to delays in **NCLT hearings**, procedural bottlenecks, and litigation.

- **Judicial Delays Post-Resolution:**

Even after CoC approval, **judicial interventions** (e.g., Bhushan Power & Steel case) have delayed implementation, discouraging bidders and undermining certainty.

- **High Haircuts for Creditors:**

On average, **creditors recover only around 33%** of their admitted claims, implying an average **haircut of 67%**, raising questions on efficiency and value maximization.

- **Lack of Special Provisions for Modern Enterprises:**

The code is yet to evolve to effectively handle:

- **Intellectual property valuation**
- **Tech and start-up continuity**
- **Employee stock options and rights**

- **Infrastructure and Manpower Deficit:**

Both **NCLT and NCLAT** face **serious capacity constraints**, including **shortage of judges**, **lack of digitization**, and backlog of pending cases.

Source: <https://www.thehindu.com/business/is-ibc-an-effective-resolution-tool-explained/article69660687.ece#:~:text=As%20the%20National%20Company%20Law,a%20leap%20forward%20>