

## Insolvency and Bankruptcy Board of India

**Subject: Status note on Insolvency Resolution Process and Bankruptcy Process of Personal Guarantors to Corporate Debtors**

The Insolvency and Bankruptcy Code, 2016 (Code) classifies individuals into three classes, namely, personal guarantors (PGs) to corporate debtors (CDs), partnership firms and proprietorship firms, and other individuals, to enable implementation of individual insolvency in a phased manner. Vide notification dated 15<sup>th</sup> November, 2019, the provisions relating to insolvency resolution of PGs to CDs came into force on 1<sup>st</sup> December, 2019.

### A. Insolvency resolution process of PGs to CDs: -

2. This note presents the status of insolvency resolution processes of PGs to CDs till **end of February 2023 and related matters**. This is based on information available with the Board received from the applicants, Insolvency Professionals (IPs), and data collated from various benches of NCLT and DRT. A total of 1771 applications for initiation of insolvency resolution process of PGs to CDs have been filed, of which 1749 have been filed in different benches of the NCLT and 22 in different benches of the DRT. A total of 167 applications have been initiated by the debtors under section 94 of the Code involving a debt amount of ₹ 15936.50 crore\* and 1604 applications have been initiated by the creditors under section 95 of the Code involving a debt amount of ₹ 134650.66 crore#. The caveats to these data points are presented as footnotes to Table 1.

**Table 1: Insolvency Resolution Process of PG to CD.** (Amount in ₹ crore)

Period	Applications filed by				Total		Adjudicating Authority	
	Debtors (u/s 94)		Creditors (u/s 95)					
	No.	Debt Amount	No.	Debt Amount	No.	Debt Amount	NCLT	DRT
2019 - 20	3	49.66	20	3289.85	23	3339.51	22	1
2020 - 21	20	2485.94	234	37561.36	254	40047.30	248	6
2021 - 22	85	3089.97	838	62157.44	923	65247.41	908	15
Apr - Jun 2022	16	698.73	171	7409.79	187	8108.52	187	0
Jul - Sep 2022	23	1128.67	153	12643.42	176	13772.09	176	
Oct - Dec 2022	14	8467.78	101	3911.14	115	12378.92	115	0
Jan - Feb 2023	6	15.75	87	7677.66	93	7693.41	93	0
<b>Total</b>	<b>167</b>	<b>15936.50*</b>	<b>1604</b>	<b>134650.66#</b>	<b>1771</b>	<b>150587.16</b>	<b>1749</b>	<b>22</b>

*The data are provisional. These are getting revised on continuous basis as further information received.*

*\* Debt Amount has been compiled from the Form A of IRP Rules. Data is not available in 54 cases.*

*# Debt Amount has been compiled from the Form C of IRP Rules. Data is not available in respect of 275 cases.*

3. While collating the data above, certain instances have been noticed where (i) there is one CD and more than one PG; (ii) one CD, one (or more) PG and more than one creditor; (iii) two CDs, one (or more) PG; and (iv) one (or more) creditor and one CD and more than one PG. The treatment to noting the debt amount of the applications in such instances is placed at Annexure 1 for information.

4. Table 2 informs the status of applications for resolution of PGs to CDs before its admission/ rejection. Out of the 1771 applications filed, RPs have been appointed in 734 cases (including admitted cases, applications withdrawn/ dismissed/ rejected after appointment of RP), 62 cases have been withdrawn/ dismissed/ rejected before appointment of RP, and RPs are yet to be appointed in 975 cases.

**Table 2: Status of applications filed.**

Status	No. of applications filed		
	by Debtor(s)	by Creditor(s)	Total
RP appointed*	52	471	523
Withdrawn - before appointment of RP	1	27	28
Withdrawn - after appointment of RP	3	8	11
Dismissed/Rejection - before RP appointment	3	31	34
Dismissed/Rejection - after RP appointment	2	20	22
RP yet to be appointed	84	891	975
Admitted	22	156	178
<b>Grand Total</b>	<b>167</b>	<b>1604</b>	<b>1771</b>

\*This excludes the cases where applications have been admitted and withdrawn/ dismissed/ rejected after appointment of RP.

5. Section 99 requires the RP to file a report recommending either acceptance or rejection of the application. Table 3 informs the status of reports filed by the RP. Out of 734 cases, where RPs have been appointed, as per the information received from the RPs, 359 reports have been filed by the RP. Four cases have been directly admitted by the Adjudicating Authority and in 371 cases, information with respect to section 99 report, is yet to be received.

**Table 3: Status of reports filed by the RP u/s 99.**

Status	No. of applications filed		
	by Debtor(s)	by Creditor(s)	Total
No. of cases report submitted	31	328	359
No. of cases recommended for acceptance of application	26	239	265
No. of cases recommended for rejection of application	1	2	3

Note: Out of the 359 cases, copy of the report filed by the RP is not available with the Board in 104 cases.

6. Table 4 informs the status of applications after their admission by the Adjudicating Authority. 178 applications have been admitted and out of them 37 cases have been closed and 141 cases are ongoing.

**Table 4: Status of admitted cases.**

No. of cases Admitted	Closure by				Ongoing cases
	Appeal	Withdrawal	Rejection of Repayment Plan	Approval of Repayment Plan	
178	0	6	29*	2	141

\*This includes 10 cases, where repayment plan is not submitted.

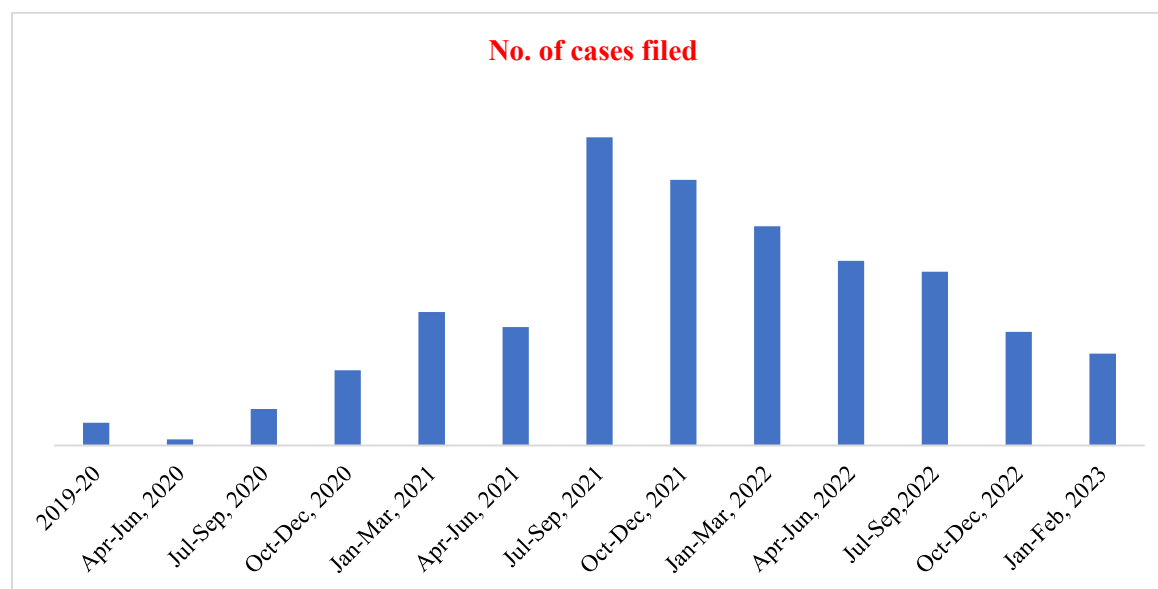
7. As of February, 2023 the Adjudicating Authority has approved repayment plans in two cases. The details are given in Table 5.

**Table 5. IIRP yielding approval of Repayment Plan** (Amount in ₹ crore)

Sl. No.	Name of the PG	Name of the CD	IIRP initiated by	Date of commencement of IIRP	Date of approval of plan	Total admitted claim	Realisable Amount
1.	Mr. Tshering Pintso Bhutia	M/s. Bluefern Ventures Pvt Ltd	Creditor	30-09-21	30-09-22	30.28	12.00
2.	Mr. Ongmu Bhutia	M/s. Bluefern Ventures Pvt Ltd	Creditor	30-09-21	30-09-22		

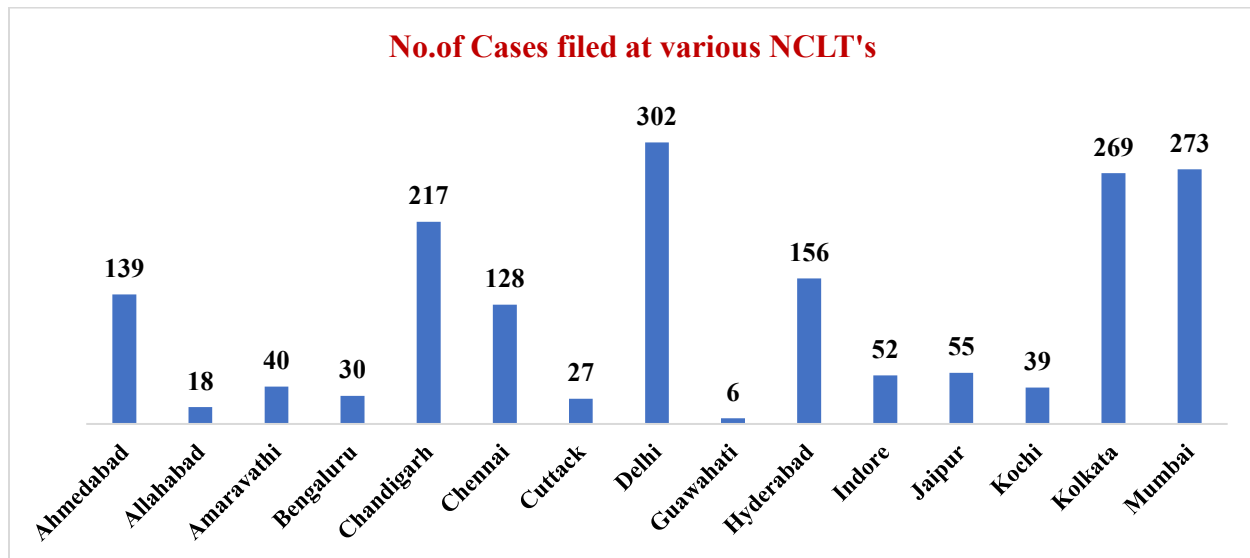
8. Details of periodical filing of application is given in Figure-1.

**Figure 1: Periodical filing of cases.**



9. The Adjudicating Authority in respect of insolvency matters of PGs to CDs is DRT. However, where the insolvency resolution and liquidation for corporate persons is going on, the Adjudicating Authority is the NCLT. By the end of February, 2023, 98.8% of the total cases are filed at different benches of NCLT and 1.2% of cases are filed at different benches of DRT. Figure 2 presents the NCLT bench-wise filing of number of applications.

**Figure 2: NCLT bench-wise filing of applications.**



**B. Bankruptcy process of PGs to CDs: -**

10. As per section 121 of the Code, an application for initiation of bankruptcy process can be filed by a debtor or creditor(s) within a period of three months in the following three circumstances, namely: -

- (a) where the application for initiation of IRP of a debtor has been rejected by the Adjudicating Authority (AA) u/s 100(4); or
- (b) where the repayment plan has been rejected by the AA u/s 115(2); or
- (c) where the repayment plan has been ended prematurely and an order has been passed by the AA u/s 118(3).

11. As per the information received from the applicants, IPs and data collected from various benches of NCLT and DRT, four bankruptcy applications are initiated by the creditors u/s 123 of the Code. Among them one application has been filed before DRT, Chennai wherein AA has appointed the Bankruptcy Trustee in the said matter and three applications have been filed before NCLT, Hyderabad bench.

12. This is submitted for information of the Governing Board.

## Annexure 1

### Treatment of different scenarios for noting the debt amount

Scenario	Example	Present Treatment			
One CD and more than one PG	CD: XYZ Ltd PG: Mr. A, Mr. B and Mr. C. Total debt of the CD: ₹ 100 crore.  Guarantees of the PGs have been invoked by the creditor for a sum of ₹ 100 crore each.  Three separate applications are filed for initiation of IRP of Mr. A, Mr. B and Mr. C for a debt amount of ₹ 100 crore each.  [many instances have come to notice]	PG Name	Debt Amount for which application has been filed	Debt amount considered for MIS	
		Mr. A	₹ 100 crore	₹ 100 crore	
		Mr. B	₹ 100 crore		
		Mr. C	₹ 100 crore		
		For the purpose of MIS, total debt amount has been considered as ₹ 100 crore only to avoid double counting.			
One CD, one (or more) PG and more than one creditor	CD: XYZ Ltd PG: Mr. A Creditors: ABC bank and PQR bank. Debt at ABC bank: ₹ 100 crore Debt at PQR bank: ₹ 80 crore  Both ABC bank and PQR bank have invoked the guarantees against Mr. A and filed applications for initiation of IRP of Mr. A separately for a debt amount of ₹ 100 crore and ₹ 80 crore respectively.  [one such instance has come to notice]	PG Name	Name of the Applicant	Debt Amount for which application has been filed	Debt amount considered for MIS
		Mr. A	ABC bank	₹ 100 crore	₹ 100 crore
		Mr. A	PQR bank	₹ 80 crore	₹ 80 crore
		For the purpose of MIS, total debt amount has been considered separately as both are separate applications.			
Two CDs, one (or more) PG and one (or more) creditor	CD1: XYZ Ltd CD2: PQR Ltd PG: Mr. A Creditors: ABC bank  Debt for XYZ Ltd: ₹ 100 crore Debt for PQR Ltd: ₹ 80 crore  ABC bank has invoked two separate guarantees (for XYZ Ltd and PQR Ltd) against Mr. A and filed two applications for initiation of IRP of Mr. A separately for two	PG Name	Name of the CD	Debt Amount for which application has been filed	Debt amount considered for MIS
		Mr. A	XYZ Ltd	₹ 100 crore	₹ 100 crore
		Mr. A	PQR Ltd	₹ 80 crore	₹ 80 crore
		For the purpose of MIS, total debt amount has been considered separately as both are separate applications.			

	<p>debt amounts of ₹ 100 crore and ₹ 80 crore respectively.</p> <p><b>[one such instance has come to notice]</b></p>			
<p>One CD and more than one PG</p> <p>(Application filed by the PG u/s 94 of the Code)</p>	<p>CD: XYZ Ltd PG: Mr. A and Mr. B. Total debt of the CD: ₹ 100 crore.</p> <p>Debt of Mr. A: ₹ 100 crore (debt of the CD) + ₹ 5 crore (loans from personal capacity e.g. housing loan, vehicle loan, etc.)</p> <p>Debt of Mr. B: ₹ 100 crore (debt of the CD)</p> <p>Two separate applications are filed for initiation of IRP of Mr. A and Mr. B for a debt amount of ₹ 105 crore and ₹ 100 crore respectively.</p> <p><b>[many such instances have come to notice]</b></p>	<p>PG Name</p>	<p>Debt Amount for which application has been filed</p>	<p>Debt amount considered for MIS</p>
		<p>Mr. A</p>	<p>₹ 105 crore</p>	<p>₹ 5 crore</p>
		<p>Mr. B</p>	<p>₹ 100 crore</p>	<p>₹ 100 crore</p>
		<p>For the purpose of MIS, the common debt of ₹ 100 crore has not been considered.</p>		