



# **Study Group Report on Contribution by Insolvency Professionals in Resolution under IBC**

Study By

**Indian Institute of Insolvency Professionals of ICAI (IIPI)**

**NEW DELHI**



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**Email:** [iiipi.research@icai.in](mailto:iiipi.research@icai.in)

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## FOREWORD

The Indian Institute of Insolvency Professionals of ICAI (IIPI) is pleased to present the publication “Contribution by Insolvency Professionals in Resolution under IBC” by the Study Group constituted by IIPI in this regard. This publication was released on the occasion of the conference on ‘Developing Market for Stressed Assets in India’ organized by the IIPI on Sept.22, 2023.

The purpose of this publication is to highlight positive work and contribution of insolvency professionals in carrying out resolutions under IBC processes and examine the problems faced by Insolvency Professionals in capacity of IRP/RP/Liquidator in executing their duties/responsibilities, backed by analysis of relevant data. The report also highlights the contribution of insolvency professionals outside the IBC processes, in settling cases and supporting rescue efforts. The report attempts to analyze the underlying issues, facts, and data in a comprehensive manner, and also makes certain recommendations to pave the way forward. Such recommendations are in the context of resolution process, adjudication process, coordination with COC and stakeholders and liquidation process. The draft report was widely discussed and deliberated among a group of insolvency professionals and other experts, before finalization.

I sincerely appreciate and thank CA. Subodh Kumar Agarwal, Past President ICAI for steering the Study Group and providing his insights, along with members of the Group who all worked hard to prepare the said report. I also thank Ms Sripriya Kumar, Director IIPI, for preparing the initial draft and her contribution.

I also appreciate the efforts put in by CA. Rahul Madan, Managing Director, and the Research Department of IIPI for providing their technical and administrative support in bringing out this publication.

Further, after gaining more experience, this report shall be reviewed from time to time. I am sure that the professional members of IIPI and other stakeholders of IBC will find this publication immensely helpful.

**Date:** September 22, 2023  
**Place:** New Delhi

**Dr. Ashok Haldia,**  
Chairman, IIPI-Governing Board



## PREFACE

The Study Group constituted by the Indian Institute of Insolvency Professionals of ICAI (IIPI) on 'Contribution by Insolvency Professionals in Resolution under IBC' is pleased to present this report.

The Study Group was constituted to highlight the role of Insolvency Professionals as IRP/RP/Liquidator in the successful outcomes of CIRP/Liquidation processes. Despite many factors responsible for success or failure of any rescue effort, it is felt that IPs have been singled out and often find themselves at the receiving end of the criticism. Over time, judicial pronouncements, and regulatory orders against the IPs in the capacity of IRP/RP/Liquidators, have also created perception about professionals' capabilities and ethical conduct. Therefore, to understand the Contribution of IPs under IBC, a detailed critical study has been undertaken backed by facts and figures to highlight the Role of IPs in the ecosystem. The study group consisted of members having rich experience in managing CIRPs and liquidations and has attempted to develop a comprehensive document on the subject after wider consultation intra-group and with other stakeholders through Surveys.

This 'Contribution by Insolvency Professionals in Resolution under IBC' has been created to appreciate that IPs act in unison with many verticals in the ecosystem and share the success (or otherwise) with such other verticals. The solutions to many challenges as highlighted in the report lie in cohesive and coordinated approach among such verticals and pillars of IBC.

The study group is thankful to Dr. Ashok Haldia, Chairman, IIPI for providing an opportunity to develop the knowhow as above and providing his insights. The Group also appreciates the efforts put in by CA. Rahul Madan, Managing Director, and the Research Department of IIPI for providing their technical and administrative support in bringing out this publication. The group is particularly thankful to CA Sripriya Kumar, for her contribution in creating the initial draft of the report. In addition, the group expresses gratitude to several other professionals who have contributed directly and indirectly to the development of this report on 'Contribution by Insolvency Professionals in Resolution under IBC'.

### **Subodh Kumar Agarwal, IP (Chairman of Study Group)**

Anuj Jain, IP  
Nitesh More, IP  
Vijaykumar V. Iyer, IP

Ashish Chawchhariya, IP  
Satish Gupta, IP

Dhinal Shah, IP  
Sripriya Kumar, IP

**Date:** September 22, 2023

**Place:** New Delhi



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# Contribution by Insolvency Professionals in Resolution under IBC

## 1. Background

- 1.1 The Insolvency and Bankruptcy Code 2016 (“Code”) ushered a new regime of Insolvency Resolution, in India, with the advent of a creditor in control regime vis a vis the legacy frameworks which were largely a format of debtors in possession. This Code also marked the designation of a new profession of Insolvency Professionals (“IP”) functioning in various roles as Interim Resolution Professional (“IRP”), Resolution Professional (“RP”), Liquidators/Administrators and Bankruptcy Trustees of non-corporate persons undergoing insolvency resolution processes under the Code.
- 1.2 The Code, to date has met with reasonable success in the primary task of enabling resolutions and liquidations to release non - productive assets to an active state whether in resolution or liquidation actions. All the stakeholders and the Government are committed to actions to enable a higher level of effectiveness in the functioning of the Code and continuous improvements at all levels – the Government, IBBI, IPA, IU and the Adjudicating Authorities.
- 1.3 The profession of Insolvency Professional (“IP”), in India, came into existence with the introduction of the Code. The report of the Bankruptcy Law Reforms Committee, the precursor to the Code, (“BLRC Report” – 04 November 2015 ) described IPs as a crucial pillar upon which rests the effective, timely functioning as well as credibility of the entire edifice of the Insolvency and Bankruptcy Resolution Process. With the advent of the Code, the IPs became a new class of professionals accredited by the Statute. They are regulated by the Insolvency and Bankruptcy Board of India (“IBBI”) as well as the Insolvency Professional Agencies formed under the Code.
- 1.4 The Code lays down functions and obligations of the IPs as a Resolution professional/IRP/Administrator and liquidator in various processes such as Fresh Start Process, Individual Insolvency Resolution Process, Corporate Insolvency Resolution Process (“CIRP”), Pre-Packaged insolvency resolution process (“Pre-pack”), Liquidation and Bankruptcy Processes. During any of the aforesaid processes under the Code, IPs are expected to exercise reasonable care and diligence while discharging their duties and comply with the requirements under the Code and bye-laws as applicable to them.
- 1.5 IBC introduced insolvency regime in India based on “Creditors in Possession” which was completely new to India as against “Debtor in Possession” regime in earlier laws. The initial slack in referral of large accounts, by financial creditors, to the Code was significantly altered by the Government’s mandate to refer major accounts into insolvency with RBI’s direction to banks to initiate

insolvency against 12 large loan defaulters on June 16, 2017. The resolution process of large accounts such as Essar Steel, Jaypee Infrastructure and the judicial pronouncements in this context have enabled the Code to be established as a viable and relevant mechanism and provided valuable insights on effective implementation of the Code.

- 1.6 The IP profession is a critical part of ecosystem and key driver under the code tasked with key roles and responsibilities of managing the debtor as a going concern, enabling the resolution / liquidation process and value maximisation in a time bound manner for the various stakeholders in the process.
- 1.7 The success of any Insolvency Resolution process or Liquidation process is gauged primarily in terms of the expeditious closure and the value recoveries in such process. Needless to state that the value recoveries in any resolution or liquidation process, to a great extent, depend on the intrinsic value of the Corporate Debtor, the market demand for such assets and timely functioning of all the constituent stakeholders of the Code.
- 1.8 While value recoveries and timely closures are indeed significant indicators, it may also be necessary to appreciate the impact of Code on the entire Indian ecosystem including its ability to strengthen the present and future financial governance frameworks in the Country. The role of the IPs, regarded as the key drivers of the processes, in these aspects needs to be underscored.
- 1.9 This study paper seeks to present some critical perspectives on the contributions and role of an IP in reference to the below mentioned themes:
  - a. Stakeholder awareness and improvements in Financial Governance frameworks;
  - b. Timeliness of Resolution Process;
  - c. Timeliness of Liquidation Process;
  - d. Value Maximisation in Resolution;
  - e. Value Maximisation in Liquidation;

## **2. Stakeholder Awareness and Financial Governance Frameworks**

- 2.1 There are presently over 4296 registered Insolvency Professionals in the Country. Given the young law and the unique format of a 'process in rem' that it envisages, such IPs have also played a seminal part in disseminating knowledge and awareness on the Code.
- 2.2 Many IPs i.e. IRPs, RPs, and Liquidators have acknowledged that stakeholders, especially Government authorities such as Income tax, Indirect taxes and EPFO often seek their guidance on the mode and manner of preferring claims. With sustained efforts of the IPs, from a legacy state of non-submission or minimal submission of claims due to lack of awareness, there has been a consistent improvement in the claim's submission process including filing before the IRP, RP or Liquidator on a timely basis.

- 2.3 A large presence of IPs has also enabled a robust base of Trainers and Resource persons on the Code and efforts in the conduct of programs by IBBI, IPAs and at individual levels by IPs and IPEs and other organisations have contributed to the significant awareness of the Code. The IIPI of ICAI, has till date enabled about 56,000 manhours of participation in such programs which are largely anchored by IPs. Such programs span the entire spectrum of topics including basics of the Code, Role of IPs in the conduct of CIRP or Liquidation processes, guidance to members of the Committee of Creditors, legal issues and evolving jurisprudence, etc.
- 2.4 The legal frameworks such as CDR, SDR, S4A, DRT Act, SARFEASI Act, RDBFFI Act etc operated in a 'proceeding in personam' format and did not adequately provide and take cognizance of recoveries from Avoidance Transactions. IPs have been instrumental in determining and filing over Rs 2,00,000 Crores worth of applications on matters relating to Avoidance Transactions. Timely recoveries of such amounts, even partially, will enable further capital formation in the economy, deter corporate misconduct and generate multiplier effect caused therefrom.
- 2.5 Under the legacy laws, whilst processes existed for performance of forensic audits by lenders, outcomes of such audits were not time-bound and were often fraught with data challenges and delays resulting in little or no recoveries. An identification of fraud triggers criminal complaints and the consequent legal processes which are time consuming. Many lenders have stated that the Code processes, enabled by IPs are quicker and provide better insights to such kinds of transactions and a structured road map for possibility of recovery.
- 2.6 With over 800 Avoidance Applications filed, it is obvious now that at least all major banks / lenders and large financial institutions have been sensitised in aspects of preferential transactions, diversion of funds, undervalued transactions, financial mis-reporting and transactions of fraudulent nature. This, it is reckoned, will not only enable recoveries, but will also be seminal in appreciating the context for the future and to enable deterrence of such conduct even in non-IBC scenarios.
- 2.7 It is widely believed that the learnings from the conduct of Code processes have also resulted in significant changes to the Financial Reporting framework under schedule III of the Companies Act 2013 and auditors' reporting including enhanced disclosures. These changes are in respect of additional information on aging of projects, wilful default status, liquidity assessments through key ratios, transactions with strike-off companies, funds transferred to intermediaries for ultimate beneficiary being related parties/ connected persons, etc. The requirements are now mandated to be reported in clear and unequivocal terms with non-compliances having been brought under the ambit of audit reporting as well. As such these developments would lead to a higher level of management accountability.
- 2.8 IPs are also required to engage with statutory and internal auditors of corporates and such interactions have also been found to have enabled a higher level of

appreciation of risks by the audit fraternity. ICAI has in fact set up a separate Committee for Insolvency and Bankruptcy Code to enable higher awareness about the law and practice even by ICAI's members who are not Insolvency Professionals.

- 2.9 IPs by their conduct of processes have also enabled a higher level of awareness among promoters/ management about the Code, the need to approach insolvency Courts at incipient stage and also to deter them from indulging into avoidance transactions / fraudulent conduct.
- 2.10 Institutions such as the ICAI are also actively engaged in stakeholder education and awareness beyond the ambit of entities that are presently covered under the Code. A case in point is a Memorandum of Understanding signed by the Accounting Research Foundation of ICAI with the Handlooms Department of Government of Tamil Nadu to advise the State Government on imbibing best practices in liquidation of cooperative societies of the State. The relevant Cooperative Societies Act does not provide for a time bound framework, adoption of Registered Valuation procedures or specify detailed guidelines in relation to filing and admission of claims and other processes, etc., in the conduct of Liquidation. The drafting of a Standard Operating Procedure is in progress to enable timely closure of such processes as well as for value maximisation for the State. This project has primarily been enabled by project champions who are Insolvency Professionals.
- 2.11 The capital market regulator, SEBI has also envisioned the services of Insolvency Professionals to act as Administrator under the SEBI (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018. More such avenues may be created in future for IPs to act as administrators under various other statutes and regulatory provisions thereunder.

### 3. Survey of Insolvency Professionals

A survey among IPs was conducted at the behest of the Study Group to seek their feedback on various areas relevant to this document. This survey received responses from 55 IPs. The key highlights of the survey are tabulated below:

Particulars	Responses
No. of cases handled by the responding IPs	349 cases
Range of the Claims size involved in aforesaid cases.	37% of IPs handled in aggregate claims worth Rs.1000 cr & above.  32% of IPs handled in aggregate claims worth Rs.100 cr – 1000cr. And 31% handled in aggregate claims worth less than Rs.100 cr.

Particulars	Responses
Delay in admissions of cases under Code	73% of respondents say there is significant delay in admission of cases.
Lack of support / co-operation from existing management of CD	60% IPs answered “significant lack of Co-operation”
Delays involved in Court Process	80% of Respondents acknowledge the considerable delays in the Court process.
Avoidance Transactions and adjudication processes	87% IPs agreed that there is a delay in adjudication process under Avoidance Transactions.
Availability of Interim Finance	In 92% of the cases interim finance was not available.
Role of the Committee of Creditors	In 50% of cases CoC provides supportive role
Inter creditor disputes	Almost 50% IPs denied existence of Inter creditor disputes and 30% reported for low level of disputes.
Evolving Jurisprudence	Almost 50% of IPs agree that cases are impacted (either positively or negatively) with evolving Jurisprudence.
Frequency of Frivolous litigation by the Stakeholders	Only 38% IPs agreed that there are frivolous litigation cases filed by the stakeholders.
Frequency of Liquidation/s completed within 365 days.	92% IPs submitted that cases are not completed within 365 days.
Is there a need for incorporating specific provisions in IBC/Regulations on a code of conduct for members of the COC?	44% IPs agreed for the same.
Average time taken in getting the Resolution Plan approved by AA	138 days on an average, from filing the application for resolution plan till its approval from AA.

## 4. Timeliness of Resolution Process

### 4.1 The Average time for completion of CIRPs

The Average time for completion of CIRPs (Analysis of completed CIRP cases till March 31, 2023, by IBBI) as placed below indicates that a CIRP period of 180/ 270/330 days which is prescribed by the Code is more an exception than a norm. The average timelines for CIRP processes ending in Resolution is 831 days and that for CIRP processes ending in liquidation, is 623 days.



Sl.	Average time for completion of CIRPs	As on March, 2021			As on March, 2022			April 2022 to March, 2023		
		No. of Processes covered	Time (In days)		No. of Processes covered	Time (In days)		No. of Processes covered	Time (In days)	
			Including excluded time	Excluding excluded time		Including excluded time	Excluding excluded time		Including excluded time	Excluding excluded time
1	From ICD to approval of resolution plans by AA	351	464	406	498	535	451	180	831	682
2	From ICD to order for Liquidation by AA	1287	352	NA	1630	415	NA	400	623	NA

4.1.1 The key aspect is whether the Insolvency Professionals could have done better to improve and maintain these timelines. The law provides for strict timelines in terms of mandating due dates for critical actions under the Code. The performance of such actions on key dates would have enabled closures within prescribed timelines which is not the case. Hence, it is necessary to deliberate as to why processes could not be completed within the relevant timelines.

## 4.2 Delays in admission of cases to CIRP

4.2.1 There are considerable delays in admission of cases to CIRP and are found to have extended to even as long as 2 years from the date of application. The Code prescribes a linear mechanism to be followed for admission which essentially requires the determination of default on dues by Corporate Debtor for financial and operational creditor's application and additionally, the absence of a pre-existing dispute for operational creditor's application. Recording of the debt with the Information Utility (IU), by the petitioning financial creditor has also been made mandatory.

4.2.2 The adjudicating authorities are indeed trying their best to expedite admission processes. This is, however, fraught with protracted litigations and offers of settlements by respondents. Applications are also seen as mechanisms by creditors, to force recoveries, rather than resolution.

4.2.3 Instances of malicious commencement of proceedings have also been observed. Although the Code provides for penalties under Sec 65 as a deterrent in such cases, such instances continue to occur, though in small number, impairing the efficiency and effectiveness of the ecosystem.

4.2.4 It is widely felt that these delays in admission bring uncertainties in working of Corporate Debtor and are also found to erode value especially in the proverbial twilight period of a pending proceeding with the debtor still being in control of the asset.

- 4.2.5 The Code must also provide for a 'straight through process' of admission and timelines should be adhered to. The admission should be at the touchstone of Default (for all creditors) and dispute (for operational creditors) as prescribed under the Code with the basis of default being established from the Information Utility's records.
- 4.2.6 A well-defined mechanism needs to be instituted to discourage the initiation of frivolous or vexatious proceedings including invoking of penalties under Section 65 of the Code by AA.

#### 4.3 Lack of support / co-operation from existing management of CD:

- 4.3.1 It has been observed that many employees and directors resign prior to or after initiation/commencement of insolvency proceedings due to many reasons such as non-payment of salary by the Corporate Debtor, lack of clarity on the probable outcome and time for completion of the resolution process, potential risks involved or other personal reasons.

In such a scenario, exits often tend to be hurried and unplanned without proper handover – takeover processes in relation to data, books of accounts and records of the CD. Although the Companies Act 2013 requires the Directors to be responsible for the maintenance of books and records and information, such attritions and exits are often used as an excuse and cited by suspended Board of Directors for their inability to provide information relevant to the CIRP process.

- 4.3.2 In other cases, despite a legal mandate under Sec 19 of the Code to support and provide information, the suspended Directors do not provide information and records necessary for the conduct of the CIRP process. This results in delay in preparing Information Memorandum, completing the valuation exercise and the transaction audit and also impairs RP's ability to proceed with and manage the bid process smoothly and in a time-bound manner.
- 4.3.3 The Code provides for support, cooperation of CD's ex- management for custody and control of records/assets by the Insolvency Professional. There is no requirement for a Statement of Affairs to be provided by the erstwhile management. In this context, it is to note that the erstwhile Companies Act 1956 and the Companies Act 2013 provided for furnishing a statement of affairs in a prescribed format and to be submitted to the Official Liquidator. Such a statement was required to be furnished to the OL within 21 days of the appointment of the provisional liquidator under the Companies Act 1956 (extendable to 3 months) and within 30 days (extendable to 60 days) under the Companies Act 2013. Both the Companies Acts provide penalties for non-compliance and such kinds of penalties are also enshrined in the Code in Section 70 although not specifically referring to Sec 19 of the Code.

- 4.3.4 A stringent mechanism should be provided in the Code to make the past KMPs, promoters and directors liable, in case the requisite data is not made available to the IRP, RP, Liquidator and such matters should be enforced in a time-bound manner.
  - 4.3.5 The Code may also, on the lines of the Companies Act 2013, provide for a structured format of a Statement of Affairs to be furnished by the Directors of the CD within 15 days of commencement of the CIRP process including penal provisions for non-furnishing of such information.
- 4.4 Delays in forming an Opinion, determining amounts, and filing Applications in respect of Avoidance Transactions.
- 4.4.1 It has been observed that despite the initial opinion being made by the RP in a timely manner, there have been delays in filing of applications in respect of Avoidance Transactions. The appointment and report of a transaction auditor is often considered necessary both from confirmation of occurrence of such transactions and also to bolster the legal case filed as such opinion is independent. In a few cases, it was also observed that the AA had directed the RP to re-file applications along with a transaction audit/forensic audit report although there is no provision in the Code to require such experts to be engaged.
  - 4.4.2 The challenges faced by the RP and transaction auditors include CoC approvals for such appointment especially for cost and fee payable to such independent experts, delay in receiving data, incomplete data, lack of co-operation from the directors/employees of the Corporate Debtor, etc. The RPs also face extreme challenges, such as non-availability of any employees in the Corporate Debtor or accounting records not handed over to the RP due to non-cooperation by the suspended board of directors and/or promoters.
  - 4.4.3 Further, in case the data and other records are not available with the Corporate Debtor, the RP also attempts to approach the statutory auditor, creditors, accounting and/or tax consultants of the Corporate Debtor requesting them to share the information available with them. Such parties also need time to extract the records of the Corporate Debtor and often are not willing to cooperate.
  - 4.4.4 In view of the above challenges, the remedy that an RP ideally explores includes approaching the AA and seeking necessary directions against non-cooperation by the employees, suspended board of directors and/or promoters, auditors, previously associated KMPs, Directors, etc. However, proceedings relating to such petitions also take significant time for orders and for compliance thereof.



- 4.4.5 Hence there are delays in making opinions, determining amounts, and filing applications in respect of Avoidance Transactions. Potential recoveries from Avoidance transactions, especially, when confirmed by the AA and are material, would influence the decision of the CoC in this regard as the proceeds may go to various stakeholders.
- 4.4.6 Where applications have been filed under Sec 66 (Fraudulent Transactions) of the Code, the promoters, if held guilty before the approval of resolution plan, cannot participate in the Resolution Plan process (Sec 29A). This creates further uncertainty in the CIRP process, consequent loss of time, and potential litigation which cause an RP to be tentative in her actions.

## 4.5 Legal Process Challenges

- 4.5.1 The delays in completion of CIRP are also a function of delays in adjudication of various applications preferred to Adjudicating Authorities (“AA”).
- 4.5.2 In certain cases, it is observed that even where fully compliant Resolution Plans have been unanimously approved by the CoC, the adjudication process has taken more than 1/2 years for Resolution Plan approval which delays the release of productive assets back to the ecosystem. While the Code prescribes a standard timeline of 14 days for admission of financial creditor applications, no standard timelines have been prescribed for disposal of Resolution Plan applications which are mission-critical for the closure of the process. Until the plan is approved by the AA, the SRA cannot take over management of the CD, hence the need for quicker approval of resolution.
- 4.5.3 An analysis of 519 cases where structured data was available, indicated that the average time for approval of resolution plans by NCLT since the date of filing plan for approval, was about 196 days. Out of these, in about 190 cases, it took more than 180 days for NCLT to complete the approval process. This is quite significant being more than half of the total period (330 days) mandated for closure of the CIRP process under the Code.
- 4.5.4 It is also imperative to note that many avoidance applications which have been filed till date have not been decided by the AA. As per latest quarterly newsletter published by IBBI, out of the 871 applications filed, only 163 applications have been disposed of till 31st March 2023. The total amount involved in such avoidance applications is about Rs 285,000 Crores and expeditious closure of such applications will bring back value for creditors. Again here, despite the mission-critical nature of such applications, there are no fast-track mechanisms or timelines prescribed for such applications.

Sl.	Nature of transactions	Applications Filed		Applications Disposed		
		No. of transactions	Amount involved (Rs. In Crore)	No. of transactions	Amount involved (Rs. In Crore)	Amount clawed back (Rs. In Crore)
1	Preferential	134	15,056.69	40	651.13	34.15
2	Undervalued	16	884.73	4	362	5.77
3	Fraudulent	176	64,234.89	23	1,049.23	5.59
4	Extortionate	3	70.68	-	-	-
5	Combination	542	2,05,121.40	96	40,034.15	5,169.59
<b>Total</b>		<b>871</b>	<b>2,85,368.39</b>	<b>163</b>	<b>42,096.51</b>	<b>5,215.10</b>

4.5.5 Whilst the Government has been proactive and has set up additional benches of Adjudicating Tribunals, certain matters referred below merit attention in the context of delays in adjudication;

- Frivolous and vexatious applications discussed in the earlier segment.
- Multiplicity of litigations by stakeholders at various stages of CIRP and even prior to admission, including inter-creditor disputes.
- Full member strength in AAs not yet achieved by the Government.
- Absence of dedicated AAs for IBC matters. The AAs including Appellate Tribunals are handling non-IBC matters as well relating to Companies Act and Competition Act.
- No fast-track process for immediate disposal of Resolution Plan and connected applications which are currently subjected to routine process and timelines of the AA's system.
- There are no straight through processes under the Code. For instance, extension of CIRP for 90 days is provided in the law subject to consent of majority CoC approval. Even in such cases, applications are required to be filed for NCLT proceedings and approvals, resulting in larger volume of applications before the AA, further burdening the judiciary.

4.5.6 It is suggested that benches be fully resourced to peak strength and certain benches be nominated to handle matters exclusive to IBC processes and numbers of such benches be enhanced to provide for closures of all litigations within 30 days (reasonable time) of filing of petitions.

- 4.5.7 Certain applications such as those seeking extension under Sec 12 of the Code, can be considered for digital filing and 'Straight Through' approval provided all requisite documents are placed on record along with the application. A simple digital confirmation process of the members of the CoC can also be enabled to obtain additional evidence, if required, of such consent to extension. Where there is unanimous CoC consent for such extension, an immediate straight through process can be considered, subject to certain checks and balance such as review by AA.
- 4.5.8 Code may consider prescribing timelines (directory in nature) for completion of adjudication of Resolution plan applications filed for approval under Sec 30 and Avoidance applications under Sec 43, 45, 49, 50 or 66 of the Code.

#### 4.6 Role of CoC

- 4.6.1 Expeditious decision making of the CoC is also critical for timely completion of the CIRP process. The Code mandates that the RP has to obtain CoC approval for actions including under Sec 28 of the Code as well as for other items such as approval of resolution plans, extension of time, etc.
- 4.6.2 With respect to issues to be deliberated and voted upon at the CoC meetings, many RPs have stated that CoC attendee members are often found to not have the requisite authority to vote and do not take decisions during the CoC meetings. For agenda items, generally they take time of 10 -25 days.
- 4.6.3 It is also observed that many CoC members request for extended e-voting timelines to enable them to seek internal approvals and vote on the agenda items. This results in a delay in completing the CIRP as extended e-voting timelines in CoC meeting delay the required action to be taken.
- 4.6.4 The problems on account of the above causes of delay are further accentuated in the case of the large number of members in the CoC.
- 4.6.5 While the roles and responsibilities and even a Code of Conduct for an IP is well enshrined in the Code, the roles, and responsibilities for lenders to render timely support to the insolvency resolution process is not adequately defined in the Code.
- 4.6.6 In order to address these issues, it is imperative that a Code of Conduct or some other mechanisms for members of the CoC be considered at the earliest, through amendments in Code and/or regulations thereunder. This will result in faster completion of the CIRP including providing maximum voting time for members of the CoC.

#### 4.7 Interim Finance

- 4.7.1 In most cases, cash flows of the Corporate Debtor may be inadequate to fund the CIRP costs and the IRP/ RPs often approach the CoC seeking approval for interim finance. The CoC members have been reluctant in funding the CIRP costs due to which the fees of the RP, legal advisors, and other professionals, in many cases, remain unpaid till the completion of the resolution or even the liquidation process.
- 4.7.2 Whilst the liquidation regulations provide for funding of liquidation expenses by stakeholders who are financial institutions, there is no mandate to the CoC members (who are the ultimate beneficiaries) to fund expenses in CIRP even though there have been judicial precedents directing COC to fund it.
- 4.7.3 A revision in the Code/ Regulations to require members of the CoC, being financial institutions or even all members of the CoC, to contribute to CIRP cost, would strengthen the efforts of the RP in smooth-running of the CIRP process.

#### 4.8 Inter-Creditor Issues

- 4.8.1 IRPs/RPs often face challenges especially in managing large CoCs with more than 10 financial institutions and banks. These creditors are often driven by their internal compulsions which results in inter-creditor disputes resulting in filing of applications before Adjudicating Authorities. Such inter creditor disputes typically relate to preferential payments, distribution, security interest, dispute in claim admission, etc. Again, there is an issue of delay in disposal of such applications which impairs efficiency of the CIRP process.
- 4.8.2 A solution which provides for timely resolution of inter-creditor issues is imperative to ensure that the timelines as prescribed under the Code are adhered to and this should not delay the disposal of the resolution plan approval or rejection application. As a solution, all contentious issues should be settled democratically through time bound COC's voting process as provided in the Code.

#### 4.9 Evolving Jurisprudence

- 4.9.1 It has been observed that there have been instances of conflicting judgements by different benches of NCLT/NCLAT dealing in similar matters, which adds to the complexity and consumes precious Court/ Tribunal's and RP's time. At times, these matters tend to get settled only at the Supreme Court. However, the evolving jurisprudence around the provisions of IBC has enabled better and faster resolution of future CIRP cases.

4.9.2 Further, in case of emerging judicial precedents, judgements of Apex Court or NCLAT are generally applicable in the pending matters before Adjudicating Authorities. In some of the recent cases, NCLTs have also remanded back the resolution plans submitted by the RP to AA for its approval on the grounds that the same are not compliant with the latest amendments and judicial pronouncements, effectively proposing a retrospective amendment in a resolution plan approved by the CoC, even though the facts and circumstances may differ from case to case. For example, after the supreme court judgement in case of Rainbow Papers, some AAs have remanded back the resolution plans submitted prior to the judgement for reconsideration. In view of the same, there is a considerable delay in completing the CIRP as the resolution plan is now required to be reconsidered by the CoC.

## 5. Timeliness of Liquidation Process

5.1 As per the Quarterly Report published by IBBI up to March'23, 45% of all CIRPs have ended by an order for commencement of liquidation of the CD. Most CIRPs took over 270 days to get concluded by various ways including the order for liquidation. Of the 45% cases which landed in liquidation after CIRP, 76% were already in BIFR or non-functional or both. The above numbers clearly indicate the time lapse in the initiation of liquidation for these CDs, most of which were already non-operational before commencement of CIRP.

Sl. No.	Average time	As on March, 2021			As on March, 2022			April, 2022 to March, 2023		
		No. of Processes covered	Time (In days)		No. of Processes covered	Time (In days)		No. of Processes covered	Time (In days)	
			Including excluded time	Excluding excluded time		Including excluded time	Excluding excluded time		Including excluded time	Excluding excluded time
CIRPs										
1	From ICD to approval of Resolution Plans by AA	351	464	406	498	535	451	180	831	682
2	From ICD to order for Liquidation by AA	1287	352	NA	1630	415	NA	400	623	NA

Sl. No.	Average time	As on March, 2021			As on March, 2022			April, 2022 to March, 2023		
		No. of Processes covered	Time (In days)		No. of Processes covered	Time (In days)		No. of Processes covered	Time (In days)	
			Including excluded time	Excluding excluded time		Including excluded time	Excluding excluded time		Including excluded time	Excluding excluded time
Liquidations										
3	From LCD to submission of final report under Liquidation	267	427	NA	403	489	NA	117	678	NA
4	From LCD to submission of final report under Voluntary Liquidation	447	381	NA	708	427	NA	316	376	NA
5	From LCD to order for dissolution under Liquidation	146	398	NA	237	516	NA	73	829	NA
6	From LCD to order for dissolution under Voluntary Liquidation	245	512	NA	351	583	NA	161	789	NA

Most cases which are ordered for liquidation are due to lack of receipt of Resolution Plan to the satisfaction of the CoC, which could be due to erosion of business value or non-availability of any assets in the Corporate Debtor and thereby resulting in CoC's voting for liquidation.

## 5.2 Delays in Liquidation Process

Of the ongoing liquidations as on March 2023, more than 55% of cases have been ongoing for more than 2 years, and 26% have been ongoing between 1- 2 years. Therefore only 19% of cases are being closed in the prescribed timeline of 1 year. The key reasons for such delays are generally:

### 5.2.1 Co-ordination issues with Stakeholders Consultation Committee (SCC).

- The SCC comprises of representatives of secured FCs, unsecured FCs, workmen and employees, government authorities, operational



creditors, and shareholders. The liquidator is required to facilitate the nomination of these representatives from each sub-group and then convene meetings for taking their advice on various matters as prescribed under the law.

- b) The above involves significant co-ordination efforts to be made by the liquidator and further, these stakeholders come from varied backgrounds and have different interests and risk appetites which practically makes conclusion of any decision very difficult. This includes the decision for reduction in prices of assets in subsequent auction and pursuing the avoidance application after dissolution. Particularly those stakeholders who find that they will not get any amount as per waterfall mechanism under Sec 53, either do not vote or give negative vote for resolution upon reduction of prices. It may be mentioned that as per provisions in the Code, the Liquidator needs to inform the AA and IBBI wherever s/he disagrees with advice from SCC in respect of any decision.
- c) On the lines of CIRP process, there may be provided the roles and responsibilities of Authorized Representative (AR) for representing various stakeholders or creditors in class. This would ensure better coordination in a professional manner.

#### 5.2.2 Delays related to Avoidance Transactions.

- a) Of the total applications filed till March 23, only 18% of the applications have been disposed of. Most of these applications continue even after the CIRP is ended or even after the dissolution of the CD and the liquidator/RP is required to continue representing these matters until disposed of. In several cases, as it is difficult to continue these applications after the end of process due to various factors including a lack of litigation funding.
- b) Before amendment vide Reg.44A (effective Sept.'2022) allowing avoidance applications to be proceeded with even after liquidation process is over, the stakeholders often pushed for conclusion of these proceedings before the final order for dissolution thereby adding to the delay in the process. Many such cases of liquidation closures remained pending only due to adjudication of avoidance applications. However, with recent amendment in Regulations, it is expected that the earlier timelines shall get reduced.
- c) Post dissolution, drawing reference from international territories like UK, avoidance transactions may be taken up by special public/special office created through the statute, rather than the liquidator. The outcome of such actions may be distributed as per Sec 53 and enabling Liquidation Regulation 44A in this regard. This would release the liquidator for more productive engagements.

### 5.2.3 Challenges on account of E- Auction

- a) Most CIRPs are triggered upon lapse of significant after initial default, resulting deterioration of asset's value., There may not be a ready market for such assets. Hence the fixation of a higher reserve price and subsequent revision, at times, requires multiple rounds of auction before the sale can be concluded.
- b) Further, the decision regarding the mode of sale also requires deliberation, which extends the overall timelines. In particular, matters like Compromise and Arrangement and 'sale as a going concern' are subject to fixed timelines. In order to get these timelines extended, the liquidator needs to approach AA for approval, which again may take a long time.
- c) To take care of genuine cases and in the interest of timeliness and value maximization, subsequent rounds of auctions may be allowed with higher/flexible reduction, rather than prescribing 'not more than 10% reduction in the reserve price. This may, however, be subject to consultations with Stakeholders' Consultation Committee (SCC).

## 6. Value Maximization in Resolution Process

6.1 As per data published by IBBI on Corporate Insolvency Resolution Processes (CIRP) yielding resolution plans as on March 31, 2023, a total of 678 CIRP cases have resulted in successful resolution.

6.1.1 A preliminary analysis of the data shows that Financial Creditors have realized 34% of their total admitted claim value (INR 2,76,923 Crore realized against INR 8,11,054 Crore claimed). Amounts so realized are 163% of the Liquidation Values which stood at INR 1,69,552 Crores. The Liquidation Values seem to indicate that the assets were impaired even when the CD was admitted to CIRP and realizations under Resolution Plans are somewhat indicative of the state of the assets held by the CD. Comparatively, Operational Creditors have realized only 11% of their total admitted claim value (INR 9,866 Crore realized against INR 90,631 Crore claimed). Operational creditors have little or no say in the distribution of plan amounts as they are generally unsecured and under waterfall, they come almost last in the queue of distribution.

6.1.2 A break-down of the available information alongwith summarised analysis as on 31st March 2023 is as below:



Admitted Claims of FCs									
Cases with realization for FCs in the range of:	No. of cases	% Total cases	% of Companies that were Defunct	INR Crore	%	Realizable Amount by FCs (INR Crore)	Liquidation value (INR Crore)	OC Claim (INR Crore)	Realization for OC (INR Crore)
>100%	12	2%	25%	1,645	0%	1,844	1,081	379	496
=100%	51	8%	23%	9974	1%	9974	5084	15223	1000
>=80% < 100%	34	5%	20%	77344	10%	65987	35461	6030	1,296
>=50% <80%	93	14%	38%	91,307	11%	57168	25737	6070	2551
>=30% <50%	128	19%	31%	232728	29%	93405	59595	23888	1567
>=20% <30%	95	14%	44%	82858	10%	19480	14121	8608	1,074
>=10% <20%	108	16%	40%	168228	21%	23840	22337	29498	1658
<10%	157	22%	44%	146970	18%	5225	6136	14636	224
Total	678	100%		811054	100%	276923	169552	90631	9866

6.1.3 15% of the cases (in number) and 11% of the total admitted FC claims have fetched realisations of over 80%. While the overall realisation % remains low, each case needs to be looked at individually to understand the nuances and reasons behind the realisation value vis a vis claim amount.

6.1.4 The Top 50 cases (in terms of amount of Admitted claims of FCs), being ~7% of the total number of cases, account for ~75% of the total admitted claims of FCs. In such cases, against a total admitted financial debt of ~INR 6.14 Lakh Crore, the realization is INR ~2.25 Lakh Crore (~81% of the total realisation by FCs).

6.1.5 Further, in 128 cases (29% of the FC claims in value) Financial Creditors have fetched realisation against their claims in the range of 30-50% of their claim amount. Out of these 128 cases 10 cases account for 90% of the total FC's claim in this category. These 10 cases include certain cases which were a part of the initial list of "Dirty Dozen" for which IBC referrals were mandated by the RBI.

6.2 Based on practical experiences of the IPs involved, lower realisations in Resolution Plans occur due to a wide range of reasons as discussed below:

6.2.1 Delay in initiation of CIRP / time-lag between identification of stress or default and CIRP commencement

- (a) In several cases, especially the initial lot of cases admitted under CIRP, there has been a significant time lag where companies have been under stress for significant duration before finally being admitted in CIRP and trend seems to continue.

- (b) Further, in cases while lenders have initiated proceedings under IBC, the judicial process consumes significant time resulting in delayed commencement of CIRP proceedings. All this while, the valuation of corporate debtor continues to erode as against the debt that has already accrued and has been defaulted upon.

#### 6.2.2 Legacy Issues and Defunct Corporate Debtors

- (a) As mentioned above, several of the cases admitted under CIRP in the initial days of IBC were those which have been under stress / tagged as defaults since past several years. Lenders and Corporate Debtors having attempted restructuring under various guidelines issued by RBI and other recovery mechanisms such as BIFR, SARFAESI, etc. prior to implementation of the IBC.
- (b) These would also include corporate debtors embroiled in regulatory and legal challenges involving action by regulatory and enforcement agencies, causing operational challenges for such corporate debtors. Further, as per data published by IBBI, of the total 678 CIRP cases which yielded resolution plans, 251 cases (~37%) were such where the Corporate Debtors were defunct.

#### 6.2.3 Incomplete Projects

- (a) Where the Corporate Debtor has a majority of their assets under construction / development, the successful resolution applicant may have to incur additional expenses to complete the project or develop those assets, post successful resolution. Such additional costs required to complete the project, result in lower valuation of the Corporate Debtor resulting in more haircut to lenders.
- (b) Typically, in addition to the Plan amount, the following additional aspects such as cost of completion, marketing costs and finance costs, need to be kept in mind while arriving at the Liquidation Value vis a vis the Resolution Plan amount. There may be difference in assumptions of the registered valuer vis-a-vis the successful resolution applicant in terms of cost to complete, costs of regulatory approvals, marketing costs, interest rates considered for discounting as well as the timeline assumptions for completion and bringing the assets to the state of commercial use.

#### 6.2.4 Inter-dependencies with Related Parties of Corporate Debtor

- (a) In cases where group of assets belonging to a single business is divided across various entities of the promoter group, the assets of such Corporate Debtor may not fetch desired value. This is because the successful resolution applicant may not find the potential to extract value out of such assets due to dependencies

on other group companies, unless group insolvency approach is adopted for such cases. For example, a building is constructed by CD on the land of group company with both land and building being mortgaged to lenders, either same set of lenders or different lenders. There have been cases whereby such assets were allowed to be sold simultaneously under SARFAESI and IBC.

#### 6.2.5 Investment Companies

- (a) There could be cases where a Corporate Debtor pre-dominantly holds investments in shares of various other group companies / SPVs. In a group structure, the loans may have been availed by the holding company/Corporate Debtor whereas the actual business/cash flows may accrue to the concerned SPVs/subsidiaries/ Associates/JVs, which are separate legal entities.
- (b) In an Insolvency scenario, this may again result in higher haircuts as the cash generating entity would have its own set of liabilities and may not be able to support the parent. If there are no other major tangible assets available with the Corporate Debtor, the lenders are likely to get only marginal realisations against the claim values.

#### 6.2.6 Duplicity of Claims

- (a) A review of the cases admitted to the Code process also indicates duplicity of claims. In certain cases, claims are preferred both on the principal debtor as well as the Corporate Guarantor where both entities are admitted to CIRP. This causes the same debt to be admitted as a claim albeit in two or more entities, leading to double-counting of the debt and consequent misreading of the data.
- (b) The impact of such duplicity needs to be examined to arrive at an accurate picture of Realisations under Resolution Plans vis-a-vis admitted claims or the Liquidation Value.

#### 6.2.7 Delays in Adjudication of Avoidance Application

- (a) Many avoidance applications which are filed by RPs in situations involving loss of assets/siphoning of the funds of Corporate Debtor are pending adjudication. This avenue offers a significant potential for improving the overall realisation through the IBC processes.

#### 6.2.8 Timelines in the CIRP Process

- (a) The various factors cited in the segment(para 4) on Timeliness of the CIRP processes also impair realisations. These include non-availability of data from the promoters, litigations, judicial delays etc.

## 6.2.9 Capability Building of RPs

- (a) The present landscape primarily comprises of individual IPs managing cases. IBBI has recently allowed IP Entities to practice the profession in the name of the Entity. However, clarity on how a disciplinary mechanism against an individual IP being part of the IPE would impact the status of the IPE, is not yet available and therefore not many IPs are keen to collaborate to form IPEs for such purpose.
- (b) While the Code and the regulations govern the conduct and actions of an IP, it is widely felt that publication of Professional Standards by IBBI (similar to Standards on Auditing of ICAI or Secretarial Standards by ICSI) would enable more confident and uniform conduct of processes under the Code. These Standards may ideally be drafted under the broad themes of Basic Principles, Planning, Execution, Documentation and Reporting. The professional standards as such can be seen as consolidation of best practices across these areas, drawing reference from system of Statement of Insolvency Practices (or SIPs) being followed in UK. Such SIPs, about 17 in number, are formulated by a joint committee of UK's insolvency professional bodies (equivalent to IPAs in India).

### 6.2.10 Personal Guarantors

- (a) In almost all cases of Resolution Plans, the financial creditors reserve their right to proceed to recover the dues based on personal guarantees offered for financial facilities. The code does not provide for a linear mechanism in this regard and there are separate processes and IPs appointed for such PG applications filed before the AA.
- (b) A mechanism should be provided under the Code to include such assets of the guarantor in the general pool of assets available for the CIRP for efficient resolution of the CD. In such cases, the lender who has been secured by way of such assets, may be required to participate in the process by joining as member in common COC.
- (c) Section 96 in respect of interim moratorium, may be amended to be made inapplicable to PGs. Further, Section 97 may be amended to provide for better coordination between the IIRP of a PG and the CIRP of a CD to whom the PG has extended a personal guarantee. In such cases undergoing Insolvency Resolution concurrently, a common RP may be appointed.

### 6.2.11 Incidence of Grievances by the Stakeholders against IPs

- (a) Many IRPs/ RPs/ Liquidators are concerned with the growing incidence of grievances by stakeholders against Insolvency Professionals (IPs) which are often found to vary depending on a variety of factors such as the complexity of the insolvency process, the size of the corporate debtor, and the number of stakeholders involved.
- (b) Grievance mechanism with IBBI and IPAs exists with fees for filing grievance application at as low as INR 1500 which leads to multiplicity of filing grievances at the slightest issue. At various discussion forums, the regulators have shared that many grievances filed against IRP/RP/Liquidator are frivolous (lacks merit, may be based on misunderstandings or miscommunications, filed with malafide intentions) and they adopt a very cautious approach after thorough investigation. However, in cases where the grievances are found to be true, the regulators have taken stringent actions.
- (c) As a deterrent, there needs to be a mechanism for action against the frivolous applications.
- (d) There is no specific procedure that requires a stakeholder to formally communicate on the grievance to the IP and that only in case of unsatisfactory response they should approach the Regulator. Such communication may be considered to be embedded in the regulations to provide a non-adversarial approach vis-a-vis the IPs.

### 6.2.12 Lender's Liabilities in respect of Processes under the Code

- (a) The IBC is a legal framework for resolving insolvency and bankruptcy cases in India. While the Code aims to provide a fair and transparent process for resolving such cases, there have also been instances of unethical conduct in the application of the Code by various stakeholders such as IPs, IPEs, CoC members, creditors, etc.
- (b) Most of the key decisions in IBC are required to be taken only with the approval of CoC. While RP is entrusted to ensure the integrity of the entire process, the Courts through various judgements, have held the commercial wisdom of the CoC to be supreme. Recently, in many cases, there has been litigation around whether some of these decisions fall within the purview of RP or CoC, such as:



- (i) Decision to conduct a challenge process in resolution.
  - (ii) Distribution of Liquidation Value to individual members of CoC.
- (c) The jurisprudence in some of these areas are still emerging which will pave the way for future cases. Any principle-based law such as IBC will have grey areas as it needs to deal with variety of situations, and it cannot be dealt with a framework which is too prescriptive. Needless to state that the best course available with RP is to dispassionately evaluate each situation and seek legal advice and based on that the RP needs to take a judgement with proper documentation.
- (d) In many cases of disciplinary cases decided by the IBBI, emphasis was placed on carrying out the processes in the true spirit of the code and maintenance of proper books and records to substantiate the efficacious conduct of the process.
- (e) However, in one case, the disciplinary committee of IBBI cancelled an IP's professional registration, saying he/she had rushed to liquidate the company without giving an opportunity for resolving or restructuring the ailing business. The order passed by the disciplinary committee of IBBI stated that "the decision of liquidation was taken without following the true spirit of resolving the corporate debtor as a going concern, which is the heart and soul of the code". However, as highlighted below, the power to take decisions like liquidation, lies with CoC whereas IRP/RP's role is to run the process as provided under the Code and under guidance of CoC.
- (f) Under IBC, the Committee of Creditors (CoC) play a critical role in shaping key decision-making processes. The IBC provides for the formation of a CoC comprising financial creditors, who are primarily responsible for taking key decisions during the insolvency resolution process. The financial creditors have large stakes in the process, are supposed to have relevant experience and use their commercial wisdom. CoC members have been authorized to take decisions in the interest of the entire process in a time-bound manner.
- (g) The CoC is responsible for approving or rejecting resolution plans and also has the power to initiate liquidation proceedings, if necessary. The CoC's decision-making process is guided by the principles of maximization of the value of assets of the corporate debtor and balancing the interests of all stakeholders involved.
- (h) The NCLT, NCLAT and Supreme Court have time and again stressed upon the supremacy of the commercial wisdom of the

Committee of Creditors. Over a period, role of COC has widened and has become comprehensive. COC's commercial wisdom now, inter alia, encompasses the following areas:

- Replacement of IRP or RP by COC at any time without providing any reason.
  - All CIRP expenses approved by COC.
  - All appointments cost approved by COC.
  - PRAs eligibility criteria, commercial terms, negotiations, and final approval or rejection of the resolution plan or approval of liquidation;
- (i) While the Code provides for a Code of Conduct for IPs, there is no provision for conduct of COC and its members who supervise IPs. This may be considered to be enabled at the earliest.

## 7. Value Maximization in Liquidation Process

- 7.1 Till March 2023, 2030 CDs ending up with orders for Liquidation had an aggregate claim of Rs. 9.20 lakhs crore against the assets valued only at Rs.0.64 lakh crore. While the claims of FCs comprised 90% of the total aggregate of the claim amount i.e. 8.30 lakhs crore, the claims of OCs were only 0.90 lakhs crore.
- 7.2 Further, more than 76% of the CIRPs ending in Liquidation (1548 out of 2022 for which data are available) were earlier with BIFR and/or defunct. It shows that the economic value in most of these cases had almost completely eroded even before they admitted into CIRP.
- 7.3 520 liquidation cases in which final reports have been submitted, had an aggregate outstanding claim of Rs. 1.18 lakh crore, but the concerned assets valued only at Rs. 0.05 lakh crore against which Rs. 0.045 lakh crore were realised.
- 7.4 The following factors contributed to the under realisation, and these have been discussed in detail in the paragraphs above:
- (a) Inherent state of assets and market conditions.
  - (b) Legal delays and pendency of Avoidance applications.
  - (c) Size of the assets which limit geographical re-distributions upon dismantling.
  - (d) Inter creditor disputes.

- 7.5 In the above context, a Liquidator's role is limited to conducting repeat auctions at successive relaxations of 25% (second auction) and 10% (subsequent auctions ) on the previous reserve price and to wait for the process to end. Creditors are generally not inclined to accept distributions in species and there is further value erosion due to the passage of time.

## 8. Conclusion

- 8.1 Despite many factors responsible for success or failure of any rescue effort as noted above, it is felt that IPs in the capacity of IRP/RP/Liquidator, have been singled out and often find themselves at the receiving end of the criticism. Over time judicial pronouncements and regulatory orders against the IPs in the capacity of IRP/RP/Liquidators, have also created perception about professionals' capabilities and ethical conduct. Such criticism is important and should be welcome in the interest of well-rounded development of profession and the insolvency regime. However, in the noise of such criticism, hard work by many professionals, often remains unacknowledged and do not come to light and thus depriving IPs of their well-deserved recognition and appreciation.
- 8.2 The above narrative, though reflection of critical feedback should be tested in the light of facts or ground reality.
- 8.3 It is important to note that among several stakeholders, IPs constitute the only segment which is subjected to strict regulatory oversight. Therefore, for settling any debate on conduct of IPs, it is imperative to sift facts from fiction, in a non-partisan manner. Such exercise should be backed by hard facts and data to be credible.
- 8.4 The above report attempts to examine the underlying issues, facts, and data in a comprehensive manner, before making certain recommendations to pave the way forward. Such recommendations are in the context of resolution process, adjudication process, coordination with COC and stakeholders and liquidation process. In nutshell, IPs act in unison with many verticals in the ecosystem and share the success (or otherwise) with such other verticals. The solutions to many challenges as highlighted in the report lie in cohesive and coordinated approach among such verticals and pillars of IBC ecosystem.