



THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

JOINTLY WITH

 INSTITUTE OF INSOLVENCY PROFESSIONALS

(Subsidiary of ICSI and Insolvency Professional Agency of IBBI)



REGISTERED VALUERS ORGANISATION

(A Wholly owned subsidiary of ICSI and registered with IBBI)

02ND NATIONAL CONVENTION OF INSOLVENCY PROFESSIONALS AND REGISTERED VALUERS

Theme:

Insolvency and Valuation: Navigating Challenges and Future Pathways

11TH JANUARY, 2025

THE PARK HOTEL, SANSAD MARG, NEW DELHI



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THE INSTITUTE OF Company Secretaries of India

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The Institute of Company Secretaries of India (ICSI) is a premier national professional body constituted under an Act of Parliament, namely the Company Secretaries Act, 1980 (Act No. 56 of 1980) to regulate and develop the profession of Company Secretaries.

ICSI provides top-quality education to the students of Company Secretaries (CS) Course and has set and maintains best quality standards for CS members. The ICSI has on its rolls more than 68,000 qualified CS members including over 11,000 members holding certificate of practice. Around 2,50,000 students are presently pursuing the Company Secretaryship Course.

Motto

सत्यं वद। धर्मं चर।

इष्टकारे त्रेह तन्पते. ब्रह्मवेद ह्यु त्रेह ब्रह्म.

Vision

"To be a global leader in promoting good corporate governance"

Mission

"To develop high calibre professionals facilitating good corporate governance"

INSTITUTE OF INSOLVENCY PROFESSIONALS

(Subsidiary of ICSI and Insolvency Professional Agency of IBBI)

ICSI Institute of Insolvency Professionals (ICSI IIP) is a frontline regulator registered with the Insolvency and Bankruptcy Board of India (IBBI) under the Insolvency and Bankruptcy Code, 2016. ICSI IIP is registered under section 8 of the Companies Act, 2013 and is a wholly owned subsidiary of Institute of Company Secretary of India (ICSI). ICSI IIP has vested with the power and authority *inter alia* to enrol, educate, train and also monitor the performance of its registered members as an Insolvency Professional. Its mandate also includes laying down standards of professional conduct and take steps in the direction of disciplining its members, whenever required.

There are more than 1200 Professionals from various professional background and experience who are registered with ICSI IIP as an Insolvency Professional. This *inter alia* includes Company Secretaries, Management Experts, Advocates, Cost Accountants, Chartered Accountants et al.

Many eminent personalities are on the Board of ICSI IIP as Independent Directors and Nominee Directors.

Ever since its formation, ICSI IIP has been involved in a number of activities aimed at Educating and Developing the Insolvency Professionals. These activities *inter alia* include issuance of different publications, such as, Practical aspects of Insolvency Law, Interim Resolution Professionals: A Handbook; Monthly Journal; Weekly Journal (Knowledge Reponere) and Daily Learning Curves; Organizing Intensive Pre-registration Educational Training Programmes, Interactive Sessions with Regulators and Insolvency Professionals; conducting Webinar Sessions especially focusing on practical aspects and challenges faced by Insolvency Professionals et al.



REGISTERED VALUERS ORGANISATION **(A Wholly owned subsidiary of ICSI and registered with IBBI)**

The ICSI Registered Valuers Organization (ICSI RVO) is a Section 8 Company incorporated under the Companies Act, 2013 and formed by ICSI with its 100% capital is owned by ICSI. The Company is recognised as Registered Valuers Organisation with Insolvency and Bankruptcy Board of India, formed with the intent to enrol, register, educate, train, promote, develop and regulate Registered Valuers as per the Registered Valuers Rules, while establishing and promoting high standards of practice and professional conduct and promote good professionalism, ethical conduct and competency ensuring quality of valuation work.

Duties of ICSI RVO:

- (1) The Organization shall carry out the functions of the Registered Valuers Organisation under the Companies (Registered Valuers and Valuation) Rules, 2017, and functions incidental thereto.
- (2) The Organization shall not carry on any function other than those specified in sub-clause (1), or which is inconsistent with the discharge of its functions as Registered Valuers Organisation. Apart from the above, the duties of the Organisation have been set out in Regulation 6 (schedule to Notification No. MCA/3401/2017-18, dated 18-11-2017) as follows:-

The Organization shall maintain high ethical and professional standards in the regulation of its members. The Organization shall -

- a. ensure compliance with the Companies Act, 2013 and Rules, Regulations and Guidelines issued thereunder governing the conduct of Registered Valuers Organisation and Registered Valuers;
- b. employ fair, reasonable, just, and non-discriminatory practices for the enrolment and regulation of its members;
- c. be accountable to the Authority in relation to all Bye-Laws and directions issued to its members;
- d. develop the profession of Registered Valuers;
- e. promote continuous professional development of its members;
- f. continuously improve upon its internal Regulations and Guidelines to ensure that high standards of professional and ethical conduct are maintained by its members; and
- g. provide information about its activities to the Authority.

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Message

From the Desk of the President, ICSI

As we step into a promising new year, it gives me immense pleasure to extend my warm greetings and heartfelt wishes for a joyous and prosperous 2025 to all participants of the **2nd National Convention of Insolvency Resolution Professionals and Registered Valuers**. This esteemed event, jointly organized by ICSI, ICSI IIP, and ICSI RVO, marks an excellent beginning to the year.

The theme of this convention, "**Insolvency and Valuation: Navigating Challenges and Future Pathways**," aptly resonates with the dynamic landscape of insolvency resolution and valuation practices in India. In a rapidly evolving economic environment, these professions play a pivotal role in safeguarding stakeholder interests, fostering economic stability, and ensuring the sustenance of businesses.

The Institute of Company Secretaries of India has always championed the cause of professional excellence, corporate governance and ethics. Through initiatives like this convention, we aim to equip professionals with the tools, knowledge, and insights required to address emerging challenges and seize opportunities in the domain of insolvency and valuation.

This event is a confluence of thought leaders, regulators, and practitioners, offering a platform to deliberate on critical issues, exchange ideas, and chart the course for the future. I am confident that the discussions and recommendations emerging from this forum will significantly contribute to strengthening the ecosystem of insolvency and valuation in India.

I take this opportunity to express my heartfelt appreciation to **CS Manish Gupta, Immediate Past President of ICSI and Program Director**, for his visionary leadership and exemplary dedication in curating this landmark event. Under his guidance, the Program Organizing Committee has worked tirelessly to ensure the success of this convention. My sincere gratitude goes out to entire organising team for their unwavering efforts in making this convention a reality.

To all participants, I wish you an enriching and inspiring experience as you contribute to the growth and evolution of these vital domains. Let us continue to uphold the highest standards of professional integrity and excellence as we collectively strive toward building a brighter future.

Wishing the convention grand success and each of you a very **Happy New Year!**

Warm regards,

(CS B Narasimhan)

President,

The Institute of Company Secretaries of India

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THE IBC: PRAGMATIC TRANSFORMATION IS KEY

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INTRODUCTION

The Insolvency and Bankruptcy Code (IBC), 2016, marked a transformative milestone in India's legal and financial landscape by consolidating fragmented insolvency laws into a unified framework. This framework established a streamlined process for resolving insolvency across corporate, partnership, and individual entities. Since its enactment, the IBC has been the cornerstone of an evolving insolvency resolution ecosystem, undergoing multiple amendments to address emerging challenges, improve its efficiency, and adapt to the changing economic environment.

EVOLUTION OF THE INSOLVENCY AND BANKRUPTCY CODE

Enacted in May 2016, the IBC aimed to standardize and streamline insolvency laws to ensure time-bound resolution of insolvency cases. Its key objectives include:

- Maximizing the value of assets.
- Promoting entrepreneurship.
- Ensuring the availability of credit.

The IBC has seen **14 amendments** over time, underscoring its adaptability and commitment to addressing the dynamic nature of the economy. Below are some key milestones and developments in its journey:



KEY INSIGHTS FROM THE 32ND REPORT OF THE STANDING COMMITTEE ON FINANCE (2020-21)

The 32nd report of the Standing Committee on Finance outlines both the successes and challenges of the IBC and provides valuable recommendations for its enhancement:

1. **Resolution Professionals (RPs):** There is a need for enhanced professional self-regulation.
2. **Committee of Creditors (CoC):** A professional code of conduct is recommended for CoC members.
3. **NCLT System Challenges:** The report highlights delays in case admissions and resolution approvals, which continue to hinder the system's effectiveness.
4. **Flexible Resolution Plans:** Provisions for partial asset sales have been suggested to increase flexibility.
5. **Digitization:** Calls for further digitalization of the IBC ecosystem and NCLT processes to improve efficiency.
6. **MSME Framework:** The introduction of a pre-pack resolution process for MSMEs aims to expedite recovery.
7. **Cross-Border Insolvency:** The report advocates for a robust framework to handle cross-border insolvency cases.
8. **Homebuyer Rights:** Strengthening protections for homebuyers, a significant stakeholder in real estate insolvency, has been recommended.

One of the standout suggestions involves prohibiting **post-hoc bids** to ensure procedural certainty and timely resolutions. Additionally, leveraging **National Law Schools** to support NCLT operations with research and expertise has been proposed.

RECENT REGULATORY ENHANCEMENTS (2022)

In 2022, significant regulatory updates were introduced across several aspects of the IBC ecosystem:

- **Fee Structure for RPs:** Minimum fees for Interim Resolution Professionals (IRPs) and RPs were set between ₹1 lakh and ₹5 lakh, based on claim amounts.
- **Performance-Linked Incentives:** These incentives encourage timely resolutions and value maximization.
- **Operational Creditor Evidence:** Mandatory submission of GST returns with Section 9 applications ensures greater accountability.
- **Stakeholders Consultation Committee (SCC):** The CoC now acts as the SCC until it is formally constituted within 60 days of liquidation commencement.
- **Liquidator Replacement:** The SCC can propose replacing the liquidator with a 66% vote.
- **Inclusion of Insolvency Professional Entities (IPEs):** Recognized as professional members of Insolvency Professional Agencies (IPAs).

FOCUS ON MSMEs: STRENGTHENING THE BACKBONE**Pre-Packaged Insolvency Resolution Process (PPIRP)**

Introduced in 2021, the PPIRP offers a hybrid mechanism for MSMEs, combining informal and formal insolvency processes. Key benefits include:

- **Debtor-Initiated Process:** MSME promoters retain control during the resolution.
- **Base Plan Requirement:** A mandatory base plan ensures that resolution efforts are well-prepared.

Relaxed Eligibility Criteria

- **Section 29A relaxations** under Insolvency and Bankruptcy Code, 2016 allow promoters to submit resolution plans under specific conditions, offering greater flexibility.
- **Section 240A** under Insolvency and Bankruptcy Code, 2016 exempts MSMEs from stringent provisions, reflecting a pro-revival approach.

Challenges and Solutions

Despite these reforms, challenges remain:

- **Timelines:** Adherence to the 120-day resolution plan deadline continues to be a significant concern.
- **Capital Constraints:** MSMEs often struggle to secure the additional funds required for resolution.
- **PUFE Transactions:** Identifying preferential, undervalued, and fraudulent transactions remains a complex issue.
- **Operational Status:** MSMEs are often classified as operational creditors, which creates challenges in achieving parity with secured creditors.

Proposed remedies include a dedicated **MSME regime** under Section 240A and **customized out-of-court settlement mechanisms**, alongside enhanced protections under the MSME Act.

FINANCE ENTITIES: ADDRESSING CHALLENGES IN FINANCIAL SERVICE PROVIDERS (FSPS)

The IBC was amended in 2019 to include a resolution framework for **Financial Service Providers (FSPs)**, ensuring that entities such as Non-Banking Financial Companies (NBFCs) and housing finance companies can be addressed under the Code. This was a significant step forward, as it expanded the scope of insolvency proceedings to cover the financial sector.

Despite these advancements, FSP insolvency proceedings face unique challenges:

- **Complex Financial Structures:** FSPs have intricate debt and equity structures, requiring significant regulatory coordination for effective resolution.
- **Regulatory Complexities:** Coordination with multiple regulatory bodies complicates the resolution process, leading to delays and conflicts.
- **Delays in CIRP Completion:** The insolvency process is often prolonged by litigation delays, which can exacerbate the financial distress of the FSP.
- **Legacy Liabilities:** Section 32A provides a mechanism to protect incoming management from criminal liabilities, but the complex nature of these liabilities continues to present challenges.

To address these challenges, a **dedicated FSP insolvency framework** with clear guidelines and enhanced **regulatory coordination** is necessary. Implementing **early intervention mechanisms** and establishing **specialized benches** for FSP cases under NCLT and NCLAT would help streamline the process.

CASE LAWS

The **IL&FS** case exemplifies the complexities involved in resolving FSPs. The case involved 347 companies, including FSPs, but the resolution process faced significant hurdles due to the lack of clear standards for FSP insolvency. Similarly, the **Dewan Housing Finance Corporation (DHFL)** case illustrated the difficulties in valuing financial entities, given the nature of their assets.

REAL ESTATE ENTITIES: CHALLENGES AND REFORMS

Background and current scenario

The 2018 amendment to the IBC recognized **homebuyers as financial creditors**, allowing them to initiate insolvency proceedings and participate in the Committee of Creditors (CoC). This was a landmark step in protecting the interests of homebuyers.

The **Jaypee Infratech** insolvency case highlighted the challenges in resolving real estate entities, particularly in balancing the interests of homebuyers and financial creditors.

Key Challenges

- **Homebuyers as Financial Creditors:** Despite the 2018 amendment, homebuyers continue to face challenges due to their inferior position in the creditor hierarchy, as unsecured creditors.
- **Lack of Exit Routes:** Homebuyers currently lack a clear mechanism to exit the insolvency process, which leaves them in a precarious position.
- **Multiplicity of Stakeholders:** The involvement of multiple stakeholders—homebuyers, financial institutions, contractors—complicates the resolution process.
- **Commercial Viability:** The commercial viability of real estate projects undergoing CIRP is a major concern, requiring a careful reassessment of project feasibility.

CONCLUSION

The evolution of the IBC highlights India's commitment to creating an efficient insolvency resolution framework. For MSMEs, there is a pressing need for a **cost-effective and commercially viable framework** that provides timely liquidation while allowing for the rehabilitation of viable businesses. For FSPs, regulatory coordination, commercial viability, and systemic risk management must be prioritized to ensure efficient resolution. In the real estate sector, a balanced approach is essential to address the interests of all stakeholders, including homebuyers and financial creditors. By implementing sector-specific reforms and ensuring tailored solutions, the IBC can strengthen its role in the evolving insolvency landscape, providing fair, efficient, and timely resolutions.
