



## INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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# IIPI Newsletter

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## CONTENTS

News Update  
News Roundup  
Event Photos  
Upcoming Events



### SEBI asks for Debenture Holder's nod for M&A

According to SEBI, clearance of any scheme of merger and acquisition (M&A) shall require mandatory prior approval of debenture holders.

This initiative is aimed at empowering investors in debentures. The new rule will ensure that the debenture holders do not get short-changed. However, the companies which frequently issue debentures, particularly financial service providers, have argued that this would create duplicity as the process already requires approvals of NCLT and RBI.

**For More Details, Please**

**Visit:** <https://timesofindia.indiatimes.com/business/india-business/debenture-holders-nod-needed-for-mas-sebi/articleshow/89878310.cms>

### News Update

*\*For Internal Circulation Only*

*\*Knowledge SBU Initiative*

### India to Retain Powers to Intervene in Cross-Border Insolvency Cases under proposed Cross-Border Resolution Framework

The central government may retain power to intervene in cross-border insolvency cases under exceptional circumstances as it prepares to introduce cross-border resolution framework tailored around model law of the United Nations. The cross-border insolvency law will enable India to seek cooperation from other nations to bring under consideration insolvency proceedings of defaulters' assets there. The government, if convinced that the insolvency framework, based on the UNCITRAL, is not protecting the public interest, it will consider implementing its power to intervene to take a decision it will deem fit.

The intervention would follow an executive notification, the cross-border insolvency framework of the IBC will not be amended through Parliamentary clearances for the same. The cross-border insolvency law recognises that one country has to proceed with the main insolvency case and others with supplementary case/s, depending on the location of defaulters' assets. Through the bilateral agreements and letter of request in terms of section 233 and 234, IBC envisages the resolution of cross-border insolvency. IPs have been highlighting the need for a cross-border insolvency law during the insolvency proceedings of corporate debtors having cross border interests such as Amtek Auto, Videocon Industries, Essar Steel and Jet Airways. According to experts since no bilateral agreement has been executed and implemented yet, the current regime remains inadequate. Thus, to remedy the situation, the government has proposed the current framework.

**For More Details, Please Visit:** <https://www.financialexpress.com/industry/insolvency-and-bankruptcy-code-govt-may-intervene-in-rare-cross-border-insolvency-cases/2446256/>

## News Roundup

### NCLT Allows Withdrawal of Insolvency Proceedings and Lifts Moratorium against Nirmal Lifestyle

Insolvency proceedings and moratorium against real estate development firm, Nirmal Lifestyle, may now be withdrawn as per the order of NCLT. The firm has settled into a separate agreement with its financial creditor. Previously, the company had defaulted on its dues worth Rs 286 crore, the Mumbai bench of the NCLT had thus admitted the company under the CIRP as a petition was also filed by IDBI Trusteeship Services on behalf of Altico Capital. The tribunal's division bench headed by judicial member, HV Subba Rao and technical member, Chandra Bhan Singh, passed the order on 1st March 2022.

#### **For More Details, Please Visit:**

<https://economictimes.indiatimes.com/industry/services/property/-construction/nclt-allows-withdrawal-of-insolvency-proceedings-against-nirmal-lifestyle/articleshow/89930911.cms>  
NCLT Kolkata Approves Group Insolvency Proceedings

### Suspended Board of Directors Has No Power to Appoint a Resolution Professional: NCLAT, Chennai

The suspended Board of Directors under IBC has no power to appoint or replace a resolution professional, has held the NCLAT, Chennai. This power lies with Committee of Creditors (CoC) and Adjudicating Authority (AA).

As per the terms of Section 27, the RP may be replaced during CIRP by the CoC with a 66% majority of voting share. In case no name is proposed by the CoC, the AA is called upon to propose a person's name on recommendations of the IBBI.

**For More Details, Please Visit:** <https://www.livelaw.in/ibc-cases/nclat-chennai-ibc-resolution-professional-committee-of-creditors-coc-193138>

### Swiss-based Russian gas pipeline operator Nord Stream 2 AG denied bankruptcy reports

The company has clarified that due to US sanctions, it is facing significant payment difficulties and had to terminate the contracts with employees.

As it awaited German certification, the 1,230 km Nord Stream 2 pipeline did not begin commercial operations. The approval process had been put on hold owing to escalating Ukraine crisis. Along with energy firm, Shell, several large companies claim to exit their Russian operations. Shell also confirmed its exit from the Nord Stream 2 project.

**For More Details, Please Visit:** <https://www.reuters.com/markets/europe/nord-stream-2-says-it-has-not-filed-insolvency-2022-03-02/>



### IBBI Chairperson emphasised on timely Resolution of insolvency cases

Shri Ravi Mittal, IBBI Chairperson, has said that the timely resolution of insolvency cases potentially impedes the value erosion of the assets of the corporate debtor and therefore, it is in the interest of all the stakeholders including the CoC and IRPs/RPs to conclude the process well within the stipulated timeline. He also urged the bankers to share their suggestions and feedback regarding the IBC ecosystem with the IBBI.

He was speaking after IBBI signed an MoU with Indian Banks Association (IBA) to collaborate on capacity building for financial creditors on topics related to insolvency, bankruptcy, and related subjects. The MoU was signed by Shri Amit Pradhan, Executive Director-IBBI, and Shri Sunil Mehta, Chief Executive-IBA.

Addressing the gathering, Shri Mehta highlighted the significant behavioral outcomes and improvement in credit discipline in the economy under the IBC regime. On this occasion, Ms. Mukulita Vijayawargiya, WTM-IBBI, Shri Sudhaker Shukla, WTM-IBBI, SBI MD Shri J. Swaminathan and other senior officials were also present.

**For More Details, Please Visit:** <https://www.financialexpress.com/industry/insolvency-regulator-to-get-more-teeth-punitive-powers-key-amendments-on-the-cards/2452246/>

## Event Photograph



### IIPI to organize International Conference on “IBC in India and International Perspective” on 26<sup>th</sup> March 2022

An international conference on the theme “IBC in India and International Perspective” is being organized by IIPI in physical/hybrid mode on 26th March 2022, in New Delhi. The perspectives towards further evolution and development of insolvency law will be deliberated on by experts around the world.

The participants of the program will be provided CPE credit. Due to the Covid guidelines, a limited number of IIPI’s professional members will be allowed to physically attend the program.

The inaugural session will be followed by three technical sessions - insolvency law, challenges/perspectives on individual insolvency, and changing expectations of stakeholders. In addition to insolvency professionals and experts from throughout the country, experts from the USA, UK, Canada, South Africa has also been invited in the conference.

**For More Details, Please Visit:**

[INTERNATIONAL-CONF.-26TH-MARCH.pdf \(iipicai.in\)](https://www.iipicai.in/INTERNATIONAL-CONF.-26TH-MARCH.pdf)



*CA. Durgesh Kumar Kabra, Director, IIPI addressing Webinar on ‘Common Issues On Monitoring/Inspection & Disciplinary Matter’ organized by IIPI on March 04, 2022.*