



## INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

# IIPI Newsletter

### IBBI paper suggests UNCITRAL Model Law on Cross-Border Insolvency

The paper, titled, 'Thinking Beyond Borders: Cross-Border Insolvency in IBC 2.0' has also recommended that the country ought to speed up its domestic insolvency processes, along with ways to incorporate mediation and alternative dispute resolution procedures into both domestic and Cross-Border cases. Currently, the IBC has no instrument to restructure firms involving cross-border jurisdictions. Cross-Border Insolvency Law aims to ensure Indian lenders have access to overseas assets of stressed companies and can get support of foreign jurisdictions to bring defaulters' assets there under the insolvency.

**For More Details, Please Visit:**

<https://www.financialexpress.com/business/banking-finance-board-paper-calls-for-un-model-cross-border-insolvency-law-3260778/>



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### News Update

*\*For Internal Circulation Only*

*\*Knowledge SBU Initiative*

### IBC has been a game changer legislation: Justice Shri Ashok Bhushan, Chairperson, NCLAT

Addressing the 7<sup>th</sup> Annual Day celebrations of IBBI on October 01, 2023, as Chief Guest, Justice Shri Ashok Bhushan emphasized the need for continuous innovation in insolvency ecosystem by all stakeholders and for capacity building through proactive advocacy. He congratulated IBBI for being a pro-active regulator constantly learning through interactions with stakeholders.

Delivering the 'Annual Day Lecture', Chief Justice (Retd.) Shri Ramalingam Sudhakar appreciated the efforts by the Government and IBBI in conducting the review exercise of the provisions of the IBC. Furthermore, he impressed upon use of AI in proceedings so as to achieve better and speedy outcomes.

Speaking on this occasion, Dr. Manoj Govil, Secretary, Ministry of Corporate Affairs, acknowledged that the highest ever resolutions were witnessed in the year 2022-23 with 186 CDs being resolved. He appreciated IBBI for being at the forefront for engaging effectively with stakeholders on regulatory changes and maintaining transparency in decision making and ensuring information dissemination.

In his Welcome Address, Shri Ravi Mital, Chairperson-IBBI, highlighted that there has been a recovery of three lakh crores through IBC which enables creditors to lend multiple times more in the market. He encouraged IPs to speed up the process to enable NCLTs pass orders for prompt disposal of applications filed for the CDs. On this occasion, IBBI's annual publication, "IBC: Evolution, Learnings and Innovation" and a research publication, "Navdrishti: Emerging Ideas on IBC" were also released. Shri Sudhakar Shukla, WTM- IBBI proposed the vote of thanks.

**For More Details, Please Visit:** <https://ibbi.gov.in/uploads/press/2023-10-01-153733-32y6d-5979e652304e4a01e5499dcb740df1c3.pdf>

Hope you find this update helpful. Suggestions if any, may be mailed to [iiipi.pub@icai.in](mailto:iiipi.pub@icai.in)

## News Roundup

### Debt Ridden IL&FS repaid ₹35,650 crore of debt to lenders

The company has informed that it had paid ₹35,650 crore of debt till September 30 to its lenders and other creditors across the group companies, marking another step towards full resolution of the debt crisis that had grounded the non-banking finance company (NBFC) in 2018. It has also informed that the process to repay another ₹20,000-22,000 crore is underway. The newly set up IL&FS board had committed to repay ₹61,000 crore in debt to its lenders. The company's total debt load weighed at ₹99,000 crore at the end October 2018. Besides, the group has reportedly completed an aggregate payment of approximately ₹10,000 crore by way of interim distribution across 14 companies, including two vertical holding companies and the group holding company. This amount was proposed by the new board and approved by NCLAT last year.

#### For More Details, Please Visit:

<https://www.moneycontrol.com/news/business/ilfs-repays-rs-35650-cr-to-lenders-works-on-debt-resolution-for-rs-22000-cr-more-11467831.html>

### IBBI issued Clarifications on 'Liquidation Fee'

IBBI, through a Circular dated Sept. 28, 2023, has clarified that the term 'Amount Realized' in Regulation 4(2)(b) of the IBBI (Liquidation Process) Regulations, 2016 'shall mean amount realized from assets other than liquid assets such as cash and bank balance including term deposit, mutual fund, quoted share available on start of the process after exploring compromise and arrangement, if any.' The "other liquidation cost" in regulation 4(2)(b) shall mean liquidation cost paid in priority under section 53(1)(a), after excluding the liquidator's fee. "Amount distributed to stakeholders" shall mean distributions made to the stakeholders, after deducting CIRP and liquidation cost. The Circular also provides 'illustrations' to calculate the Liquidation Cost.

#### For More Details, Please Visit:

<https://ibbi.gov.in/uploads/legalframework/276e15152ac2147c101fcbfbf37d0ddb.pdf>

### US Supreme Court to decide on \$326 million refund of Bankruptcy Fee to debtors by Federal Government

This amount of \$326 million was deposited by debtors after increase in Chapter 11 bankruptcy fees by USA's Federal Government in 2017, which was declared unconstitutional by the Supreme Court in 2022. According to the government, taxpayers could be on the hook for \$326 million in repayments if the court allows every debtor that paid higher fees to claim a refund.

**For More Details, Please Visit:** <https://www.reuters.com/legal/government/us-supreme-court-will-hear-dispute-bankruptcy-fee-refunds-2023-09-29/>



### IBBI issued 'Discussion Paper' on three crucial issues about PG to CD

Through this Discussion Paper dated Sept. 27, 2023, the IBBI has proposed amendments in IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Persons) Regulations, 2019, related to (i) Appointment of RP in the Insolvency Resolution Process of PGs to CDs, (ii) Sharing of report prepared by the RP under Section 99 of IBBI with the PG and the creditors; and (iii) Mandating summoning of meeting of the CoC under Section 106 of the IBBI in case of insolvency resolution process of PGs to CDs.

The Discussion Paper proposes to enable the CoC to appoint the IRP/ RP/ Liquidator of the CD as RP in the PG matter for enhanced harmonization of both the processes. Even in the case of replacement of the IRP/ RP/ liquidator of the CD, the CoC in its commercial wisdom may appoint a common IP in both the processes. Further, it is proposed that RP may in all cases, provide the copy of report under Section 99 to PG and creditors and convening of meeting of the CoC will be mandatory in all PG insolvency matters. Comments can be submitted by Oct. 19, 2023.

#### For More Details, Please Visit:

<https://ibbi.gov.in/uploads/whatsnew/1be1eb3fd866be72ff48df272702e98d.pdf>

## Event Photograph



*Webinar on 'Best Practices - Appointment of Professionals & CoC Meetings' conducted by IIIPI on Sept. 29, 2023.*

## IIIPI to conduct three Webinars in October

The first Webinar titled 'Recent Regulatory Amendments under IBC' will be conducted in association with the Insolvency and Bankruptcy Board of India (IBBI) from 4 to 6 PM on October 05, Thursday. It will have CPE 1 hours.

The Second Webinar titled 'Master Class – Avoidance Transaction' has been scheduled from 3 to 6 PM on October 13. This Webinar will have CPE 2 hours credit for IPs. The third Webinar on this month will be conducted from 3 to 6 PM on Oct. 27 on the topic 'Interface with Statutory Authorities/ Enforcement Agencies'. The IPs who attend this Webinar can also claim CPE 2 hours credit.

**For More Details, Please Visit:**

<https://www.iiipicai.in/wp-content/uploads/2023/09/october-webinars-1.pdf>