



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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IIPI Newsletter

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Govt appointed 15 Members at NCLT

The government has appointed 9 judicial and 6 technical members at NCLT to deal with the shortage of members and to expedite adjudication matters. The members are appointed for a period of five years from the date of taking charge or till they attain the age of 65 years, whichever is earlier. Among the new members two are retired judges of High Courts. Besides, judges of district courts, senior lawyers and bureaucrats are also in the list.

NCLT has a total of 28 benches, with a sanctioned strength of 63 members. This includes 31 each from the judicial and administrative sides along with the President, NCLT.

For More Details, Please Visit:

<https://www.timesnownews.com/business-economy/industry/nclt-gets-15-judicial-technical-members-to-help-expedite-adjudication-matters-article-95385713>

News Update

**For Internal Circulation Only*

**Knowledge SBU Initiative*

SEBI proposes to allow Minority Shareholders to Participate in CIRP on the Same Pricing Terms as Available to the Resolution Applicant

Capital market regulator, SEBI, came out with a proposal to protect the interest of public equity shareholders in cases of listed companies undergoing Corporate Insolvency Resolution Process (CIRP).

The proposed framework would provide an opportunity to minority shareholders to participate in the CIRP on the same pricing terms as available to the Resolution Applicant (RA). The existing public equity shareholders of the Corporate Debtor should be provided an opportunity to acquire equity of the fully diluted capital structure of new entity to the extent of up to the minimum public shareholding percentage. The pricing terms should be the same as agreed upon by the RA. The new entity should endeavor to achieve at least 5% public shareholding through such mode of offer made to the non-promoter public shareholders. The mechanism should be an integral part of the resolution plan submitted by the RA for all listed entities undergoing CIRP.

To ensure adequate float and liquidity in the new entity post its restructuring through the resolution plan, it should be specified that the entity should be permitted to continue as a listed entity only if 5% of the fully diluted capital structure of new entity is with the public shareholders. The SEBI has sought comments on the proposals from the public till November 24. Listing out the merits of the proposal, SEBI said the company will be able to retain its status as listed company with minimum public float post restructuring.

For More Details, Please Visit: <https://www.bqprime.com/business/sebi-proposes-framework-to-protect-public-shareholders-interest-in-companies-undergoing-insolvency-resolution>

News Roundup

Supreme Court approved Resolution Plan of Arcelor Mittal for Odisha Slurry Pipeline Infrastructure (OSPL)

The Resolution Plan was challenged by SREI Infra which questioned whether the revised Resolution Plan deserved to be sanctioned on account of its failure to maximize the value of the assets of the corporate debtor. It also alleged that the NCLAT had “adopted a blinkered approach of not looking at the issues raised in their true perspective, simply relying on the fact that the RP of AMI was approved by 100% vote of the CoC of OSPIL and the commercial wisdom of the CoC is beyond the purview of judicial review”. However, the Supreme Court relied on the arguments of Corporate Debtor that the process was followed as per the provisions of the IBC, 2016 and related Regulations and dismissed the appeal of SREI Infra.

For More Details, Please Visit: <https://www.financialexpress.com/industry/odisha-slurry-supreme-court-approves-arcelor-plan/2805341/>

IBBI rescinded 11 Circulars which were no longer required

According to a Circular issued by IBBI on November 09, 2022, an exercise was conducted for review of regulations, circulars based on experience gained. It was observed that certain circulars are no longer required on account of being already provided in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 [IP Regulation] or the Insolvency and Bankruptcy Board of India (Model Byelaws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 [Model Bye-Laws Regulations] or the IBBI (Information Utilities) Regulations, 2017 [IU Regulations], as the case may be. Subsequently, 11 regulations were repealed, which were issued from 2018 to 2019.

For More Details, Please Visit:

<https://ibbi.gov.in/uploads/legalframework/3d3dcfb09fe6865c8b7489af1a2b7b09.pdf>

Florian Fritsch, a partner in Resolution Plan for Jet Airways, faces investigation in Switzerland and Austria

According to media statement by Kalrock Capital Partners, the probes are based on anonymous complaints filed in relation to certain businesses where Fritsch is a financial investor in his personal capacity. It was further clarified that probes into Florian Fritsch have no impact on acquisition of Jet Airways. “Florian confirms that neither Kalrock Capital Partners nor Jet Airways have any connection with these ongoing investigations, or the charges made thereunder, and these investigations have no impact on the acquisition of Jet Airways, and Jalan-Kalrock Consortium remains committed towards Jet Airways,” Kalrock said, adding that the disputes are commercial in nature.

For More Details, Please Visit: <https://www.reuters.com/markets/deals/kalrock-says-probes-into-investor-fritsch-have-no-impact-jet-airways-deal-2022-11-14/>



No provisions under IBC authorizes AA to modify or interfere with merits of Resolution Plan: NCLAT

NCLAT Chennai Bench has held that there are no provisions under IBC which authorizes Adjudicating Authority (AA) to modify or interfere with the merits of the Resolution Plan. The court emphasized that when a rejected plan is placed before the AA, then it is expected to do nothing more but to initiate Liquidation process under Section 33 (1) of IBC.

This decision came in the matter of *Dr. C. Bharath Chandran Vs. Ms. Sabine Hospital and Research Centre & Ors.* The Court observed that the AA had given fair and equal chances to Resolution Applicants. However, CoC did not approve the Plan. Subsequently, AA ordered liquidation which was challenged by a resolution applicant who was promoter of the CD. The NCLAT dismissed the appeal.

For More Details, Please Visit:

<https://www.livelaw.in/news-updates/nclat-chennai-resolution-plan-ibc-liquidation-process-rejection-of-resolution-plan-adjudicating-authority-213903>

Event Photographs



Industry Sector Training (Power and Iron & Steel) organized by IIIPI in association with ICRA November 12, 2022.



Webinar on “Value Maximization Strategies Under IBC” organized by IIIPI on November 04, 2022.

IIIPI announces 05th EDP on “Mastering Avoidance, PUFET Transactions” Under IBC

The 05th Executive Development Program (For IPs) on Mastering “Avoidance, PUFET Transactions” Under IBC will be conducted from November 29 to December 01, 2022. The 18 hours program will be completed in three days. The participants attending the program will be granted CPE:12 Hours Credit.

For More Details, Please Visit:

<https://www.iiipicai.in/wp-content/uploads/2022/11/FLYER-PUEF-EDP-5th-batch.pdf>

59th Batch of PREC to start from December 06

59thBatch of Pre-Registration Educational Course (PREC) will be conducted via online mode from December 06 to December 12, 2022. The program will be conducted as per the IBBI Circular dated 30th September 2022, which states that the mandatory 50 Hour training of Pre-registration Educational Course will be to continue online delivery of education till further orders. These classes will be conducted online.

For More Details, Please Visit:

<https://www.iiipicai.in/wp-content/uploads/2022/11/Mailer-for-59th-Batch-PREC.pdf>