

Insolvency and Bankruptcy Board of India

No. IBBI/PR/2019/32
16th December, 2019

Press Release

Conference on ‘Insolvency and Bankruptcy Code, 2016: Impact on Markets and the Economy’

The Insolvency and Bankruptcy Board of India (IBBI) and Vidhi Centre for Legal Policy, in partnership with the Faculty of Law and Commercial Law Centre, Harris Manchester College at the University of Oxford, organised a Conference titled “Insolvency and Bankruptcy Code, 2016: Impact on Markets and the Economy” in New Delhi today.

2. The Conference featured inaugural address by Dr. Bibek Debroy (Chairman, Economic Advisory Council to the Prime Minister), keynote address by Dr. Kristin van Zwieten (Clifford Chance Associate Professor of Law and Finance at the University of Oxford and Director, Commercial Law Centre at the Harris Manchester College), special address by Dr. M. S. Sahoo (Chairperson, IBBI) and valedictory address by Mr. Ajay Tyagi (Chairman, Securities and Exchange Board of India) and four panel discussions.

3. In his inaugural address, Dr. Debroy highlighted that an economy to be competitive needs free entry and free exit of firms. In the past, in the absence of an exit mechanism, several private sector firms were nationalised. The nexus ensured that the promoters would not exit firms irrespective of their performance and conduct. However, this has changed with the implementation of the Insolvency and Bankruptcy Code, 2016 (Code). The Code will have positive impact on GDP in the long term, though there may be some short term pains, including growth costs, he said. Dr. Debroy emphasised that the success of the Code to a large extent depends upon the functioning of and processes adopted by the Adjudicating Authorities. He highlighted that competence, conduct and integrity of the Insolvency Professionals will also be an important determinant in harnessing full benefits of the Code.

4. In her keynote address, Dr. Zwieten compared the approach adopted by the Bankruptcy Law Reforms Committee (BLRC) in conceptualising the Code with the approach of Cork Committee which conceptualised the insolvency regime of the UK in 1982. She appreciated the unprecedented speed at which the Code was envisioned, enacted and implemented. She highlighted that the BLRC made a paradigm shift to ‘creditor in control’ from ‘debtor in possession’ model, which would reduce *ex-ante* cost of capital *ex-ante*. She said that value preservation of assets of corporate debtor is rightly set as the first order goal under the Code and the innovation in the form of Information Utility will effectively help reduce information asymmetry. Dr. Zwieten felt that the Insolvency Professionals under the Code should play an empowered role in the deployment of assets of stressed entities and distribution of proceeds, like the role of ‘Administrator’ in the UK law. She also commended the IBBI for its effective data dissemination practices.

5. In his special address, Dr. Sahoo highlighted that while recovering 43% of their claims through resolution plans, the creditors have recovered 210% of the liquidation value of the companies. They effectively got a bonus of 110% because of the Code. The creditors have realised about Rs.1.6 lakh crore through resolution plan of 160 companies. They are realising through settlements after applications are filed and before they are admitted, on account of the Code. They are also realising through settlement even before application is filed, in the shadow

of the Code. Therefore, it is important to consider what happens under the Code, what happens on account of the Code and what happens in the shadow of the Code to appreciate the full outcome from the Code. He stated that recovery is only a by-product of rescue of the companies. One-third of the companies which have been resolved were in BIFR or not going concerns. The balance two-third companies were in distress, some of them having deep distress. The Code rescued them from premature death. Dr. Sahoo said that in the long term, the Code will promote entrepreneurship, availability of credit and utilisation of resources, and consequently would push up GDP growth by few percentage points.

6. In his valedictory address, Mr. Tyagi discussed the framework for resolution of distress assets that existed prior to the enactment of the Code which failed to deliver in terms of timelines, recovery, costs, etc., and lacked focus on resolution. He stated that the Code was designed to overcome the drawbacks of the erstwhile framework. He highlighted the improvements of India's ranking in 'Ease of Doing Business' (World Bank) because of the effective implementation of the Code. He said that the Code has ushered in a substantial behavioural change and also credit discipline among promoters. The Code will promote corporate bond market in India, he pointed out. Mr. Tyagi also highlighted that SEBI has facilitated the implementation of the Code in terms of carve outs under takeover and listing regulations. He suggested that the road ahead should include cross border insolvency, group insolvency, rollout of individual insolvency, insolvency of financial service providers among others.

7. The Conference featured panel discussions on four themes, namely, 'IBC and the Indian Economy', 'IBC's impact on Corporate Governance, Business Practices and Capital Markets', 'Reimagining India's Market for Stressed Assets', and 'Reforms for the Future'. Key stakeholders, including representatives from the Government, regulators, financial institutions, investment funds, industry, asset reconstruction companies as well as insolvency professionals, registered valuers and legal practitioners participated in this Conference.

8. The distinguished speakers at the Conference included: Mr. Debanshu Mukherjee (Co-founder, Vidhi Centre for Legal Policy), Dr. Shubhahsis Gangopadhyay (Research Director, India Development Foundation), Dr. Ajit Ranade (Chief Economist, Aditya Birla Group), Dr. Prachi Mishra (MD and Chief India Economist, Goldman Sachs India), Dr. Anuradha Guru (Executive Director, IBBI), Mr. U. K. Sinha (Former, Chairman SEBI), Mr. Rajnish Kumar (Chairman, State Bank of India), Mr. Mohit Saraf (Senior Partner, L&L Partners), Dr. Harsh Vardhan (Senior Advisor, Bain & Co.), Mr. P. R. Ramesh (Former Chairman, Deloitte India), Mr. Abhijit Joshi (Managing Partner, Veritas Legal), Mr. Nikhil Narayanan (Partner, Khaitan & Co.), Mr. Harkamal Ghuman (MD, Alvarez & Marsal India), Mr. Kaushik Chatterjee (Executive Director and CFO, Tata Steel Limited), Dr. Mukulita Vijayawargiya (Whole Time Member, IBBI), Mr. Nilanjan Sinha (Head Legal - India and South-East Asia, ICICI Bank), Mr. Uday Khare (Partner, Cyril Amarchand Mangaldas), Ms. Shreya Prakash (Senior Resident Fellow, Vidhi Centre for Legal Policy), and Ms. Aishwarya Satija (Research Fellow, Vidhi Centre for Legal Policy).
