



भारतीय विधाला और ढोषण अडमता ढोर्ड
Insolvency and Bankruptcy Board of India

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Insolvency Law in Times of COVID-19

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Insolvency Law in Times of COVID-19

Rescuing a viable firm is far more important than failing to liquidate an unviable one. In sync with its primary mandate, the Code must complement every endeavour to rescue lives of firms during times of the COVID-19 pandemic.

An economic law is essentially empiric and it evolves continuously through experimentation. The Insolvency and Bankruptcy Code, 2016 (Code) is no exception; it has been a road under construction for good reasons. It envisaged standard, plain vanilla processes to start with, but anticipated prompt course corrections to continue to remain in the service of the business and economy. Such corrections arose from difficulties encountered while implementing the provisions of the Code and from the changes in the economic environment. The Code has witnessed five legislative interventions since its enactment to strengthen the processes and further its objectives, in sync with the emerging market realities.

The Code recognises that insolvency is an outcome of market forces. It incentivises, facilitates, and empowers market forces to resolve insolvency in normal times. The first order objective of the Code is resolution. The second order objective is maximisation of value of assets of the firm and the third order objectives are promoting entrepreneurship, availability of credit and balancing the interests of stakeholders. This order of objectives is sacrosanct. In pursuance of these objectives, the Code enables market forces to pursue twin complementary remedies in respect of failing firms: (i) rescue a viable firm, and (ii) liquidate an unviable one. It searches for a white knight, who rescues a failing firm. It is unlikely to find a white knight if the firm is unviable. In such cases, the Code facilitates liquidation of the firm.

COVID-19 Pandemic

These are not normal times. The world is in the grip of the COVID-19, with no quick solution in sight. It is fast snowballing to an economic crisis. Some believe that it may hurt deeper than the deepest health pandemonium (1918 Spanish flu), the worst economic disaster (1930 Great Depression), or the most-devastating financial crash (2008 financial crisis), or may be, all of them put together. According to the IMF's World Economic Outlook of June, 2020, the global economy is projected to contract sharply by 4.9% in 2020 in the wake of the pandemic.

As around the world, in India as well, the impact of COVID-19 on the economy has been severe. In view of demand contraction and supply chain disruptions arising from primarily two external factors, namely, COVID-19 and consequential imposition of nationwide lockdown, many companies may have receding top line and bottom line and some of them may default in servicing debt obligations.

In its June 2020 report, the ADB estimates that India is expected to contract by 4.0% in fiscal 2020. According to IMF's World Economic Outlook, June 2020, India's economy is projected to contract by 4.5% following a longer period of lockdown and slower recovery than anticipated in April. RBI's Financial Stability Report released in July 2020 highlights that nominal sales and net profits of 1,640 listed private non-financial companies declined (y-o-y) by 3.4% [10.2% in Q4:2019-20] and 19.3% [65.4% in Q4:2019-20], respectively.

While the impact of the external variables on the economy is very deep, similar shocks of a comparatively lower intensity in the past have witnessed a sharp increase in corporate and personal insolvencies all over the world. In our recent memory, the 2008 global financial crisis had resulted in a similar situation of declining demand, decreasing availability of external finance, declining investments, causing firms around the world to face insolvencies and bankruptcies.

International Response

Such a rare black swan event required a matching response from humanity to save 'lives', that required saving 'livelihood', which in turn required saving lives of firms. Governments around the world have adopted an accommodative stance and acted swiftly to prevent corporates and individuals from being forced into insolvency and bankruptcy. Measures such as moratorium on loan repayments, sector specific forbearance, infusion of liquidity into the banking system to provide credit to financially distressed firms, relief in asset classification banking norms, flexibility in director's obligations to initiate insolvency proceeding, relief from compliance with specific legal obligations etc., have been taken to deal with the situation.

Both World Bank and IMF have listed out the challenges and key responses required to meet those challenges to prevent the economies from facing a fate like the Great Depression. They suggest the implementation of those responses in a three-phased approach to help the economy transition smoothly towards the positive side of the graph. In the first phase, copious interim measures need to be taken to halt insolvency and debt enforcement activities. In the second phase, when a huge wave of insolvencies is anticipated, it may be addressed by transitional measures, such as special out-of-court workouts, to 'flatten the curve' of insolvencies. The third phase calls for regular debt resolution tools to address the remaining debt overhang and support economic growth in the medium term. The key challenges and responses in three phases in the wake of COVID-19 outbreak are summarised in the table overleaf.

Response in India

The Government of India has taken several measures to ameliorate the pains emanating from COVID-19. This piece discusses measures in the space of insolvency only. When every firm, every industry and every economy is reeling under stress, the likelihood of finding a white knight to rescue a failing firm is remote. If all failing firms were to undergo insolvency proceeding, most of them may end up with liquidation for want of saviours to rescue them. Upon such liquidation, the firms would have a premature death, while the assets would have distress sale, realising abysmally little. Rescuing lives of firms being the prime objective of the Code, it must not be used to take away their lives prematurely at these unusual times.

This unprecedented situation called for another experimentation requiring a choice between two competing policy options, namely, suspend the operations of the Code or continue its operations as usual. If the first option is exercised, the market would fail to liquidate an unviable firm. This is not good for an economy, but this can be rectified in the following quarter or the following year. If the second option is exercised, the market would liquidate a viable firm forever, which can never be undone. Rescuing a viable firm is, therefore, far more important than failing to liquidate an unviable one. Further, firms, which are failing solely on account of COVID-19, may bounce back on their own as soon as normalcy restores. Alternatively, they would at least recalibrate their operations and businesses to an 'all-new normal'. The choice, therefore, fell on the first option, which provides breathing time for firms and furthers the objectives of the Code.

¹World Bank Policy Research Working Paper 5448, "The Challenges of Bankruptcy Reform", October, 2010

²World Bank Group, Financial Series, COVID-19 Notes, "COVID-19 Outbreak: Implications on Corporate and Individual Insolvency", April, 2020 and IMF Special Series on COVID-19, "Private Debt Resolution Measures in the Wake of the Pandemic, May, 2020.

Phases	Key Challenges	Critical Responses
Phase 1: “Freeze” phase to deal with immediate impact of the health emergency by taking interim measures	Preventing viable firms from prematurely being pushed into insolvency	<p>Implementing one or more extraordinary measures for a limited period of time:</p> <ul style="list-style-type: none"> ● Increasing barriers to creditor-initiated insolvency filings; ● Suspending director’s duty to file and associated liability; ● Ensuring complementarities with debt repayment emergency measures.
Phase 2: “Transition” phase for response after the pandemic subsides and economic activity resumes	Responding to the increased number of firms that will not survive this crisis without going through insolvency	<p>Ensuring smooth functioning of workouts and debt restructuring mechanisms such as:</p> <ul style="list-style-type: none"> ● Establishing informal out-of-court or hybrid workout frameworks; ● Facilitating business rescue through bridge financing; ● Extending procedural deadlines for a limited period of time; ● Suspending the requirement to proceed to liquidation if the business activity of the debtor has stopped while undergoing reorganisation; ● Encouraging e-filings, virtual court hearings and out-of-court solutions in insolvency cases.
Phase 3: “Fighting debt overhang” during the phase when situation stabilises and there are aftereffects to deal with	Addressing individual financial distress resulting from the crisis	<ul style="list-style-type: none"> ● Implementing modern consumer bankruptcy frameworks; ● Ensuring there are flexible options for debt rescheduling and repayment plans; ● Enabling a debt forgiveness mechanism or discharge is important for facilitating a fresh start.

The first option has two sub-options, namely, suspend the Code in its entirety or suspend some elements, as may be warranted. The first sub-option would not allow liquidation of a failing firm, whether it was unviable before COVID-19 or became unviable on account of the it. It would also not allow rescue of a failing firm even if it were viable before the COVID-19 or remains viable despite it. A delay in rescue of a viable firm may make its rescue impossible. The policy should, therefore, protect those firms which are victims of pandemic, and not protect the undeserving. The choice, therefore, fell on the second sub-option which suspends only such provisions of the Code, for such purposes and for such period, as are necessary under the circumstances, avoiding any unintended consequences.

The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020

Contrary to general belief that the Code has been suspended for a year, the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020 is a keyhole surgery that suspends a tiny part of the Code. It suspends filing of applications for initiation of insolvency proceeding against a company for any default arising during COVID-19 period, which is six months commencing on March 25, 2020 to start with, but can be extended up to a year, if warranted. It insulates a company, which did not have a default as on March 25, 2020, but commits a default during the COVID-19 period, from being pushed into an insolvency proceeding.

The Ordinance does not absolve the company of COVID-19 default. It does not even exclude such default from the ambit of default under the Code. Such default remains a default for all purposes under the Code, except for the purpose of initiating insolvency proceeding against the

company. For example, such default can be the basis for submission of claim in an insolvency proceeding or initiation of insolvency proceeding against a personal guarantor.

The Ordinance clarifies that an application can be filed for initiating insolvency proceeding against a company for defaults committed before March 25, 2020. It does not suspend the applications already filed before the Adjudicating Authority (AA) for initiation of insolvency proceeding and pending for admission, and ongoing corporate insolvency proceedings - resolution and liquidation, including voluntary liquidation. Not does it suspend provisions relating to and ongoing insolvency proceedings against personal guarantors and financial service providers.

Though the broad rationale of the Ordinance is well understood, the rationale for some of its finer aspects are not obvious. The simplest of them relates to the period of suspension: why not for three months or for three years? What characterises COVID-19, as compared to any other rare event, is the degree of uncertainty surrounding it, making it difficult to figure out the appropriate period of suspension. The initial period is six months, which includes all three lockdowns. It can be extended up to one year based on assessment of the situation on the ground so that it matches the requirement.

Since the objective is to insulate companies which are victims of the pandemic, why should a company, which defaults during COVID-19 period, but not on account of COVID-19, have protection? There is hardly any company which is not impacted by COVID-19. There may be a handful of companies which did not default earlier but defaults during COVID-19 period for reasons other than COVID-19. Identification of such handful of companies would require determination in each case

whether the default during the COVID-19 period is on account of COVID-19, or for any other reason, or for a mix of COVID-19 and other reasons. From practical considerations, it makes sense to allow such rare cases have the protection rather than be theoretically correct and waste years in legal battles.

If the objective of the Ordinance is not to push certain companies into insolvency proceedings, why should such a company not have option to commence insolvency proceedings on its own volition? A key design feature of the Code is that it balances the rights and interests of all stakeholders, particularly of the equity and debt suppliers. It creates imbalance if only debtor has the right to initiate insolvency proceeding, while a creditor does not have, and vice versa. Further, irrespective of whether the debtor initiates or a creditor initiates the proceeding, the outcome is the same, which is not acceptable. In any case, the data indicate that only 2% of the insolvency proceedings that commenced during 2019-20 were self-initiated.

The non-availability of resolution applicants is the basis for suspension. Should it not apply to all companies whether they defaulted before or during COVID-19 period? The Ordinance distinguishes failures on account of the COVID-19 and for market pressures (competition and innovation). It is only fair that they are treated differently. The Ordinance prohibits resort to insolvency proceeding where a company, which withstands market pressures, but defaults on account of COVID-19. It enables resort to insolvency proceeding where a company defaults on account of market pressures, should the stakeholders wish, as in such cases, the stress is unlikely to disappear on the other side of COVID-19.

There is a recognition that MSMEs, who defaulted before March 25, 2020, have additional difficulties of resolution during COVID-19 times. The market for resolution plans for them is local, while the entire globe is the market for bigger firms. The value of an MSME often lies in informal arrangements, which a third party may not be able to harness through a resolution plan. Most of them have loans from informal sources and have no access to frameworks for resolution as available for banks. In view of these, the threshold of default for filing of an insolvency application was increased from ₹ 1 lakh to ₹ 1 crore to prevent MSMEs from being pushed into insolvency proceedings. The Government is working to make available a special insolvency resolution framework for them under the Code.

Why should COVID-19 default be kept out of insolvency proceedings for ever? A company, which was viable before the onset of COVID-19, may earn normal profits from current operations and become viable again, after the impact of pandemic subsidies. It would, however, take years to wipe off the deep stress that arose during COVID-19 period. Depending on the nature of the industry and specific strength of a company, one may recoup the loss in one year while another may take many years, or even decades. If the company is pushed into insolvency when it is recouping the loss, the objective of the Ordinance would be frustrated.

A fear has been expressed that a company may deliberately default taking undue advantage of the Ordinance. It is very unlikely because the Ordinance has not suspended the liabilities in respect of COVID-19 default under various other laws. It has not even suspended COVID-19 default for all purposes under the Code. There are several checks and balances to discourage wilful default, including liability under section 29A. Further, it may not be fair to assume that a company would default even when it can repay. A slim possibility of misuse should not deter a policy, which benefits everyone.

With the Ordinance in place, have the stakeholders lost an effective avenue for resolution of stress? It is important to note that the Code is available for resolution for all defaults, except default arising during COVID-19 period. Further, there are several credible options for resolutions outside the Code. The stakeholders may use statutory, court supervised compromise or an arrangement under the Companies Act, 2013. They may use the RBI's prudential framework for resolution of stressed assets. They may sit across a table and work out a resolution without the involvement of court or outside any formal framework. The

concern that the Ordinance has taken away an effective avenue for recovery of dues has no basis as recovery of dues is not an objective of the Code. The menu available for creditors for recovery of dues is quite long.

There is an apprehension that there will be a surge of insolvency proceedings on the other side of the pandemic. This is very unlikely given that the stakeholders have many options during the COVID-19 period for recovery of loan as well as for resolution of stress. They may even explore innovative options for resolution in this challenging times. The number could be less as the companies have normal business operations after the pandemic subsidies, higher threshold of default for initiation insolvency proceedings keeps MSMEs out of the reach as they resolve under the special insolvency resolution framework, and COVID-19 period defaults remain outside insolvency proceedings.

Some have misconstrued insertion of sub-section (3) to section 66 that it provides undue protection to the directors of a company for any fraudulent transaction during the COVID-19 period. It provides protection to directors in respect of liability under sub-section (2), which deals with exercise of due diligence to minimise the potential loss to creditors. It is necessary to limit the liability before the insolvency commencement date, as insolvency process cannot commence in respect of COVID-19 defaults. It has not touched sub-section (1), which deals with fraud. Further, section 166 of the Companies Act, 2013, which requires a director to discharge his duties with due and reasonable care, skill, and diligence, remains intact. Thus, there is no protection from fraud.

There is a misgiving in some circles that the suspension of the Code is a setback to insolvency reforms. As mentioned earlier, only a tiny part of the Code has been suspended, that too, for a short period. This suspension not only reinforces the prime objective of the Code, that is, to rescue the lives of companies from market pressures, but also endeavours to rescue companies having stress from force majeure circumstances. A study of our 30-year history of economic reforms indicate that some reforms have, at times, changed gears, moved one step back and two steps ahead, moved sideways, and even stood still, yet ultimately reached the destination. We need to stir insolvency reforms with extreme care in these trying times.

There have been concerns about work opportunities for professionals. There are thousands of applications for corporate insolvency proceedings at the admission stage, thousands of ongoing corporate insolvency proceedings, and thousands of ongoing corporate liquidations and voluntary liquidations. Fresh applications in respect of defaults that have occurred before March 25, 2020 would continue to be filed. Applications for insolvency proceedings against personal guarantors and financial service providers can be filed. Special insolvency resolution framework for MSMEs is on the way. Work has begun on development of a prepack insolvency framework. This is besides the professional opportunities available outside the Code. What professionals have on table is much more than what they can take.

Conclusion

The COVID-19 crisis is not the first crisis that has hit the world. The world has fought and overcome many battles in the past. This too shall pass, preparing mankind for still bigger challenges in the future. This war has many warriors in the insolvency space -the Government, the regulator, the service providers (insolvency professional agencies, insolvency professionals, information utility, registered valuers) and the AA. As the Government prepares the insolvency landscape of the country for the post COVID-19 phase in the longer term, one is hopeful that the measures taken in the short and medium term will be successful in preserving the life of companies and livelihood of persons in distress. It must, however, be appreciated that insolvency law is not the panacea to deal with stress of all firms impacted by the COVID-19. It, however, provides a valuable breathing space while the companies as well as the authorities can put in place a comprehensive strategy to wade the economy through the pandemic.

(Dr. M. S. Sahoo)

IBBI Updates

Office During Lockdown

In the view of health hazard posed by the ensuing COVID-19 pandemic, both offices of the IBBI (Mayur Bhawan and Jeevan Vihar), were closed for a period of 21 days with effect from March 25, 2020, in pursuance of the Government directive, and all officers of the IBBI worked from home during this period. Thereafter, the offices have been functional in accordance with Government directives, which permitted certain officers to work from home as per roster. Standard Operating Procedures have been laid down for working in office to ensure safety of all officers, following the guidelines in this regard issued by the Ministry of Health and Family Welfare.

IT initiatives taken long before announcement of lockdown and during the lockdown ensured smooth work from home and meetings and interactions with stakeholders continued as usual. All officers were provided with Virtual Private Network linkage that ensured unhindered access to e-office and disposal of e-files online. Further, the 'Microsoft Teams' platform facilitated video meetings, including meetings of the Governing Board and Advisory Committees, and roundtables with and webinars for stakeholders.

Contribution to PM-CARES Fund

The employees of IBBI had contributed ₹ 5 lakh in the month of March, 2020 towards Prime Minister's Citizen Assistance and Relief in Emergency Situations (CARES) Fund set up for providing relief to those affected by the outbreak of COVID-19 pandemic. An additional contribution of ₹ 2,83,683 was made by the employees to this Fund in April, 2020.

Advisory Committee on Service Providers

IBBI reconstituted its Advisory Committee on Service Providers on May 26, 2020 in accordance with the IBBI (Advisory Committee) Regulations, 2017. Upon reconstitution, the Advisory Committee has the following composition:

Sl. No.	Name and Position	Position in the Committee
1	Mr. T. V. Mohandas Pai, Chairman, Manipal Global Education Services	Chairperson
2	A representative of the Ministry of Corporate Affairs	Member
3	Mr. Akhil Gupta, Chairman, Bharti Infratel Ltd.	Member
4	Dr. Bimal N. Patel, Director General, Raksha Shakti University	Member
5	Dr. Binoy J. Kattadiyil, Managing Director, ICSI Institute of Insolvency Professionals	Member
6	Mr. Chinna Veerappan Rajendran, MD & CEO, CSB Bank	Member
7	Mr. J. Ranganayakulu, Former ED, SEBI	Member
8	Mr. P. R. Ramesh, Former Chairman, Deloitte India	Member
9	Dr. Punam Sahgal, Former Dean & Professor, Indian Institute of Management, Lucknow	Member
10	Dr. Sameer Sharma, DG & CEO, Indian Institute of Corporate Affairs	Member
11	Mr. Shrikrishna Kulkarni, Chairman, Board of Governors, Indian Institute of Management, Calcutta	Member
12	Mr. Vellayan Subbiah Murugappa, Managing Director, Tube Investments of India Ltd.	Member

Advisory Committee on Corporate Insolvency and Liquidation

IBBI reconstituted its Advisory Committee on Corporate Insolvency and Liquidation on June 12, 2020 in accordance with the IBBI (Advisory Committee) Regulations, 2017. Upon reconstitution, the Advisory Committee has the following composition:

Sl. No.	Name and Position	Position in the Committee
1	Mr. Uday Kotak, Executive Vice Chairman and Managing Director, Kotak Mahindra Bank	Chairperson
2	Representative of the Ministry of Corporate Affairs	Member
3	Mr. Ajay Piramal, Chairman of Piramal Group & Shriram Group	Member
4	Mr. Ashish Kumar Chauhan, Managing Director and CEO, BSE Limited	Member
5	Ms. Ashu Suyash, Managing Director & Chief Executive Officer, CRISIL	Member
6	Mr. M. V. Nair, Chairman, Credit Information Bureau (India) Limited	Member
7	Mr. Nirmal Mohanty, Formerly Chief Economist, National Stock Exchange of India Limited	Member
8	Prof. (Dr.) Ranbir Singh, Vice Chancellor, NLU, Delhi	Member
9	Mr. R. K. Nair, Ex-Member, IRDAI	Member
10	Mr. R. Shankar Raman, Whole-time Director & Chief Financial Officer, Larsen & Toubro Limited	Member
11	Mr. Rashesh Shah, Chairman & CEO, Edelweiss Group	Member
12	Mr. Somasekhar Sundaresan, Legal Counsel	Member
13	Chairman, Indian Banks' Association	Member
14	MD, Insolvency Professional Agency of Institute of Cost Accountants of India	Member

Strategic Action Plan

IBBI has been organizing its annual strategy meets to chart its path for the coming year to set its priorities, focus energy and resources on priority areas, and outline specific actions and sub-actions to achieve desired outcomes. The fourth such strategy meet was scheduled for 27th -28th March, 2020. However, the same could not take place due to COVID-19 outbreak. Notwithstanding, IBBI has drawn up its Strategic Action Plan for 2020-21 outlining its key objectives and strategies along with specific actions and tasks ahead for the organisation.

MoU with Invest India

IBBI signed a Memorandum of Understanding (MoU) with Invest India, on June 25, 2020, for cooperation in promotion of investment opportunities in stressed assets in India. Under the same, IBBI will provide information about corporate debtors (CDs) under corporate insolvency resolution process under the IBC for dissemination through Invest India's Stressed Assets Portal (SAP). Invest India shall, under the MoU, promote investment opportunities in stressed assets through the SAP on India Investment Grid and through other investor outreach activities.

Legal and Regulatory Framework

Central Government

Aatmanirbhar Bharat Abhiyan

Union Minister of Finance and Corporate Affairs, while detailing 'Aatmanirbhar Bharat, Part V: Government Reforms and Enablers' on May 17, 2020, proposed the following IBC related measures to further enhance ease of doing business:

- Minimum threshold to initiate insolvency proceedings raised to ₹ 1 crore from ₹ 1 lakh, which largely insulates MSMEs;
- Special insolvency resolution framework for MSMEs to be notified under section 240A of the Code;
- Suspension of fresh initiation of insolvency proceedings up to one year depending upon the pandemic situation; and
- Empowering Central Government to exclude COVID-19 related debt from the definition of "default" under the Code for the purpose of triggering insolvency.

Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020

The President of India promulgated the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020 on June 5, 2020 to further amend the Code to prohibit filing of applications for initiation of CIRP for any default arising on or after March 25, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified. This would prevent companies which are experiencing distress on account of unprecedented situation, from being pushed into insolvency proceedings, when it is difficult to find adequate number of resolution applicants to rescue them. The Ordinance clarifies that applications for initiation of CIRPs may be filed for defaults committed before March 25, 2020. It further provides that no application shall be filed by an RP in respect of liability for contribution to the assets of the CD, in respect of default against which initiation of CIRP is suspended. This provides protection to directors of the CD against the liability under section 66(2) of the Code dealing with exercise of due diligence to minimise the potential loss to creditors.

Definition of MSMEs

The Central Government has, vide notification dated June 1, 2020, under the Micro, Small and Medium Enterprises Development Act, 2006 modified definition of MSMEs as under:

- (a) a micro enterprise, where the investment in Plant and Machinery or Equipment does not exceed ₹ 1 crore and turnover does not exceed ₹ 5 crore;
- (b) a small enterprise, where the investment in Plant and Machinery or Equipment does not exceed ₹ 10 crore and turnover does not exceed ₹ 50 crore; and
- (c) a medium enterprise, where the investment in Plant and Machinery or Equipment does not exceed ₹ 50 crore and turnover does not exceed ₹ 250 crore.

Committee of Experts on Valuation Professionals

The Committee of Experts (COE), which was constituted by Government to examine the need for an institutional framework for regulation and development of valuation professionals, submitted its report to the Government on April 2, 2020 along with a draft of 'Valuers Bill, 2020'. The report of the Committee is available on the website of IBBI.

The CoE had extensive consultation with the stakeholders - registered valuers organisations, registered valuers, other valuers and other professionals, professional institutes, trade and industry representatives, and academicians. It studied the valuation landscape in India, both in terms of institutional arrangements for development and regulation of valuation professionals, and legal and regulatory requirements surrounding valuation services. It considered the institutional framework for valuation professionals in advanced jurisdictions, the attempts made in the past in India to provide such a framework, and experience of institutional / regulatory frameworks in respect of other professions in India. It explored the contemporary thought on the role of regulatory state and design of regulatory architecture in respect of markets and professions. It has recommended the least disruptive, yet modern and robust, institutional framework that learns from the experience of valuation profession in India and abroad, and of other professions in India, while addressing the concerns of today and tomorrow, and ensuring respectability for valuation professionals and accountability for valuation services.

The CoE has, inter-alia, recommended enactment of an exclusive statute to provide for the establishment of the National Institute of Valuers (Institute / NIV) to protect the interests of users of valuation services in India and to promote the development of, and to regulate the profession of Valuers and market for valuation services. This should also ensure that Valuers enjoy an enviable reputation of the stakeholders, while being accountable for their services, and which could be a model for other professions. The stakeholders should use valuation services because they find value, and not because of a legal mandate.

Committee on Cross Border Insolvency Rules

The Committee on Cross Border Insolvency Rules and Regulations, which was constituted by Government under chairpersonship of Dr. K. P. Krishnan to propose the rules and regulatory framework that would enable the implementation of provisions relating to cross border insolvency, submitted its report to the Government on June 15, 2020. The committee is working on the extended scope to study and analyze UNCITRAL Model Law for Enterprise Group Insolvency and recommendation in the context of Code.

Payment of CGST

The Central Government, vide notification dated March 21, 2020, provided that an IRP/IP shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the CD, and shall be liable to take a new registration under the Central Goods and Services Tax Act, 2017 in each of the States or Union territories where the CD was registered earlier, within 30 days of the appointment. He can thereafter pay current levies of GST without the mandatory payment of past dues.

The Central Government, vide notification dated May 5, 2020, amended the earlier notification to provide that such IRP/RP of a CD shall not include those CDs who have furnished the statements under section 37 and the returns under section 39 of the said Act for all the tax periods prior to the appointment of IRP/RP. Further, the IPR/RP shall be liable to take a new registration within 30 days of the appointment or by June 30, 2020, whichever is later.

Cancellation of Summer Vacation

The NCLT, through an order dated May 5, 2020, cancelled its summer vacations falling in the months of May, June and July, 2020. The NCLAT also, vide an order dated May 13, 2020, cancelled its notified annual vacation from June 1, 2020 to June 30, 2020 to make good the shortfall in working days occasioned due to imposition of lockdown on account of outbreak of COVID-19 pandemic.

Default information from IU

The NCLT, vide order dated May 12, 2020, directed that applications under section 7 of the Code for initiation of CIRP shall be filed along with default record from an information utility (IU). It also directed the Authorised Representatives / parties to file default record from an IU before the next date of hearing where an application under section 7 is pending for admission.

IBBI

Amendments to Liquidation Regulations

IBBI amended the Liquidation Process Regulations, 2016, vide notification effective from April 17, 2020, to provide that the period of lockdown imposed by the Central Government in the wake of COVID-19 outbreak shall not be counted for the purpose of compliance with the time-lines for any task that could not be completed due to the lockdown, in relation to any liquidation process.

Amendment to CIRP Regulations

IBBI amended the CIRP Regulations, vide notification dated April 20, 2020, extending the date for filling of Forms after due date of submission, whether by correction, updation or otherwise, till October 1, 2020. Such submission after October 1, 2020, will require a fee of ₹ 500 per form for each calendar month of delay.

Governance of RVOs

IBBI, vide a circular dated April 23, 2020, clarified that a member of the promoter organisation, which has promoted an RVO, shall not be eligible to be an independent director of the RVO. A promoter organisation may have its members - share holder member in case the promoter is a company, a trustee in case the promoter is an association of persons/trust, or a professional member in case the promoter is a professional body - as directors on the Governing Board of the RVO. However, such directors shall not be appointed as independent directors. The circular allowed three months for RVOs to reconstitute their Governing Boards to comply with the requirement of the circular.

Guidelines for Panel of IPs

IBBI issued the Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustee (Recommendations) Guidelines, 2020 on June 2, 2020. These Guidelines enable the Board to prepare a common Panel of IPs and share the same with the Adjudicating Authority (AA) for appointment as IRPs, Liquidators, RPs, and Bankruptcy Trustees from July 1, 2020 to November 25, 2020.

Amendment to IP Regulations

IBBI amended the IP Regulations, vide notification dated June 30, 2020 to allow the Insolvency Professional Entities (IPEs) to provide support services to any IP. Prior to this amendment, an IPE could provide support services only to an IP who was its partner or director. This will further professionalise insolvency services and enable IPs access to regulated support services.

RBI**Review of Resolution Timelines**

Among other measures taken, RBI vide a notification dated April 17, 2020 reviewed the resolution timelines under the prudential framework on resolution of stressed assets. In terms of the prudential framework, lenders are required to implement a resolution plan in respect of entities in default within 180 days from the end of review period of 30 days. On a review, RBI excluded the period from March 1, 2020 to May 31, 2020 from the calculation of the 30-day review period, in respect of accounts which were within the review period as on March 1, 2020. In respect of all such accounts, the residual review period shall resume from June 1, 2020, upon expiry of which the lenders shall have the usual 180 days for resolution. Further, in respect of accounts where the review period was over, but the 180-day resolution period had not expired as on March 1, 2020, the timeline for resolution shall get extended by 90 days from the date on which the 180-day period was originally set to expire. Consequently, the requirement of making additional provisions of 20% required under the prudential framework shall be triggered as and when the extended resolution period expires.

On a further review, vide another notification dated May 23, 2020, RBI excluded the period from March 1, 2020 to August 31, 2020 from the calculation of the 30-day review period, in respect of accounts which were within the review period as on March 1, 2020. In respect of all such accounts, the residual review period shall resume from September 1, 2020, upon expiry of which the lenders shall have the usual 180 days for resolution. Further, in respect of accounts where the review period was

over, but the 180-day resolution period had not expired as on March 1, 2020, the timeline for resolution shall get extended by 180 days from the date on which the 180-day period was originally set to expire. Consequently, the requirement of making additional provisions of 20% required under the prudential framework shall be triggered as and when the extended resolution period expires.

Measures to Ease Financial Stress

To further ease the financial stress caused by COVID-19, RBI in its Statement on Developmental and Regulatory Policies dated May 22, 2020 announced the following measures:

(a) RBI had earlier permitted lending institutions to allow a moratorium of three months on payment of instalments in respect of all term loans outstanding as on March 1, 2020. In view of the extension of the lockdown and continuing disruptions on account of COVID-19, RBI permitted them to extend the moratorium on term loan instalments by another three months, i.e., from June 1, 2020 to August 31, 2020. Accordingly, the repayment schedule and all subsequent due dates, as also the tenor for such loans have been shifted across the board by another three months.

(b) RBI permitted the lending institutions to allow a deferment of interest in respect of working capital facilities sanctioned in the form of cash credit/overdraft for another three months, from June 1, 2020 to August 31, 2020, in addition to the three months allowed on March 27, 2020 on payment of interest in respect of all such facilities outstanding as on March 1, 2020.

(c) RBI permitted the lending institutions to convert the accumulated interest on working capital facilities over the deferment period (up to August 31, 2020) into a funded interest term loan which shall be repayable not later than the end of the current financial year (March 31, 2021). This will ameliorate the difficulties faced by borrowers in repaying the accumulated interest in one shot.

(d) As the moratorium/deferment is being provided specifically to enable borrowers to manage the disruptions caused by COVID-19, this will not be treated as change in loan agreements between borrowers and lenders and, consequently, will not result in asset classification downgrade. This moratorium will also not qualify as a default for the purposes of supervisory reporting and reporting to credit information companies by the lending institutions.

SEBI**Relaxations for Listed Companies**

SEBI, vide notifications dated June 22, 2020, inserted regulation 164A to the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 to relax the pricing norms for preferential issues by listed companies. Regulation 164A provides that price of shares shall not be less than the average of the weekly high and low of the volume weighted average prices of the related equity shares during the two weeks preceding the relevant date. This relaxation is available for issue of equity shares made by a company which meets any two of the following criteria:

(a) the issuer has disclosed all defaults on payment of interest/ repayment of principal amount on loans and such default is continuing for a period of at least 90 calendar days after occurrence of such default;

(b) there is an Inter-creditor agreement in terms of RBI (Prudential Framework for Resolution of Stressed Assets) Directions 2019 dated June 7, 2019; and

(c) the credit rating of the financial instruments (listed or unlisted), credit instruments / borrowings (listed or unlisted) of the listed company has been downgraded to "D".

SEBI vide notification dated June 22, 2020 amended the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 to exempt any acquisition of shares or voting rights by way of preferential issue under regulation 164A of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 from open offer obligations.

Orders

Supreme Court

In Re. Cognizance for Extension of Limitation [IA No.4841/2020 in *Suo Motu Writ (Civil) No. 3/2020*]

Taking into consideration the effect of the COVID 19 and resultant difficulties being faced by the lawyers and litigants and with a view to obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunal across the country, the Supreme Court ordered that all periods of limitation prescribed under the Arbitration and Conciliation Act, 1996 and under section 138 of the Negotiable Instruments Act, 1881 shall be extended with effect from March 15, 2020 till further orders. It further ordered that in cases where limitation expired after March 15, 2020, the period from March 15, 2020 till date on which the lockdown is lifted in the jurisdictional area where the dispute lies or where the cause of action arises, shall be extended by 15 days after lifting of lockdown.

State Bank of India Vs. Metenere Limited [Civil Appeal No.(s) 2570/2020]

Keeping in view the apprehension of bias on the part of the proposed IRP, raised by the CD, the NCLAT, by the impugned order, upheld the order of the AA requiring the substitution of the said IRP. On appeal, pending the matter for final hearing, the SC observed that the impugned order does not apply to any other proceedings in respect of CDs other than the respondent.

High Courts

Ultra Tech Nathdwara Cement Ltd. Vs. Union of India and Ors. [DB Civil Writ Petition No. 9480/2019]

After implementation of resolution plan, the Central Goods and Services Tax Department issued several demand notices to the CD on the pretext that the resolution professional (RP) / CoC did not pay entire dues of the Department as claimed in the resolution process and they were not heard at the time of approval of resolution plan. The High Court (HC) observed that the Code has been enacted to ensure that a CD under distress does not fade into oblivion and can be revived through a resolution plan. It noted that a resolution plan once approved by the AA is binding on all concerned to whom the CD may be having statutory dues, in terms of section 31. The OCs, including Central Government, have no right of audience in the resolution proceedings. The HC further noted that the amount of claim as assessed by the RP in favour of the respondents has already been deposited during the CIRP. It, accordingly, set aside the notices issued by the Department as illegal and arbitrary with an observation: *“The authorities should have adopted a pragmatic approach and immediately withdrawn the demands rather than indulging in a totally frivolous litigation.”*

Shakuntala Education & Welfare Society Vs. Punjab & Sind Bank [WP© 2959/2020]

The petitioner moved the HC seeking direction against the respondent to not declare its pending loan accounts as NPA and for grant of moratorium of three months to it in terms of RBI Circular that allowed moratorium in respect of all term loans outstanding on March 1, 2020. The respondent

claimed that the debt had fallen due on December 31, 2019 whereas the moratorium has been made applicable only qua instalments which became payable on or after March 1, 2020. The HC noted that the State Government has restricted the petitioner from demanding fees from the students due to the lockdown owing to Covid-19. It observed that any classification of the petitioner's accounts as NPA would certainly amount to altering the position as existing on March 1, 2020. Pending completion of pleadings, it restrained the respondent from declaring the account of the petitioner as NPA till next date of hearing.

Electrosteel Steels Limited Vs. State of Jharkhand & Ors. [WP(T) No. 6324-6327/2019]

The petitioner filed an application challenging the garnishee order issued against it in lieu of tax dues. It submitted that the State Government being an OC should have filed its claim before the RP, and having failed to do so, prior to the finalisation of the resolution plan, the tax liability of the petitioner stood barred under section 31 of the Code, which has overriding effect over all other laws. The respondent submitted that the petitioner company had collected VAT from its customers but did not deposit the same in the State exchequer, thus, amounting to criminal misappropriation of the Government money. It pointed out that section 31 of the Code states that the approved resolution plan is binding on the stakeholders involved in the resolution plan. However, the respondent was never involved in the resolution process and the public announcement under section 13 was never published in the State of Jharkhand.

The HC noted that the tax amount, which had been sought to be realised, had already been realised by petitioner from the customers, but not deposited in the exchequer. Use of VAT amount for business purposes certainly amounts to criminal misappropriation of the Government money by the petitioner, and the State Government is entitled to realise the same with the penalty due thereon. The HC observed that it is debatable whether the amount of VAT already realised by the petitioner from its customers is covered within the definition of operational debt and it may not be a direct debt to the State Government. It further observed that the Code read with Regulations require the public announcement to be made in the newspapers with wide circulation at the location of the registered office (Ranchi) and principal office (Bokaro) of the petitioner, both of which are situated in the State of Jharkhand, but no public announcement of the CIRP was made in the State. Therefore, the respondent had no occasion to have any knowledge about the CIRP and was deprived of making the claim before the IRP. Since it was not involved in the resolution process, the resolution plan cannot be said to be binding on the State Government under section 31 of the Code.

Pankaj Aggarwal Vs. Union of India & Ors. [WP© 3685/2020 and other appeals]

Petition was filed against an order of admission of application by the AA under section 9 of the Code. The petitioner, who is classified as an MSME, submitted that without appreciating the fact that the jurisdiction of the NCLT has been increased to ₹ 1 crore with effect from March 24, 2020, the AA admitted the application on a default exceeding ₹ 1 lakh. It owes at best ₹ 10 lakh to one of the respondents. The HC observed that the purpose of the notification increasing the threshold was to ensure that SMEs and MSMEs are not subjected to insolvency proceedings during the lockdown or immediately thereafter. It, prima facie, found this as an error by the AA. It stayed the insolvency proceeding till the next date of hearing, subject to the petitioner depositing an amount of ₹ 10 lakh with the Registrar General of the HC.

regarding commission of an offence and it cannot be allowed to thwart the initiation of CIRP unless forgery or falsification of documents is prima facie established. It set aside the order of AA.

Union of India Vs. Oriental Bank of Commerce [CA(AT)(Ins) No. 1417/2019]

Appeal was filed against the order of AA (Principal Bench) which, *inter alia*, directed that in all matters under the Code and company petitions, the Union of India, Ministry of Corporate Affairs (MCA) through the Secretary should be impleaded as a party respondent so that authentic record is made available by the officers of the MCA and this shall be applicable to all the benches. While setting aside the said order, the NCLAT observed that direction to implead MCA as party respondent in all cases of IBC is beyond the powers of the AA and it tantamount to imposition of new rule in a compelling fashion.

State Bank of India Vs. M/s. Metenere Ltd. [CA(AT)(Ins) No.76/2020]

An IP, who was an employee of the FC for 39 years and drawing pension, was proposed for appointment as IRP. The CD raised apprehension that the proposed IRP was unlikely to act fairly. Accordingly, the AA passed the impugned order directing the FC to substitute the IP by another IP to ensure that the CIRP was conducted in a fair and unbiased manner. The FC appealed against the said order on the ground that the proposed IP did not have any disqualification. It submitted that the IRP is not required to act as an independent umpire between the FC and the ex-management of the CD or decide any conflicting issues between them. It further submitted that the RP has no adjudicatory powers and only acts as a facilitator in the CIRP as all major decisions are taken with the approval of the CoC. The NCLAT rejected the contention of the CD that the IP is an interested person or IP suffers from any disqualification. It, however, noted that the appellant restricted its choice to the IP obviously having regard to past loyalty, which is reinforced by filing of instant appeal by the FC and this has to be viewed in the context of apprehension of bias raised by the CD. The NCLAT observed that this apprehension cannot be dismissed off hand and the AA was perfectly justified in seeking substitution of the IP, though the IP was not disqualified or ineligible to act as an IRP. It further observed that the appellant should not have been aggrieved of the impugned order as the same did not cause any prejudice to it.

Praveen Kumar Nanda Kumar Vs. VSL Securities Pvt. Ltd. & Ors. [Restoration Application No. 01 of 2020 in CA(AT)Ins No. 308/2020]

The appellant challenged the liquidation order passed by the AA. The NCLAT observed that as no resolution plan was forthcoming, the liquidation cost was not ascertainable and the claims received were much higher than the assets available, the CoC recommended initiation of liquidation by a majority of 70.97%. While dismissing the appeal, it held that the decision of the CoC recommending liquidation of the CD after proper evaluation of the assets and liabilities, with no forthcoming resolution plan, is a business decision within the domain of commercial wisdom of CoC, which is not amenable to judicial review.

Chhatisgarh Distilleries Ltd. Vs. Dushyant Dave and Ors. [CA(AT)(Ins) No. 461/2019]

The appellant had filed an application before the AA seeking direction to submit its resolution plan for consideration of the RP and CoC. The AA rejected the application on two grounds: (a) the appellant came after the submissions of approved resolution plan to the AA, and (b) the CoC or RP has not sought any relief to recall the approved resolution plan and for allowing them to reconsider the approved resolution plan along with the

new resolution plan offering better value. It cannot suo-motu direct the CoC to consider the new resolution plan or reconsider the already approved plan. The NCLAT, relying on the *Committee of Creditors of Essar Steel India Ltd. Vs. Satish Gupta & Ors.* [2019 SCC Online SC 1478], held that the jurisdiction of the NCLAT is in continuation of the proceedings and is circumscribed by section 32 of the Code which envisages that any appeal from order approving the resolution plan shall be on the grounds specified in section 61(3) thereof. It is not a court of enquiry. Accordingly, it dismissed the appeal.

Mr. Srikanth Dwarakanath, Liquidator of Surana Power Limited Vs. Bharat Heavy Electricals Limited [CA(AT)(Ins)No. 1510/2019]

The liquidator faced a deadlock, when secured creditors (ten out of eleven) having 73.76% share in security interest relinquished their security interests to the liquidation estate, but one secured creditor (BHEL) with 26.24% of share did not. Consequently, he could not attempt a slump sale of the CD, as all secured creditors did not relinquish their security interests. He filed an application before the AA seeking permission to sell the assets of the CD under liquidation. The AA rejected the application stating that an arbitration award has granted lien over the assets of the CD to BHEL prior to the initiation of CIRP. The liquidator challenged the order of the AA. The NCLAT relied on section 13 of the SARFAESI Act, 2002 which requires confirmation by creditors having at least 60% of the value of total debt for taking any steps about the realisation of assets by secured creditors. It noted that since BHEL did not have requisite 60% value in security interest, it did not have the right to realise its security interest. It observed that since secured creditors with 73.76% in value have relinquished the security interest into the liquidation estate, it would be prejudicial to stall the process at the instance of a creditor who has share of only 26.24%. While allowing the appeal, the NCLAT further observed that BHEL did not hold a superior charge over the rest of the secured creditors and the decision of 73.76% of majority creditors would bind the dissenting secured creditor.

Shri Swwapnil Bhingardevay Vs. Khandoba Prasanna Sakharkar Khana Limited and Ors. [CA(AT)(Ins)No. 943/2019]

The appellant challenged the order of AA approving the resolution plan on the ground of material irregularities. It submitted that the RP issued notice for outright sale of CD as a going concern; he did not examine the resolution plan, he did not maintain confidentiality of liquidation value of the CD and the approved resolution plan is not feasible and viable. The NCLAT found that the CIRP suffered from material irregularities and the approved resolution plan suffered from feasibility and viability. It set aside the impugned order and remanded the matter to the AA.

NTPC Ltd. (Sipat Project) Vs. Rajiv Chakraborty, IRP [CA(AT)(Ins)No. 491-495/2020]

The appellants, who are OCs, assailed the order of the AA on the ground that the claims filed by them in regard to debts due and payable in future could not be rejected. The NCLAT observed that RP is not an adjudicating authority to admit or reject a claim and no mechanism in the nature of an appeal against the decision of RP has been provided during resolution process. It further observed that admission or rejection of a claim can be looked into by the AA only when the resolution plan is being considered by the AA under section 31. It is at that stage that the AA has to examine whether the interest of all stakeholders has been taken care of. It found apprehensions of the appellants unfounded in as much as the AA has already taken care to direct the RP to incorporate information relating to such claims, even if disputed, in the IM. Accordingly, it dismissed the appeal.

the charge holder of the asset as well as the fact that the release of six aircrafts would add huge value to the CD. While allowing the sale, it directed that the proceeds should be utilised firstly for the payment to charge holder of the assets followed by the settlement of overseas debt and CIRP costs.

Power Finance Corporation Limited Vs. Mr. Mahender Kumar Khandelwal [IA 234/2020 in CP(IB)492/07/HDB/2019]

Application was filed by the CoC seeking replacement of the IRP in accordance with section 22 of the Code. The IRP filed an application seeking the CoC to reconsider its decision and to continue him as RP. He claimed that the decision of the CoC has been based on a disciplinary order passed by the IBBI and it has not recorded any specific reason for the same. The AA observed that pursuant to stay on the IBBI order by the HC, the IRP cannot be excluded from the consideration of the CoC, yet it is only the prerogative of the CoC to decide whether to continue with the same IRP or replace him with another RP. While allowing the application to replace the RP, it held that in accordance with section 22 of the Code, no reasons are to be recorded for effecting such replacement by the CoC.

Om Prakash Agarwal Vs. Tax Recovery Officer 4 & Anr. [Item No. 301, IA-992/2020 in CP/294/2018]

The liquidator filed an application to defreeze the accounts of the CD which was attached by Tax Recovery Officer. The Income Tax Department submitted that the income tax proceedings have overriding effect against other enactments and money attached by it is no more an asset of the CD. The liquidator submitted that the Income Tax Department has filed its claim against the CD and the same would be considered for distribution under section 53. The AA held that the monies of the CD lying in the bank accounts shall be construed to be an asset of the CD even if an attachment order is passed against the same. It noted that section 178 of the Income-tax Act, 1961 has been amended to allow the Code to have overriding effect. It directed the Bank to defreeze the accounts and release the amounts of the CD within 30 days.

Om Prakash Agarwal Vs. Chief Commissioner of Income Tax (TDS) & Anr. [Item No. 203 CP/294/2018]

The liquidator filed an application seeking direction against the successful bidder and the Income Tax Authority not to deduct TDS from the sale of assets made in favour of the bidder on the ground that tax dues cannot be collected by the Government in priority to the waterfall mechanism under section 53 and section 238 has an overriding effect upon other enactments. The AA observed that the overriding effect under section 238 is applicable to the issues between the creditor and the debtor but not to TDS deductions. When the Government comes before the liquidator as creditor, it is bound by sections 53 and 238 of the Code. In this case, the Government is not making any claim as an OC. While directing the purchaser to pay the TDS amount, it held that deduction of TDS does not tantamount to payment of Government dues in priority to other creditors since it is not a tax demand for realisation of tax dues. It observed that the liquidator is not asked to pay TDS; it is the duty of the purchaser to credit TDS to the Income Tax Department.

Astrazeneca Pharma India Ltd. Vs. Brosbel Engineering Private Limited [CP(IB)No. 130/BB/2020]

Application for initiation of CIRP was filed under section 9 on the ground of refund of an advance amount due to failure of supply of goods. The agreement between the OC and CD had an arbitration clause. The AA

observed that without invoking the arbitration clause or filing a civil or criminal action, the petitioner has invoked the provisions of the Code. Whether the CD is liable to return advance cannot be adjudicated in a summary proceeding under the Code. The AA held that since the AA is not a recovery forum to get back the advance amount paid, invoking the provisions of the Code is not an alternative remedy available to the applicant. While rejecting the application, it held that the petition being filed with an intention to recover an advance amount is against the object of the Code.

Logwell Logistics & Aviation Services (OPC) Private Ltd. Vs. Velankani Electronics Private Limited [CP(IB)No. 10/BB/2020]

Application for initiation of CIRP was filed under section 9 for default of outstanding amount. The AA did not find any agreement between the parties about terms of payment or the rate of interest. It noted that the CD has the intention to repay the amount owed and is ready to pay the same as per payment schedule. The applicant rejected the same by insisting on charging interest at exorbitant rates and wishes to recover by seeking to trigger CIRP. While rejecting the application, the AA observed that this is unacceptable considering the present stress in the economy, when initiating a CIRP against a healthy company is not a good solution.

Mr. Nitin Hasmukhlal Parikh, RP Vs. IDBI Bank Limited [IA 89/2018 in CP(IB)No. 18/7/NCLT/AHM/2017]

The RP filed application seeking liquidation of the CD on the ground that no resolution plan could be accepted and his appointment as liquidator. The AA ordered liquidation, but the Judicial Member differed on the appointment of RP as the liquidator, though recommended by the CoC, as some claimants were aggrieved by his conduct. The Technical Member appointed the RP as liquidator with an observation that aggrieved claimants may refer the matter to the IBBI for necessary action. The Judicial Member observed that a serious grievance has been made raising a doubt about the impartiality and independence of the RP regarding rejection of their claim. He noted that section 33(4) confers powers on the AA to replace the liquidator. Considering its powers, the role of liquidator in adjudication of claims and the grievance against the RP and in the interest of transparency and fairness in the liquidation process, he directed the CoC to reconsider its decision to appoint proposed liquidator and requested IBBI to propose the name of two IPs who can be considered for appointment as liquidator. The CoC shall consider these two names along with the RP and take appropriate decision.

In the matter of Om Boseco Rail Products Limited [CP(IB)No.1735/KB/2019]

The OC filed an application for initiation of CIRP. The CD contested the application on the ground that the threshold default for CIRP has been raised to ₹ 1 crore by a notification on March 24, 2020. The AA observed that it is a well settled law that a statute is presumed to be prospective unless it has been held to be retrospective either expressly or by implication. While admitting the application, it held that the amendment shall be considered as prospective as nothing contrary to it was mentioned in the notification.

M/s. Arrowline Organic Products Pvt. Ltd. Vs. M/s. Rockwell Industries Limited [IA/341/2020 in IBA/1031/2019]

The CD filed application seeking recall of the order of admission passed by the AA. It contented that due to increased threshold of default, vide the notification on March 24, 2020, the AA should desist from pronouncing order of admission. However, the AA observed that it has no power to

Table 18: Details of 684 Liquidations (excludes 8 withdrawals) (Amount in ₹ crore)

Details of	No. of Liquidations	Paid-up capital	Assets	Outstanding debt	Amount paid to creditors	Surplus
Liquidations for which Final Reports submitted	250	845	3091	18	18	2854
Ongoing Liquidations	434	3798#	1693#	*		
Total	684	4643	4784	*		

*For ongoing liquidations, outstanding debt amount is not available.

Paid up capital and assets of 418 and 404 cases, respectively, are available.

Table 19: Realisations under Voluntary Liquidation

(Amount in ₹ crore)

Sl. No.	Name of Corporate Person	Date of Commencement	Date of Dissolution	Realisation of Assets	Amount due to Creditors	Amount paid to Creditors	Liquidation Expenses	Surplus
Part A: Prior Period (Till March 31, 2020)								
1	Moments Heights Private Limited	19-01-18	06-05-19	0.18	-	-	0.08	0.10
2	Kansal Hosiery Exports Limited	28-05-18	05-09-19	2.52	-	-	0.44	2.08
3	Alpha Coal India Private Limited	30-03-18	18-09-19	0.08	-	-	0.08	-
4	Keppel Brady Services Private Limited	30-03-18	15-10-19	0.70	-	-	0.07	0.63
5	Milano Luxury Garments Private Limited	03-11-17	21-11-19	2.15	0.06	0.06	0.12	1.96
6	Bhaskar Gensets Pvt. Ltd.	06-01-18	03-12-19	1.25	0.01	0.01	0.21	1.02
7	Shivdeep Hotels Private Limited	21-05-18	19-12-19	0.93	-	-	0.14	0.79
8	NRT IT Services India Private Limited	19-02-18	02-01-20	0.86	-	-	0.07	0.79
9	Elecom India Private Limited	09-02-18	23-01-20	0.53	0.05	0.05	0.20	0.28
10	Fiduciary Billing Solutions Private Limited	22-10-18	18-03-20	2.57	-	-	0.97	1.60
Part B: April - June, 2020								
1	QNB (India) Private Limited	22-12-17	12-05-20	5.39	-	-	1.62	3.77
2	Bander Coal Company Private Limited	20-03-18	26-05-20	0.44	-	-	0.05	0.39
3	Welmedix Healthcare Private Limited	24-12-19	29-05-20	-	-	-	-	-
4	UC Gas Engineering Limited	26-08-19	16-06-20	0.04	-	-	0.04	-
5	Tri Vision Trading Private Limited	26-09-19	23-06-20	-	-	-	-	-
6	Pandit Holdings Pvt Ltd	24-02-18	24-06-20	0.01	-	-	0.01	-
7	IMCO Agro India Private Limited	24-04-18	29-06-20	2.66	0.09	0.09	0.03	2.54
Total (April - June, 2020)				8.54	0.09	0.09	1.75	6.70
Total (Till June, 2020)				2712.71	9.49	9.49	17.27	2685.94

Summary of Outcomes

(a) The first order objective of the Code is rescuing life of a CD in distress. The Code has rescued 250 CDs till June, 2020 through resolution plans. They owed ₹ 4.71 lakh crore to creditors. However, the realisable value of the assets available with them, when they entered the CIRP, was only ₹ 1.03 lakh crore. The Code maximises the value of the existing assets, not of the assets which do not exist. Under the Code, the creditors recovered ₹ 1.96 lakh crore, which is about 191% of the realisable value of these CDs. Any other option of recovery or liquidation would have recovered at best ₹ 100 minus the cost of recovery/liquidation, while the creditors recovered ₹ 191 under the Code. The excess recovery of ₹ 91 is a bonus from the Code. Recovery is incidental under the Code. Yet, the recovery for FCs, as compared to their claims, is around 45%, which is highest among all options available to creditors. Such recovery only reflects the extent of value erosion by the time the CDs entered CIRP.

(b) Although the Code has rescued 250 CDs, it has sent 955 CDs to liquidation. The CDs rescued had assets valued at ₹ 1.01 lakh crore, while the 952 CDs (for which data are available) referred for liquidation had assets valued at ₹ 0.38 lakh crore when they entered the CIRP. Thus, in value terms, around three fourth of distressed assets were rescued. Of the CDs rescued, one-third were either defunct or under BIFR, and of the CDs sent for liquidation, three-fourth were either defunct or under BIFR.

(c) Of the total CDs ending up with orders for liquidation, data in respect of 952 CDs are available. These had an aggregate claim of ₹ 5.30 lakh crore. Unfortunately, they had assets, on the ground, valued only at ₹ 0.38 lakh crore. Till June 30, 2020, 88 CDs have been completely liquidated. Many such CDs did not have any job or asset when they entered the IBC

It was reported in the last newsletter that dissolution orders were passed in respect of 120 liquidations. Dissolution orders in respect of 10 more liquidations, which were issued during the earlier period, were reported later, as indicated in Part A of Table 19. During the quarter April - June, 2020, dissolutions orders in respect of 7 more voluntary liquidations were passed taking the total dissolutions to 137. These 137 corporate persons owed ₹ 9.49 crore to creditors and through voluntary liquidation process, they were paid ₹ 9.49 crore.

process. These included Ghotaringa Minerals Limited and Orchid Healthcare Private Limited, which owed ₹ 8,163 crore, while they had absolutely no assets and employment. These 88 CDs together had outstanding claims of ₹ 11,512 crore, but the assets valued at ₹ 181 crore. ₹ 192 crore was realised through liquidation of these companies.

(d) A distressed asset has a life cycle. Its value gradually declines with time if distress is not addressed. The credible threat of the Code, that a CD may change hands, has changed the behaviour of debtors. Thousands of debtors are resolving distress in early stages of distress. They are resolving when default is imminent, on receipt of a notice for repayment but before filing an application, after filing application but before its admission, and even after admission of the application, and making best effort to avoid consequences of resolution process. Most companies are rescued at these stages. Only a few companies, who fail to address the distress in any of earlier stages, pass through the entire resolution process. At this stage, the value of the company is substantially eroded, and hence some of them are rescued, and others liquidated. The recovery may be low at this stage, but recovery in early stages of distress is much higher, and it is primarily because of the Code.

(e) The Code endeavours to close the various processes at the earliest. It prescribes timelines for some of them. The 250 CIRPs, which have yielded resolution plans by the end of June, 2020, took on average 380 days (after excluding the time excluded by the AA) for conclusion of process. Similarly, the 955 CIRPs, which ended up in orders for liquidation, took on average 312 days for conclusion. Further, 88 liquidation processes, which have closed by submission of final reports till June 30, 2020, took on average 296 days for closure. Similarly 250

voluntary liquidation processes, which have closed by submission of final reports, took on average 336 days for closure.

(f) Till June, 2020, a total of 250 CIRPs have yielded resolution plans. The cost details are available in respect of 178 CIRPs. The cost works out on average 0.75% of liquidation value and 0.38% of resolution value.

Individual Processes

The provisions relating to insolvency resolution and bankruptcy relating to personal guarantors (PGs) to CDs came into force on December 1, 2019. It was reported in the last newsletter that three applications were filed under these provisions. As per the information received from IPs, four more applications have been filed by the creditor under section 95 of the Code. Out of them two have been filed in NCLT, New Delhi and one each in NCLT, Bengaluru and NCLT, Mumbai.

Service Providers

Insolvency Professionals

An individual, who is enrolled with an IPA as a professional member and has the required qualification and experience and passed the Limited Insolvency Examination, is registered as an IP. An IP needs an Authorization for Assignment (AFA) to take up an assignment under the Code with effect from January 1, 2020. IBBI made available an online facility from November 16, 2019 to enable an IP to make an application for AFA to the IPA, and an IPA to process such applications electronically. The details of IPs registered as on June 30, 2020 and AFAs held by them, IPA-wise, is presented in Table 20.

Table 20: Registered IPs and AFAs as on June 30, 2020 (Number)

City / Region	Registered IPs				IPs having Authorisation for Assignment			
	IIP of ICAI	ICSI IIP	IPA of ICAI	Total	IIP of ICAI	ICSI IIP	IPA of ICAI	Total
New Delhi	376	236	66	678	264	163	51	478
Rest of Northern Region	324	171	47	542	229	127	31	387
Mumbai	356	124	32	512	236	81	26	343
Rest of Western Region	228	97	32	357	154	70	23	247
Chennai	119	78	12	209	66	55	8	129
Rest of Southern Region	305	169	48	522	202	118	39	359
Kolkata	174	35	17	226	126	21	12	159
Rest of Eastern Region	51	20	5	76	31	14	4	49
Total Registered	1933	930	259	3122	1308	649	194	2151

Of the 3134 IPs registered till date, registrations of four IPs have been cancelled through disciplinary process, and registrations of two IP cancelled on failing to fulfil the requirement of fit and proper person status. As per information available, six IPs have passed away. The registrations and cancellations of registrations IPs, quarter wise, till June 30, 2020 are presented in Table 21.

Table 21: Registration and Cancellation of Registrations of IPs

Year / Quarter	No. of IPs		
	Registered	Cancelled	Registered at the End of the Quarter
Oct - Dec, 2016#	977	0	977
2016 - 17 (Jan - Mar)	96	0	96
2017 - 18	1716	0	1812
2018 - 19	647	4	2455
Apr - Jun, 2019	203	0	2663
Jul - Sep, 2019	127	0	2790
Oct - Dec, 2019	122	0	2913
Jan - Mar, 2020	98	1	3008
Apr - Jun, 2020	119	1	3127
Total	3128	6	3122

Registrations with validity of six months. These registrations expired by June 30, 2017.

An individual with 10 years of experience as a member of the ICAI, ICSI, ICAI or a Bar Council or an individual with 15 years of experience in management is eligible for registration as an IP on passing the Limited

Insolvency Examination. Table 22 presents distribution of IPs as per their eligibility (an IP may be a member of more than one Institute) as on June 30, 2020. Of the 3122 IPs as on June 30, 2020, 285 IPs (constituting about nine per cent of the total registered IPs) are female.

Table 22: Distribution of IPs as per their Eligibility as on June 30, 2020

Eligibility	No. of IPs		
	Male	Female	Total
Member of ICAI	1563	140	1703
Member of ICSI	475	94	569
Member of ICMAI	154	12	166
Member of Bar Council	179	21	200
Managerial Experience	466	18	484
Total	2837	285	3122

The Regulations provide that an IP shall be eligible to obtain an AFA if he has not attained the age of 70 years. Table 23 presents the age profile of the IPs registered as on June 30, 2020.

Table 23: Age Profile of IPs as on June 30, 2020 (Number)

Age Group (in Years)	IIP ICAI	ICSI IIP	IPA of ICAI	Total
≤ 40	224	70	4	298
> 40 ≤ 50	688	332	46	1066
> 50 ≤ 60	615	243	62	920
> 60 ≤ 70	378	256	139	773
> 70 ≤ 80	24	26	8	58
> 80 ≤ 90	3	3	0	6
> 90	1	0	0	1
Total	1933	930	259	3122

Panel of IPs

In accordance with the IPs to act as IRPs, Liquidators, RPs and Bankruptcy Trustees (Recommendation) Guidelines, 2020, the IBBI prepared a panel of IPs having AFAs for the period July 1, 2020 to November 25, 2020 and shared the same with the AAs (NCLT and DRT). Table 24 presents zone-wise number of IPs (holding valid AFA) empaneled for the said period. The IPs having registered office in the areas listed in column (2) of the table shall be eligible for appointment by benches of NCLT and DRT located in the zone listed in column (1).

Table 24: Zone-wise IPs in the Panel

Zone (1)	Areas Covered (2)	No. of Ips (3)
New Delhi	Union Territory of Delhi	209
Ahmedabad	State of Gujarat	63
	Union Territory of Dadra and Nagar Haveli	
	Union Territory of Daman and Diu	
Allahabad	State of Uttar Pradesh	44
	State of Uttarakhand	
Amravati	State of Andhra Pradesh	9
Bengaluru	State of Karnataka	31
Chandigarh	State of Himachal Pradesh	103
	State of Punjab	
	State of Haryana	
	Union Territory of Chandigarh	
	Union Territory of Jammu and Kashmir	
	Union Territory of Ladakh	
Cuttack	State of Chhattisgarh	28
	State of Odisha	
Chennai	State of Tamil Nadu	98
Guwahati	Union Territory of Puducherry	3
	State of Arunachal Pradesh	
	State of Assam	
	State of Manipur	
	State of Mizoram	
	State of Meghalaya	
	State of Nagaland	
	State of Sikkim	
	State of Tripura	
Hyderabad	State of Telangana	92
Indore	State of Madhya Pradesh	10
Jaipur	State of Rajasthan	30
Kochi	State of Kerala	19
	Union Territory of Lakshadweep	
Kolkata	State of Bihar	92
	State of Jharkhand	
	State of West Bengal	
	Union Territory of Andaman and Nicobar Islands	
Mumbai	State of Goa	147
	State of Maharashtra	
Total		978

Replacement of IRP with RP

Section 22(2) of the Code provides that the CoC may, in its first meeting, by a majority vote of not less than 66% of the voting share of the FCs, either resolve to appoint the IRP as the RP or to replace the IRP by another IP to function as the RP. Under section 22(4) of the Code, the AA shall forward the name of the RP, proposed by the CoC, under section 22(3)(b) of the Code, to IBBI for its confirmation and shall make such appointment after such confirmation. However, to save time in such reference, a database of all the IPs registered with the IBBI has been shared with the AA, disclosing whether any disciplinary proceeding is pending against any of them and the status of their AFAs. While the database is currently being used by various benches of AA, in a few cases, IBBI receives references from the AA and promptly responds to the AA. Till June 30, 2020, as per updates available, a total of 867 IRPs has been replaced with RPs, as shown in Table 25.

Table 25: Replacement of IRP with RP as on June 30, 2020

CIRP initiated by	No. of CIRPs	
	Where RPs have been appointed	Where RP is different from the IRP
Corporate Applicant	239	106
Operational Creditor	1434	487
Financial Creditor	1452	274
Total	3125	867

Insolvency Professional Entities

During the quarter under review, four IPEs were recognised. As on June 30, 2020, there were 73 IPEs (Table 26).

Table 26: IPEs as on June 30, 2020

Quarter	No. of IPEs		
	Recognised	Derecognised	At the end of the Quarter
2016 - 17 (Jan - Mar)	3	0	3
2017 - 18	73	1	75
2018 - 19	13	40	48
Apr - Jun, 2019	6	0	54
Jul - Sep, 2019	7	0	61
Oct - Dec, 2019	6	0	67
Jan - Mar, 2020	4	2	69
Apr - Jun, 2020	4	0	73
Total	116	43	73

Table 27: Details of information with NeSL

(Number, except as stated)

At the end of Year/Month	Creditors having agreement with NeSL		Creditors who have submitted information		Debtors whose information submitted by		Loan records on-boarded by		User registrations (debtors)	Loan records authenticated by debtors		Amount of underlying debt (₹ crore)	
	FCs	OCs	FCs	OCs	FCs	OCs	FCs	OCs	FC & OC	FCs	OCs	FCs	OCs
2018 - 19	173	NA	114	169	1266445	230	1955230	316	15148	13762	37	4114988	16224
Jun, 2019	209	NA	160	231	2531930	570	3911146	52766	23565	22323	40	4910552	20455
Sep, 2019	226	NA	218	297	2737049	1764	4421280	86766	32177	35560	61	5625318	28016
Dec, 2019	246	NA	321	408	2926030	2121	4803931	125526	48551	68646	120	6919463	32038
Mar, 2020	267	NA	381	543	6551739	6191	9417317	167719	73332	109505	221	7873689	31910
Jun, 2020	269	NA	456	574	7464854	8336	10721829	204568	106840	149268	265	9855538	33151

NA: Not Available

Registered Valuer Organisations

The Registered Valuer Organisations (RVOs) are frontline regulators. They provide the institutional arrangement for oversight, including the development and regulation of the registered valuers (RV). They grant membership to valuers, who comply with the eligibility requirements as provided in the Rules, conduct the educational courses in valuation and provide the training for the individual members. During the quarter, two RVOs, All India Institute of Valuers Foundation and International Business Valuers Association were granted recognition, taking the total to 14 RVOs. The IBBI meets MDs / CEOs of RVOs on the 7th of every month to discuss the issues arising from the valuation profession, to resolve queries of the RVOs and to guide them in discharge of their responsibilities.

Only RVs are authorised to undertake valuations required under the Companies Act, 2013 and the Code. The details of individual RVs, RVO-wise, as on June 30, 2020, is given in Table 28A. A total of 3083 individuals have registrations, two of them are registered for all three asset classes, 43 are registered for two asset classes and the balance 3038 are registered for one asset class.

Insolvency Professional Agencies

IPAs are front-line regulators and responsible for developing and regulating the insolvency profession. They discharge three kinds of functions, namely, quasi-legislative, executive, and quasi-judicial. The quasi-legislative functions cover laying down standards and code of conduct through byelaws, which are binding on all members. The executive functions include monitoring, inspection, and investigation of professional members on a regular basis, addressing grievances of aggrieved parties, gathering information about their performance, etc., with the overarching objective of preventing malicious behaviour and malfeasance by IPs. The quasi-judicial functions include dealing with complaints against members and taking suitable disciplinary actions.

There are three IPAs registered in accordance with the Code and Regulations. IBBI has monthly meetings with the MDs of the IPAs and the IU on the 7th of every month, to obtain feedback on areas of concern for the profession and discuss the ways and means to deal with them. During these meetings, issues like disposal of grievances, use of technology in processes, conduct of IPs, addressing concerns emanating from COVID-19 are discussed.

Information Utility

There is one IU, namely, the National E-Governance Service Limited (NeSL). IBBI meets the MD & CEO of the IU along with the MDs of IPAs on 7th of every month to discuss the issues related to receipt and authentication of financial information. It has requested IPAs to encourage their members to make use of the information stored with the IU for verification of claims during CIRP. Table 27 provides details of the registered users and information with NeSL, as informed by them.

Table 28A: Registered Valuers as on June 30, 2020

(Number)

Registered Valuer Organisation	Asset Class			Total
	Land & Building	Plant & Machinery	Securities or Financial Assets	
RVO Estate Managers and Appraisers Foundation	45	8	5	58
IOV Registered Valuers Foundation	1023	168	117	1308
ICSI Registered Valuers Organisation	0	0	126	126
IIV India registered Valuers Foundation	106	33	32	171
ICMAI Registered Valuers Organisation	14	12	198	224
ICAI Registered Valuers Organisation	N.A.	N.A.	614	614
PVAI Valuation Professional Organisation	247	45	34	326
CVSRTA Registered Valuers Association	173	51	N.A.	224
Association of Certified Valuers and Analysts	N.A.	N.A.	2	2
CEV Integral Appraisers Foundation	38	13	0	51
Divya Jyoti Foundation	3	3	20	26
Nandadeep Valuers Foundation	0	0	0	0
All India Institute of Valuers Foundation	0	0	0	0
International Business Valuers Association	0	0	0	0
Total	1649	333	1148	3130

Note: N.A. signifies the RVO is not recognised for that asset class

RVs are permitted to form an entity (Partnership / Company) for rendering valuation services. There are 22 such entities registered as RVs as on June 30, 2020, as presented in table 28B. Ten of them are registered for three asset classes and one is registered for two asset classes.

Table 28B: Registered Valuers (Entities) as on June 30, 2020 (Number)

Registered Valuer Organisation	Asset Class	Number of Entities	Land & Building Plant & Machinery	Securities or Financial Assets
Institution of Estate Managers and Appraisers	2	2	2	2
IOV Registered Valuers Foundation	7	6	8	10
The Indian Institution of Valuers	1	1	1	1
ICMAI Registered Valuers Organisation	1	1	3	3
ICAI Registered Valuers Organisation	0	0	5	5
PVAI Valuation Professional Organisation	1	1	1	1
Total	12	11	20	22

The registration of RVs till June 30, 2020 is given in Table 29.

Table 29: Registration of RVs till June 30, 2020 (Number)

Year / Quarter	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
2017 - 18	0	0	0	0
2018 - 19	784	124	288	1196
Jun, 2019	346	81	300	727
Sep, 2019	212	58	191	461
Dec, 2019	161	34	146	341
Mar, 2020	129	31	155	315
Jun, 2020	17	5	68	90
Total	1649	333	1148	3130

Of the RVs registered as on June 30, 2020, 913 RVs (constituting 29% of the total RVs registered) are from metros while 2217 RVs (constituting 71% of the total RVs registered) are from non-metro locations (Table 30).

Table 32: Receipt and Disposal of Grievances and Complaints till June 30, 2020 (Number)

Year / Quarter	Complaints and Grievances Received						Total		
	Under the Regulations		Through CPGRAMS/PMO/MCA/Other Authorities		Through Other Modes		Received	Disposed	Under Examination
	Received	Disposed	Received	Disposed	Received	Disposed			
2017 - 18	18	0	6	0	22	2	46	2	44
2018 - 19	111	51	333	290	693	380	1137	721	460
Apr - Jun, 2019	36	21	60	74	149	207	245	302	403
Jul - Sep, 2019	42	41	46	35	67	36	155	112	446
Oct - Dec, 2019	40	46	68	54	71	86	179	186	439
Jan - Mar, 2020	35	69	65	64	74	59	174	192	421
Apr - Jun, 2020	20	52	62	88	74	272	156	412	165
Total	302	280	640	605	1150	1042	2092	1927	165

Examinations

Limited Insolvency Examination

The IBBI publishes the syllabus, format etc. of the Examination under regulation 3(3) of the IBBI (Insolvency Professionals) Regulations, 2016. It reviews the Examination continuously to keep it relevant with respect to dynamics of the market. It has successfully completed four phases of the Examination. Fourth phase of the Examination concluded on June 30, 2019 and fifth phase commenced on July 1, 2019. It is a computer based online examination available on daily basis from several locations across India. NSEIT Limited is the test administrator. The details of the Examination are given in the Table 33.

Table 33: Limited Insolvency Examination

Phase	No. of Attempts (some candidates made more than one attempt)	No. of Successful Attempts
First Phase (Jan - Jun, 2017)	5329	1202
Second Phase (Jul - Dec, 2017)	6237	1112
Third Phase (Jan - Oct, 2018)	6344	1011
Fourth Phase (Nov, 2018 - Jun, 2019)	3025	506
Fifth Phase (Jul - Sep, 2019)	710	95
Fifth Phase (Oct - Dec, 2019)	889	119
Fifth Phase (Jan - Mar, 2020)	1007	164
Fifth Phase (Apr - Jun, 2020)	34	6
Total	23575	4215

Table 30: Region wise Registered Valuers as on June 30, 2020 (Number)

City / Region	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
New Delhi	63	28	145	236
Rest of Northern Region	215	40	188	443
Mumbai	97	46	192	335
Rest of Western Region	458	89	166	713
Chennai	103	30	105	238
Rest of Southern Region	668	84	265	1017
Kolkata	18	13	73	104
Rest of Eastern Region	27	3	14	44
Total	1649	333	1148	3130

The average age of RVs as on June 30, 2020 stood at 48 years across asset classes. It was 50 years for Land & Building, 53 years for Plant & Machinery and 43 years for Securities or Financial Assets (Table 31). Of the 3130 RVs as on June 30, 2020, 281 RVs (constituting about nine per cent of the total registered valuers) are females.

Table 31: Age profile of RVs as on June 30, 2020 (Number)

Age Group (in years)	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
≤ 30	64	4	75	143
> 30 ≤ 40	207	49	451	707
> 40 ≤ 50	454	76	341	871
> 50 ≤ 60	723	99	195	1017
> 60 ≤ 70	172	73	84	329
> 70 ≤ 80	28	31	2	61
> 80	1	1	0	2
Total	1649	333	1148	3130

Complaints and Grievances

IBBI (Grievance and Complaint Handing Procedure) Regulations, 2017 enable a stakeholder to file a grievance or a complaint against a service provider. Beside this, grievance and complaints are received from the Centralised Public Grievance Redress and Monitoring System (CPGRAMS), Prime Minister's Office, MCA and other authorities. The receipt and disposal of grievances and complaints till June 30, 2020 is presented in Table 32.

Valuation Examinations

The IBBI, being the authority, under the Companies (Registered Valuers and Valuation) Rules, 2017, commenced the Valuation Examinations for asset classes of: (a) Land and Building, (b) Plant and Machinery and (c) Securities or Financial Assets on March 31, 2018. It reviews the Examination continuously to keep it relevant with the changing times. The second phase concluded on May 31, 2020 and third phase commenced on June 1, 2020, with the revised syllabus. It is a computer based online examination available on daily basis from several locations across India. National Institute of Securities Market is the test administrator. The details of the Examinations are given in Table 34.

Table 34: Valuation Examinations

Phase/Quarter	No. of Attempts (some candidates made more than one attempt) in Asset Class			No. of Successful Attempts in Asset Class		
	Land & Building	Plant & Machinery	Securities or Financial Assets	Land & Building	Plant & Machinery	Securities or Financial Assets
First Phase (Mar, 2018 - Mar, 2019)	9469	1665	4496	1748	324	707
Second Phase (Apr, 2019 - May, 2020)	3780	757	4795	380	95	656
Third Phase (Jun, 2020)	64	7	99	1	0	6
Total	13313	2429	9390	2129	419	1369

Suspension and Resumption of Examinations

In view of the advisory on social distancing in the wake of COVID-19 and lock-down announced by the Central Government, all enrolments for the Limited Insolvency Examination and the Valuation Examinations were initially suspended from March 23, 2020 to April 14, 2020. The suspension continued in view of continued health pandemic.

The IBBI resumed the Limited Insolvency Examination from May 27, 2020 and the Valuation Examinations, with revised syllabus, from June 16, 2020 in areas/locations where such activities were permitted under State and local guidelines. However, the number of slots available has been limited due to the social distancing requirements. As the situation improves more centers are being made operational. The candidates whose enrolments were cancelled have been permitted to reschedule their examination.

Building Ecosystem

Graduate Insolvency Programme

The first batch of GIP with 37 students had commenced on July 1, 2019 at the Indian Institute of Corporate Affairs (IICA). After completing coursework at campus, the students proceeded for one year of internship with an average stipend of ₹ 6.42 lakh per annum, with the highest stipend of ₹ 12 lakh per annum. The next batch of 41 students commenced their classes on July 1, 2020. In this batch, 59% are lawyers by profession, 24% are chartered accountants, 10% are engineers and the rest are company secretaries and MBAs.

Meetings of various Committees

Advisory Committee on Service Providers

The 5th meeting of the Advisory Committee on Service Providers took place on April 24, 2020 through video conferencing. Mr. T. V. Mohandas Pai, Chairperson of the Committee, chaired the meeting. The Committee discussed and made its recommendations on various matters such as engagement of IPE for support services, fee of IP and for support services of an IPE, limit on number of assignments to be handled by IPs, role of IBBI vis-à-vis IPAs, etc.

Committee on Cross Border Insolvency

The Committee on Cross Border Insolvency Rules constituted by MCA under the chairpersonship of Dr. K. P. Krishnan, met on April 21, 2020, May 12, 2020, May 27, 2020 and June 15, 2020 and deliberated on various aspects of its mandate.

Advisory Committee on Corporate Insolvency and Liquidation

The sixth meeting of the Advisory Committee on Corporate Insolvency Resolution and Liquidation was held on June 21, 2020 through Video Conferencing under the Chairmanship of Mr. Uday Kotak, Chairperson of the Committee. The Committee discussed and provided its suggestions on certain salient features of the proposed Special Insolvency Resolution Process (SIRP) for MSMEs, such as coverage, processes, balancing interests of stakeholders and timelines.

Roundtables

During this quarter, IBBI, in associations with the IPAs, conducted four roundtables on special resolution framework for MSMEs, through online modes, to seek feedback of the stakeholders for further refinements and improvements. The details of these roundtables are presented in Table 35.

Table 35: Roundtables on SIRP for MSMEs

Sl. No.	Date(s)	Venue	In partnership with
1	18-06-20	Online	ICSI IIP
2	20-06-20	Online	IIPI
3	22-06-20	Online	IIP ICAI
4	30-06-20	Online	NA

Crowdsourcing of Ideas

The stakeholders in the insolvency and bankruptcy ecosystem are diverse. They include all existing and potential creditors and debtors; professionals and institutions that are integral parts of the process of insolvency and bankruptcy resolution; foreign creditors and foreign firms that have business relations with domestic debtors; the judges and courts, as well as the departments of the Government through which the law is implemented. Each of these stakeholders have specific requirements and it is IBBI's endeavour to effectively engage them in the regulation making process. The process generally starts with a Working Group suggesting draft regulations. IBBI puts these draft regulations out in public domain seeking comments thereon. It holds a few round tables to discuss draft regulations with the stakeholders. It takes the advice of its Advisory Committee. The process culminates with the Governing Board of IBBI finalising regulations and IBBI notifies them. This process endeavours to factor in ground reality, secures ownership of regulations and makes regulations robust and precise, relevant to the time and for the purpose.

Despite the best of efforts and intentions, a regulator may not always have the understanding of the ground realities, as much and as early as the stakeholders and the regulated may have, particularly in a dynamic environment. The stakeholders could, therefore, play a more active role in making regulations. They may contemplate, at leisure, the important issues in the extant regulatory framework that hinder transactions and offer alternate solutions to address them, in addition to responding urgently to draft regulations proposed by the regulator. This is akin to crowdsourcing of ideas. This would enable every idea to reach the regulator. Consequently, the universe of ideas available with the regulator would be much larger and the possibility of a more conducive regulatory framework much higher. Keeping this in view, IBBI invited comments on May 4, 2020 from public, including the stakeholders and the regulated, on the regulations already notified under the Code. The comments received between April 13, 2020 and December 31, 2020 shall be processed together and following the due process, regulations will be modified to the extent considered necessary.

Role of IPs in Avoidance Transactions

The Code mandates the RP and the Liquidator to file applications in respect of avoidance transactions (preferential transactions, undervalued transactions, extortionate transactions, and fraudulent trading) with the AA seeking appropriate reliefs and directions permissible under the Code. The AA has disposed of a few such applications. Some matters have travelled up to the Supreme Court. For the sole purpose of educating IPs about this important aspect of the Code, the Board issued a facilitation letter apprising them of their role in respect of avoidance transaction, as delineated by the apex court.

Research Initiative

IBBI promotes research - legal, economic, and interdisciplinary - and discourse in areas relevant for the evolving insolvency and bankruptcy regime in general, and that in India, in accordance with the Insolvency and Bankruptcy Board of India Research Initiative, 2019.

Two research scholars, namely, Mr. M. P. Ram Mohan and Ms. Vishakha Raj completed a research paper on the topic “Merger control for IRPs: Do acquisitions of distressed firms warrant competition scrutiny?” during the quarter. The paper finds that while green channelling to give automatic approval to resolution plans will make the insolvency resolution process easier for the stakeholders involved in the insolvency process, the effects of combinations under resolution plans may be felt beyond the insolvency regime and extend to stakeholders such as consumers, and upstream and downstream businesses, etc., It suggests that the existing mechanisms of coordination between the two regimes as an alternative to green channeling. The paper is available on the website of IBBI.

Webinars

IBBI organised several webinars during the quarter in association with IPAs on various subjects as listed in Table 36.

Table 36: Webinars during April-June, 2020

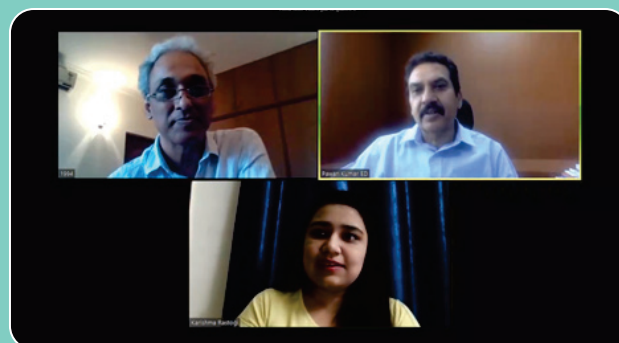
Sl. No.	Date	In association with	Topic
1	01-04-20	IPA ICAI	“Do’s and Don’ts - Inspections” and Impact of IBC on Ease of Doing Business
2	02-04-20	ICSI IIP	Relaxation of IBC threshold and Impact of IBC on Ease of Doing Business
3	03-04-20	IIIP ICAI	Online CIRP Forms and Relationship Disclosures; and Impact of IBC on Ease of Doing Business
4	07-04-20	ICSI IIP	Impact and practical issues during and post lockdown on IBC process and Impact of IBC on Ease of Doing Business
5	08-04-20	IPA ICAI	Insolvency Resolution and Bankruptcy of Personal Guarantors to CD and Impact of IBC on Ease of Doing Business
6	11-04-20	ICSI IIP	Code of Conduct for IPs; Disciplinary Proceedings & Impact of IBC on Ease of Doing Business
7	14-04-20	ICSI IIP	Insolvency and Bankruptcy of Personal Guarantors to Corporate Debtors & Impact of IBC on Ease of Doing Business
8	17-04-20	ICSI IIP	Scope of Mediation in Insolvency Proceedings & Impact of IBC on Ease of Doing Business
9	06-05-20	IIIP ICAI	Interactive Session with IRP/RPs - Issues faced by them in CIRPs w.r.t. COVID-19 pandemic
10	09-05-20	IIIP ICAI	Interactive Session with Liquidators - Issues faced by them in liquidations w.r.t. COVID-19 pandemic
11	12-05-20	IPA ICAI	Information Utility: A Key Pillar of IBC Ecosystem
12	13-05-20	IIIP ICAI	Experience Sharing: Resolution of Financial Service Provider
13	15-05-20	IPA ICAI	Valuations under IBC - Impact on account of COVID-19 pandemic
14	22-05-20	ICSI IIP	Management of Corporate Debtor as Going Concern during CIRP; Operations Management
15	28-05-20	ICSI IIP	Reviewing and Challenging Avoidable Transactions under IBC: How to maximise the assets
16	07-06-20	ICSI IIP	The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020



Interaction on Issues faced by IPs in CIRPs w.r.t. COVID-19 pandemic, May 6, 2020



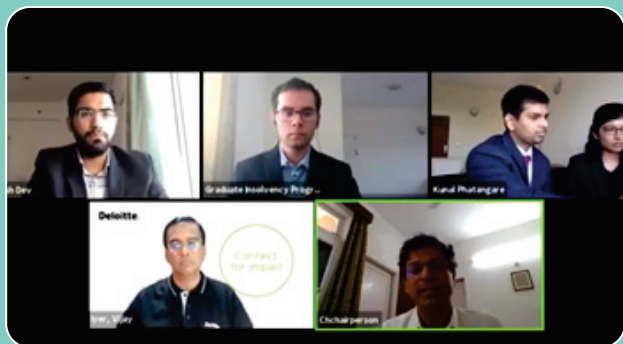
Webinar on Online CIRP Forms and Relationship Disclosures, April 3, 2020



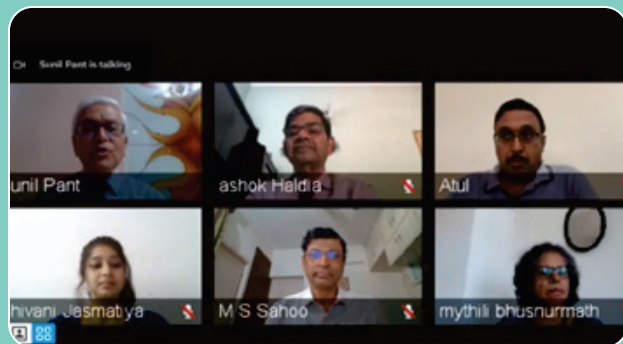
Webinar on Information Utility: A Key Pillar of IBC Ecosystem, May 12, 2020

Table 37: Participation of Senior Officers in Programmes

Sl.	Date	Organiser	Subject	Participation
1	11-04-20	IICA	GIP Prospectus	Chairperson
2	11-04-20	IICA	Interface of IBC and Competition Act	Chairperson
3	11-04-20	IIPI	Impact of Covid-19 on IBC regime	Chairperson
4	13-04-20	IPAs	Inspection of IPs	Chairperson
5	13-04-20	ICSI IIP	Pre-Registration Educational Course	Mr. Saji Kumar, ED
6	20-04-20	ICSI IIP	IP: Crisis Manager and Manager in Crisis	Mr. Saji Kumar, ED
7	20-04-20	IIPI ICAI	Pre-Registration Educational Course	Mr. Saji Kumar, ED
8	21-04-20	FICCI	IBC Reforms	Chairperson
9	21-04-20	ASSOCHAM	COVID-19: Relief on IBC	Dr. Vijayawargiya, WTM
10	24-04-20	IPA ICAI	Appearance before NCLT/NCLAT - Court Craft	Mr. Saji Kumar, ED
11	28-04-20	ICAI RVO	Draft Valuers Bill, 2020	Chairperson
12	29-04-20	PVAI RVO	Draft Valuers Bill, 2020	Dr. Saini, WTM
13	01-05-20	PVAI RVO	Start-up Valuation and ABCDRI	Chairperson
14	08-05-20	PHDCI	Impact of Covid-19 on Insolvency	Mr. Pawan Kumar, ED
15	09-05-20	IOV RVF	Valuation Standards	Mr. Pawan Kumar, ED
16	12-05-20	RICS	New Valuers Bill-A Game Changer	Chairperson
17	16-05-20	IOV RVO	Draft Valuers Bill, 2020	Chairperson
18	23-05-20	ASSOCHAM	Corporate Restructuring, M&A and Joint Venture	Mr. Pawan Kumar, ED
19	26-05-20	IIPI ICAI	Address to Governing Board	Chairperson
20	26-05-20	IOV RVF	Development in Valuation Profession Global perspective	Mr. Shukla, WTM
21	27-05-20	ICAI RVO	Draft Valuers Bill, 2020	Dr. Saini, WTM
22	28-05-20	DTRTI, Chandigarh	Quality assessment	Mr. Pawan Kumar, ED
23	31-05-20	IBBI and LNCT University, Bhopal	Moot Court Competition	Mr. Saji Kumar, ED
24	06-06-20	NITI Aayog	Online Dispute Resolution	Chairperson
25	09-06-20	INSOL India	How IPs should tackle New Normal?	Chairperson
26	12-06-20	IIPI ICAI	Insolvency Resolution: Public Interest & Ethics	Mr. Saji Kumar, ED
27	20-06-20	ENCUBE	Impact of COVI-19 on Insolvency and the Way Forward	Chairperson
28	24-06-20	IICA	Regulatory Policy and Ensuring Quality of Regulations	Dr. Vijayawargiya, WTM
29	24-06-20	IIPI ICAI and IFC, World Bank	Impact of COVID-19 on the insolvency and bankruptcy regime- Global and Indian responses	Dr. Guru, ED
30	24-06-20	DTRTI, Chandigarh	Quality Assessment	Mr. Pawan Kumar, ED
31	25-06-20	City of London	Hitting a pause in a Pandemic - Insolvency & Bankruptcy Policy 2020 and beyond	Dr. Vijayawargiya, WTM
32	27-06-20	EIRC of ICAI	Are we ready for the change?	Dr. Saini, WTM



Dr. M. S. Sahoo addressing prospective GIP students, April 11, 2020



Webinar on Impact of Covid-19 on IBC regime, April 11, 2020



Webinar on COVID-19: Relief on IBC,
April 21, 2020



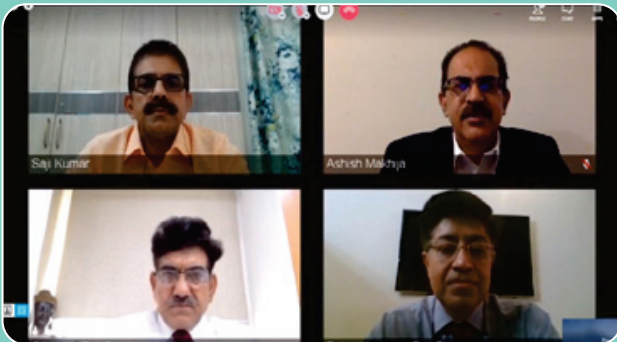
Interaction on New Valuers
Bill-A Game Changer, May 12, 2020



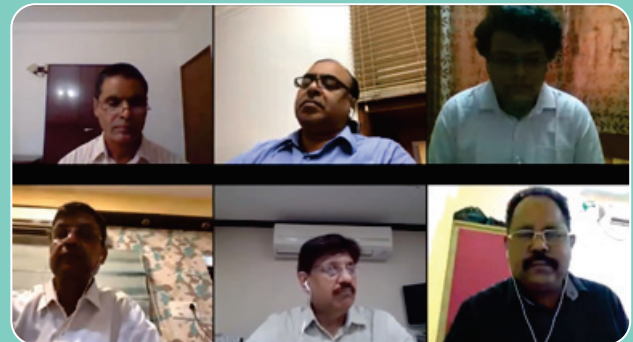
Interaction on Development in Valuation
Profession Global perspective, May 26, 2020



Consultations on Draft Valuers Bill, 2020,
May 16, 2020



Webinar on Insolvency Resolution:
Public Interest & Ethics, June 12, 2020



Webinar on 'Are we ready for the
change?', June 27, 2020

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