

PRESENTATION ON

SCOPE FOR

INSOLVENCY PROFESSIONAL

CA Bhawani Shankar Rathi
+91 9867751705
bs_rathi@sumedhafiscal.com



BACKGROUND

- » Banks in India are going through unprecedented times with stressed loan portfolio touching all-time high. There is an apprehension that there could be further significant additions as many stressed loan accounts have been disguised as standard.
- » Realizing the problem, RBI has attempted to force banks to clean up balance sheets and come out with many regulatory steps aimed at improving banks' ability to deal with such stressed accounts. However, such frameworks have proved unsuccessful.
- » India currently has multiple laws to deal with insolvency, which leads the entire resolution process fragmented, expensive and time-consuming with very low recovery rate.
- » In this scenario, the Indian Government has introduced the Bankruptcy and Insolvency Code, 2016 which will consolidate the existing frameworks and create a new institutional structure.
- » The Code creates time-bound processes for insolvency resolution of companies and individuals which thereby will help India improve its World Bank insolvency ranking.
- » Code has opened a new opportunities for professionals particularly Chartered Accountants.

Current stress in the banking sector

Stressed assets in the banking system



Our intent is to have clean and fully provisioned banks' balance sheets by March 2017

All out of the court debt restructuring processes like CDR, SDR, S4A and 5:25 have proved unsuccessful and bad loans have piled up in the system after their implementation

Source: RBI

Cont'd.

March	2013	2014	2015	2016
	Total			
Gross NPA Ratio (%)	3.27	3.86	4.37	7.61
Net NPA Ratio (%)	1.72	2.17	2.48	4.63
Stressed Assets/advances (%)	NA	9.75	11.01	11.5
March	2013	2014	2015	2016
	Public Sector Banks			
Gross NPA Ratio (%)	3.59	4.34	4.94	9.6
Net NPA Ratio (%)	1.99	2.53	2.9	6.1
Stressed Assets/advances (%)	NA	11.04	12.68	14.5
March	2013	2014	2015	2016
	Private Sector Banks			
Gross NPA Ratio (%)	1.86	1.82	2.14	2.7
Net NPA Ratio (%)	0.52	0.63	0.87	1.3
Stressed Assets/advances (%)	NA	4.29	4.59	4.5

PSU Bank NPA In 2016-17

FY 16-17 (Amt Rs. In crore)					
No	Bank	Gross NPA		Net NPA	
		AMT	%	AMT	%
1	PNB	55370.45	12.53	32702.11	7.81
2	BOB	42718.70	10.46	18080.18	5.06
3	BOI	52044.52	13.22	25305.05	6.90
4	Canara Bank	34202.04	9.63	21648.98	6.33
5	Union Bank	33712.28	11.17	18832.10	6.57
6	Syndicate Bank	17609.31	8.50	10410.98	5.21
7	IDBI Bank	44752.59	21.25	25205.80	13.21
8	Central Bank	27251.33	17.81	14217.83	10.20
9	OBC	22859.27	13.73	14117.83	8.96
10	Corporation Bank	17045.22	11.70	11692.18	8.33
11	Allahabad Bank	20687.83	13.09	13433.51	8.92
12	IOB	35098.25	22.39	19749.32	13.99
13	Andhra Bank	17669.98	12.25	10354.81	7.57
14	UCO Bank	22540.95	17.12	10703.39	8.94
15	Indian Bank	9893.29	7.49	5634.71	4.41
16	BOM	17188.71	16.93	11229.56	11.76
17	Dena Bank	12618.73	16.27	7735.12	10.66
18	Vijaya Bank	6381.78	6.59	4118.16	4.36
19	United Bank	10951.99	15.53	6591.85	10.02
20	PSB	6297.59	10.45	4375.08	7.51
Total		506894.81	13.74	286138.55	7.75

May 22, 2017

Reserve Bank of India Outlines the action plan to implement the Banking Regulation (Amendment) Ordinance, 2017.

In a Release today, the Reserve Bank of India outlined the steps taken and those on the anvil post the promulgation of the Banking Regulation (Amendment) Ordinance, 2017.

2. The amendments to the BR Act 1949, introduced through the Ordinance, and the notification issued thereafter by the Central Government empower RBI to issue directions to any banking company or banking companies to initiate insolvency resolution process in respect of a default, under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC). It also enables the Reserve Bank to issue directions with respect to stressed assets and specify one or more authorities or committees with such members as the Bank may appoint or approve for appointment to advise banking companies on resolution of stressed assets.

3. Immediately upon the promulgation of the Ordinance, the Reserve Bank issued a directive bringing the following changes to the existing regulations on dealing with stressed assets.

- (i) It was clarified that a corrective action plan could include flexible restructuring, SDR and S4A.
- (ii) With a view to facilitating decision making in the JLF, consent required for approval of a proposal was changed to 60 percent by value instead of 75 percent earlier, while keeping that by number at 50 percent.
- (iii) Banks who were in the minority on the proposal approved by the JLF are required to either exit by complying with the substitution rules within the stipulated time or adhere to the decision of the JLF
- (iv) Participating banks have been mandated to implement the decision of JLF without any additional conditionality.
- (v) The Boards of banks were advised to empower their executives to implement JLF decisions without further reference to them

It was made clear to the banks that non-adherence would invite enforcement actions.

4. Currently, the Oversight Committee (OC) comprises of two Members. It has been constituted by the IBA in consultation with RBI. It has been decided to reconstitute the OC under the aegis of the Reserve Bank and also enlarge it to include more Members so that the OC can constitute requisite benches to deal with the volume of cases referred to it. While the current Members will continue in the reconstituted OC, names of a few more will be announced soon. The Reserve Bank is planning to expand the scope of cases to be referred to the OC beyond those under S4A as required currently.

5. The Reserve Bank is working on a framework to facilitate an objective and consistent decision making process with regard to cases that may be determined for reference for resolution under the IBC. Reserve Bank has already sought information on the current status of the large stressed assets from the banks. The RBI would also be constituting a Committee comprised majorly of its independent Board Members to advise it in this matter.

6. The current guidelines on restructuring are under examination for such modifications as may be necessary to resolve the large stressed assets in the banking system in a value optimising manner. The Reserve Bank envisages an important role for the credit rating agencies in the scheme of things and, with a view to preventing rating-shopping or any conflict of interest, is exploring the feasibility of rating assignments being determined by the Reserve Bank itself and paid for from a fund to be created out of contribution from the banks and the Reserve Bank.

7. The Reserve Bank notes that the proper exercise of the enhanced empowerment would require coordination with and cooperation from several stakeholders including banks, ARCs, rating agencies, IBBI and PE firms, to which end the Reserve Bank would be holding meetings in the near future with these stakeholders.

8. The Reserve Bank will issue further updates as may be deemed necessary at an appropriate time.

Press Release: 2016-2017/3138

Jose J. Kattoor
Chief General Manager

June 13, 2017

RBI identifies Accounts for Reference by Banks under the Insolvency and Bankruptcy Code (IBC)

Corrigendum

The Reserve Bank of India had issued a [Press Release on May 22, 2017](#) outlining the steps taken and those on the anvil pursuant to the promulgation of the Banking Regulation (Amendment) Ordinance, 2017. The Press Release had mentioned *inter alia* that the RBI would be constituting a Committee comprised majority of its independent Board Members to advise it in regard to the cases that may be considered for reference for resolution under the Insolvency and Bankruptcy Code, 2016 (IBC).

2. An Internal Advisory Committee (IAC) was accordingly constituted and it held its first meeting on June 12, 2017. The IAC, in the meeting, agreed to focus on large stressed accounts at this stage and accordingly took up for consideration the accounts which were classified partly or wholly as non-performing from amongst the top 500 exposures in the banking system.

3. The IAC also arrived at an objective, non-discretionary criterion for referring accounts for resolution under IBC. In particular, the IAC recommended for IBC reference all accounts with fund and non-fund based outstanding amount greater than ₹ 5000 crore, with 60% or more classified as non-performing by banks as of March 31, 2016. The IAC noted that under the recommended criterion, 12 accounts totaling about 25 per cent of the current gross NPAs of the banking system would qualify for immediate reference under IBC.

4. As regards the other non-performing accounts which do not qualify under the above criteria, the IAC recommended that banks should finalise a resolution plan within six months. In cases where a viable resolution plan is not agreed upon within six months, banks should be required to file for insolvency proceedings under the IBC.

5. The Reserve Bank, based on the recommendations of the IAC, will accordingly be issuing directions to banks to file for insolvency proceedings under the IBC in respect of the identified accounts. Such cases will be accorded priority by the National Company Law Tribunal (NCLT).

6. The details of the resolution framework in regard to the other non-performing accounts will be released in the coming days.

7. The circular on revised provisioning norms for cases accepted for resolution under the IBC is being issued separately.

CASES UP FOR INSOLVENCY PROCEEDINGS

COMPANY	RP	STATUS	LOCATION
Monnet Ispat	Grant Thornton	Filed	Mumbai
Jyoti Structures	BDO India	Filed	Mumbai
Electrosteel Steels	PwC	Filed	Kolkata
Amtek Auto	EY	Filed	Delhi
Essar Steel	A&M/EY	Filed	Ahmedabad
Bhushan Steel	Deloitte	Pending	Delhi
Bhushan Power & Steel	BDO India	Pending	Delhi
Jaypee Infratech	KPMG	Pending	Delhi
Lanco Infratech	Deloitte	Pending	Hyderabad
ABG Shipyard	BDO India	Filed	Ahmedabad
Alok Industries	Grant Thornton	Pending	Mumbai
Era Infra & Engineering	PwC	Filed	Delhi

Source: Banking and Legal Sources

Bloomberg | *Quint*

ROLES AND RESPONSIBILITIES OF INSOLVENCY PROFESSIONAL

First Objective

To see that the business is kept going to preserve economic value.



If it is not possible,
the IP aims to

- sell the assets of the person or company who owes money
- collect money due to the person or company
- collate / verify / admit creditors' claims
- distribute the money collected after paying costs

What makes good Insolvency Professionals?

Practical Working Knowledge of

Company Law

Banking /Finance

Cash Flow
Management

Insolvency Law

Stake Holder
Management

Negotiation Skills

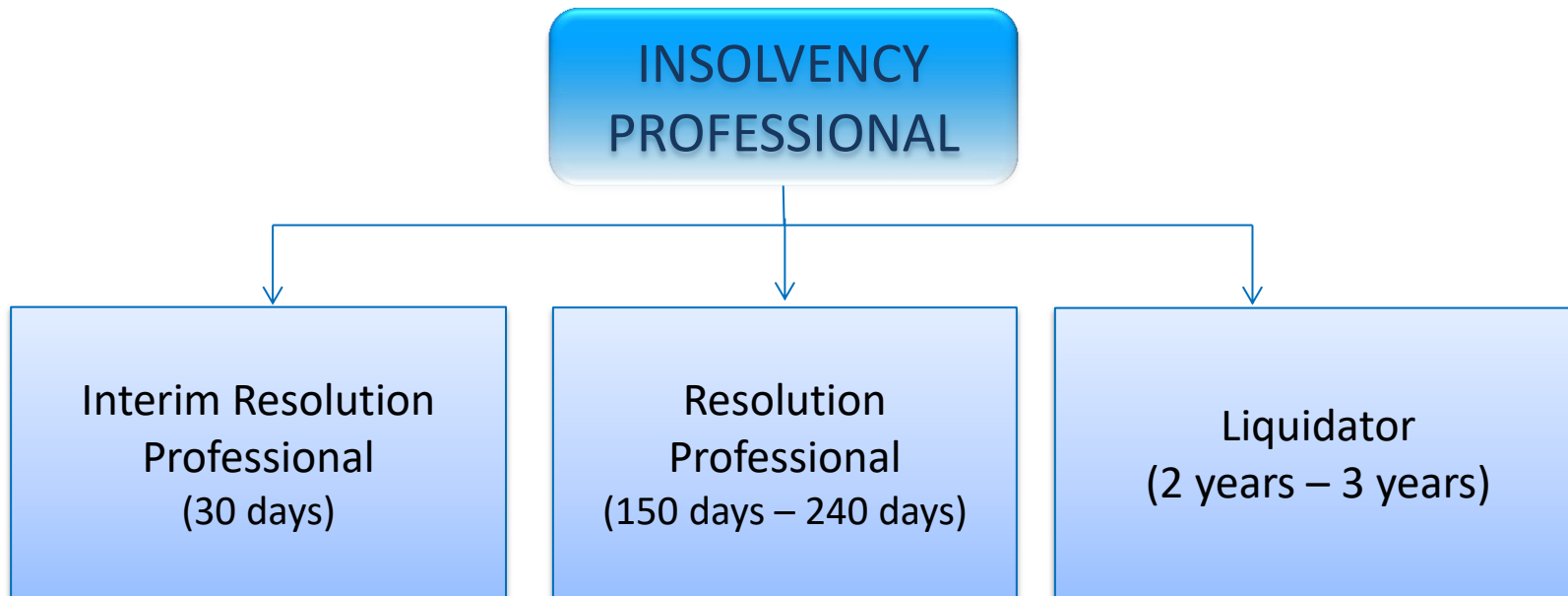
Taxation

Valuation/sale of
Assets

Commercials and
Business

Different hats worn by Insolvency Professional

The term Insolvency Professional has been used interchangeably in the Code and its relevant regulations as Interim Resolution Professional , Resolution Professional, and Liquidator



- Manage operation of the corporate debtor as a going concern
- Public announcement
- Appointment of registered valuers
- Collection / verification and determination of claims
- Collation of claims
- Constitute a committee of creditors-
- holding first meeting of CoC
- Preparation of partial information memorandum
- Take immediate custody and control of all the assets
- Monitor assets of the corporate debtor
- Determine financial position of corporate debtor
- Collect all information relating to the assets, finances and operations of the corporate debtor

- Conduct entire CIRP
- Manage the operations of corporate debtor
- Preserve and protect the assets of the corporate debtor including continued business operations
- Represent and act on behalf of the corporate debtor including Court cases
- Raise interim finances subject to the approval of the CoC
- Update list of claims
- Prepare information memorandum
- Invite prospective lenders, investors, and any other person to put forward resolution plans
- Providing access of information to resolution applicant
- Check resolution plan for compliance with the code & present to CoC.
- Submit resolution plan approved by CoC to NCLT
- Send copy of order of NCLT approving/rejecting resolution plan to participants and resolution applicants

- To receive , collect and verify claims of all the creditors
- To take into custody / control and evaluate all the assets, property, effects and actionable claims of the corporate debtor- protect and preserve the assets & properties.
- Form and hold liquidation estate as a fiduciary for the benefits of the creditors
- Carry on business for beneficial liquidation as necessary
- Sell movable and immovable properties by auction/ private contract
- Obtain professional assistance
- To institute or defend suit
- Investigate financial affairs of CD for undervalued/ preferential transactions
- Apply to NCLT for orders and directions as required
- Prepare preliminary report, assets memorandum, sale report etc
- Maintain relevant records
- Realise and distribute

- **Insolvency Professional** can be only an individual, who is member of an **Insolvency Professional Agency** and enrolled with **Insolvency and Bankruptcy Board of India**.
- **ICAI** has formed an Insolvency Professional Agency (a section 8 company) named **Indian Institute of Insolvency Professionals of ICAI**.
- Insolvency Professionals can, however, form **Insolvency Professional Entity**, which can provide resources to the IP.
- Insolvency Professional Entity can be a **Partnership Firm, Limited Liability Firm or a Private Limited Company**. All the partners / directors of the company shall be jointly and severally liable for the acts of the individual IP taking up assignment.
- Formation and running of such businesses is subject to approval from ICAI, IIP of ICAI and IBBI.

- A limited liability partnership, a registered partnership firm or a company may be recognized as an insolvency professional entity if-
 - (a) majority of the partners of the limited liability partnership or registered partnership firm are registered as insolvency professionals; or
 - (b) majority of the whole-time directors of the company are registered as insolvency professionals,
- An insolvency professional entity shall be jointly and severally liable for all acts or omissions of its partners or directors as insolvency professionals committed during such partnership or directorship.
- Insolvency Professional can draw resources from IPE
- There is no clarity if billing can be done by IPE or it has to be done by IP

CHALLENGES

- Only those to have appeared and cleared the Limited Insolvency Examination or National Insolvency Examination are eligible to work as Insolvency Professionals (IPs)
- In all of the situations, the IP has to take into consideration the interests of all the stakeholders involved, and not limited to financial stakeholders
- During the interaction the IP has an opportunity to get a view from the various stakeholders and may be able to recognise the problems that may be plaguing the business which can be brought to the notice of the lenders and may help bring about a resolution.
- The IP may have to negotiate terms of engagement with suppliers, financial partners, employees and workmen, apart from managing the business on behalf of the Committee of Creditors (COC)
- Claim verification is an extremely onerous and time taking task. Besides it has severe legal implication

- IP will also have to keep itself updated on various matters relating to accounting standards, taxation, legal issues which allows the IP to gain rich knowledge
- IP required specialized knowledge and staff to look after the assignments. IP's present professional set up will require lot of efforts to keep up with the demands of this new professional segment.
- IP has the risk of non continuation as COC has the right to replace IRP to RP or even after confirmation as RP
- Creditors not willing to provide indemnity protection
- IP has to undertake serious legal risk. As of now no insurance products are available to protect.
- Hence, the opportunity brings a lot of responsibilities on the shoulders of the IP.

Efficiency of the resolution infrastructure depends on the capabilities of the insolvency professionals

IBBI Does a Quality Check on Insolvency Professionals

Salkat Das & Atmadip Ray

New Delhi | Kolkata: The Insolvency and Bankruptcy Board of India (IBBI), the regulator overseeing bad-loan resolutions, is scaling up its capability-assessment procedures to ensure that quality Insolvency Professionals are deployed in the potentially ₹8 lakh-crore exercise, seeking to win over an ecosystem that remains sceptical about the efficiency of the recovery infrastructure.

"Inspection and investigation are important regulatory responsibilities," said MS Sahoo, chairperson of the newly-established IBBI. "These need to be discharged with due care and diligence, with the least disruption to business. The regulations provide for discipline in the process of inspection and investigation."

Concerns have been raised that Insolvency Professionals (IPs) are not equipped to run any company. In one specific case, a debtor said it had lost an order valued at ₹1.30 crore due to negligence of the concerned IP.

IBBI said it will form a team to investigate whether service providers, including IPs, take adequate internal-control measures, procedures and safeguards in per-



Going to the IBC (Insolvency and Bankruptcy Code) would be the new normal where all resolution and reorganisation will get done

ARUNDHATI BHATTACHARYA,
Chairman, State Bank of India

forming their duty, with a 10-day prior notice. In case of negligence, they may face disciplinary action.

"Going to the IBC (Insolvency and Bankruptcy Code) would be the new normal where all resolution and reorganisation will get done," Arundhati Bhattacharya, chairman of the State Bank of India, has said. "However, we have to see how efficiently they get done. There are lots of unan-

swered questions which will be answered only with time."

TEETHING TROUBLES

"As such, a large number of cases will get referred in a bunch, for which infrastructure may still not be there. However, once normal flow is restored, banks will not have a problem accepting the resolution taken by court," said Bhattacharya, who heads the country's biggest state-run lender.

The rules of insolvency resolution say that on appointment of a resolution professional (RP) or an interim resolution professional (IRP), the powers of the board of the company will cease.

"This may be interpreted to mean (a) that the powers of the board shall cease, but their functional and executive role will re-

main as it is, or (b) that the board completely steps down and the IRP or RP takes over the management," said Vinod Kothari, an insolvency practitioner.

"Since the executive management of the company has to remain intact while the company is a going concern, there is no reason for executive directors to become function-less. The idea of the law is not to make the RP get into executive management of companies," said Kothari.

Chartered and cost accountants, and company secretaries work as IPs. The IBBI has so far registered 396 IPs, while the banking system is saddled with ₹8 lakh crore of sticky loans—a significant part of which relates to sick companies.

HITTING A CENTURY

The National Company Law Tribunal, or NCLT, had accepted 98 applications, while the National Company Law Appellate Tribunal overruled NCLT in two specific cases that involved Starlog Enterprises and Kaliber Associates. Utilities help verify the credit outstanding/defaults. There is only one firm, the National e-Governance Securities, acting as the utility. Besides, there are about 1,000 IPs who have worked on an ad-hoc basis without IBBI certification.

The Biggest Puzzle: Valuations

Valuation is another aspect in insolvency resolution. A reorganisation value must be determined.

To make an informed decision, the creditors must know both the value of collateral and the reorganisa-

tion value of the company, said Suvasis Paul, chairman, Valuation Surveying Division of Institution of Surveyors.

"Valuation issues permeate the entire bankruptcy process and impact each of

the stakeholders along the way," he said.

Given the complicated nature of the cases referred to the NCLT so far, the possibilities of achieving resolution plans, either in form of acquisition, writing down

of debt, or restructuring with 75% consent of lenders, look rather remote. The interest in buying large stressed assets is mostly limited to global players, such as Goldman Sachs, Aegon, and Bain Capital.

Regulator desires to inspect and investigate to maintain quality of professionals

DEMAND SEGMENT

Banks' corporate NPA cases

- Those where banks have initiated legal action against the debtor for recovery of dues, under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDBFI) and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI).
- Those where corporate debtor itself has sought legal action for collective resolution of insolvency, either under the Sick Industrial Companies Act, 1985 (SICA)
- Those where banks have chosen to restructure corporate debt under RBI's Corporate Debt Restructuring (CDR), Strategic Debt Restructuring (SDR) or similar mechanisms and failed.

Others

- Those cases where lenders or other non lending creditors have filed cases under the winding-up provisions of the Companies Act, 1956 (CA 56).
- Suppliers whose money are overdue. Mostly as a pressure tactic
- Corporate who are having cash flow problems and have exhausted other options

Motivating factors for lenders to use IBC

- » Creditors in control as most decision making with the lenders.
- » Time bound and quick solution for stressed and NPA accounts.
- » Change of management possible.
- » Brings financial lenders to a platform – enabling quick decision making and arriving at consensus quickly.
- » Prepare and examine resolution plan by professionals appointed by creditors ensuring fearless decision making.
- » Final approval by NCLT (a legal entity) – so less stress/fear of accountability/ vigilance.
- » Fair chance to viable and sustainable units for time bound revival.
- » In case of unviable accounts, faster, transparent and smooth liquidation process.
- » Clear and fair distribution of funds in case of liquidation. Government does not to get priority.
- » Protection of assets of secured borrowers with maximisation of realisation.
- » Positive support from government for realisation and resolution of NPAs.

Ideal cases for IBC from lenders perspective

- » When account has become irregular and Bank is of the view that borrower is taking matter casually
- » When there are multiple lenders and
 - Client is keeping account of a few lenders regular but others irregular
 - When lenders are not able to reach consensus quickly
 - When certain lenders with senior debt (1st charge holders) or other privileges are dominant and unfair to junior debt (unsecured or 2nd charge holders)
 - TRA mechanism is not benefitting some lenders in just manner.
- » When security coverage is low or very difficult to realise.
- » When lenders apprehend that the account is likely to go bad and borrower can siphon away funds or strip assets
- » Cases where SARFAESI or RDDDB can not be applied, but still the account is showing signs of stress and needs resolution within legal framework
- » When lenders doubt about integrity and/or managerial capabilities of existing promoters
- » When lenders expect genuine interest for change of management

- » Provides for time bound resolution forcing lenders to take a decisive action.
- » Resolution plan approved by NCLT has legal sanction and is binding on all stake holders.
- » Transparent process under judicial supervision removes investigation and vigilance fear from lenders perspective which is expected to improve decision making.
- » Not only loans but all type of debt including operational creditors and government dues can be restructured/realigned/reduced under the code.
- » Preempt all creditors, legal cases and other recovery actions during moratorium period.
- » Borrower has the option of applying himself under the code in which case borrowers' proposed IP would be appointed as IRP.
- » Company to work under the control of IRP/RP who are supposed to preserve economic value of the company as a going concern entity.
- » It can be used as a measure of last resort when other options like CDR, SDR, S4A have been exhausted
- » Attracting investor (financial/strategic/JV Partner) would be easier particularly in case of unlisted companies.
- » Possibility of raising additional finance as the same will have priority as it will form part of CIRP cost.

» **WHAT IS THE SCOPE FOR IP PRACTICE IN INDIA**

» **LET'S DO SOME NUMBER CRUNCHING**

Applications by	Applications Made (No. of cases)	Applications accepted (No. of cases)
Financial Creditors	33	18
Operational Creditors	96	33
Corporate Debtors	42	32
Total	171	83

CLASS	No
Passed Limited insolvency exam and registered as IP	546
Number of IPE registered so far	18

As per IBBI rules persons in employment cannot be granted registration as IP

CATEGORY	NO OF CASES
Winding-up Cases in Court	4500
BIFR/AAIFR Cases	1200
Failed and pending CDR Cases	460
Cases under DRT and DRAT	75000

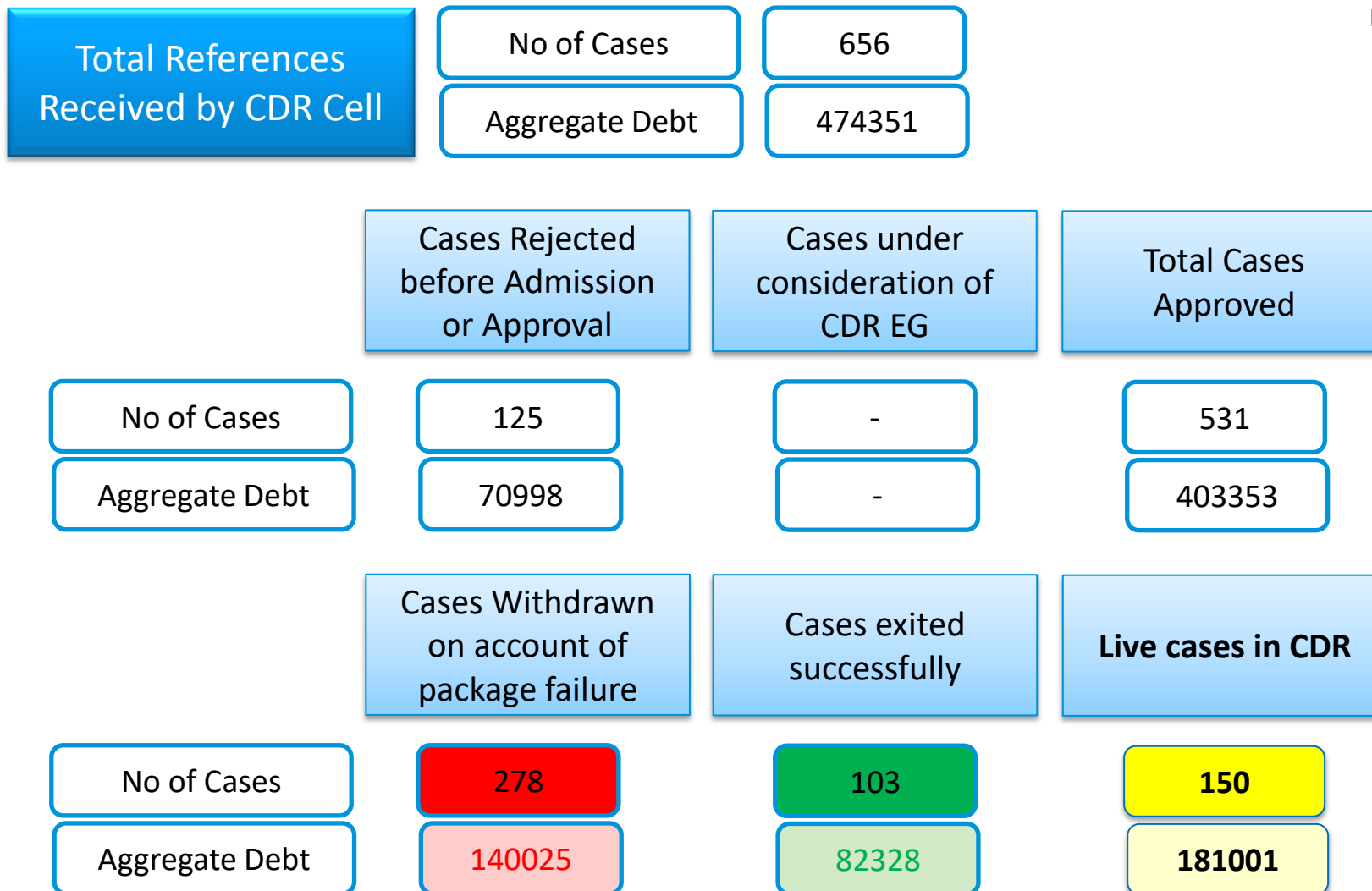
RECENT ICRA REPORT ON SDR

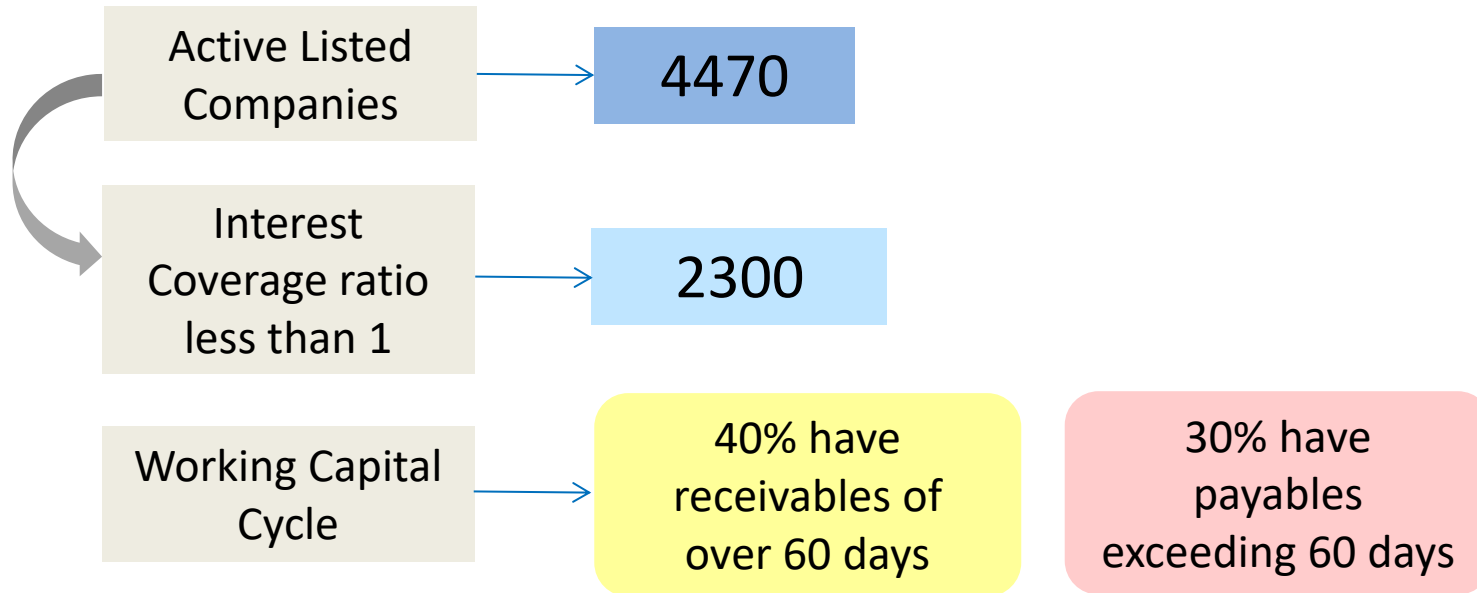
- Bank loans worth Rs 22,000 crore which were recast under SDR in 2015-16 had slipped into NPA category during quarter ended March of 2016-17
- The bill for NPA provisions might expand substantially — slippages from SDR accounts are estimated to have more than doubled to Rs 49,500 crore in the April-June 2017 period
- In its sample set, 61 large borrowers having total debt of Rs 2,45,000 crore are currently undergoing a resolution through the SDR scheme

Type of Restructuring	No of Borrowers		
	CDR	SME	Debt Restructuring
Opening Restructured Accounts (As on 1 April 2016)	142	366	3247
Fresh Restructuring during FY 16-17	3	12	205
Write-offs of restructured accounts during FY 16-17	-28	-75	-1088
Total Restructured Accounts (As on 31 March 2017)	100	253	2345

CDR CELL – Overall status since inception (As on 31.05.2017)

Rs. Crore





FEES

- IBC code has left matter of fees for IRP/RP to be decided between players
- Normally applicant decides fees for IRP which is reimbursed to applicant to the extent ratified by COC
- RP fees is decided by COC
- As per newspaper report
 - ✓ IPs, can earn Rs. 2 -15 lakh, depending on the size of business and debts of cases.
 - ✓ For cases between operational creditors and companies, income opportunities are in the range of Rs. 50,000 - 1,50,000 a month as the nature of the cases are less complex.
 - ✓ For large cases, fees charged is in the range of Rs 1- 1.5 Cr per month
- Liquidator fee is to be decided by COC before liquidation
- In case no fees is decided by COC Liquidator shall be paid fees as per chart in next slide
- Fees prescribed under the Code is in a manner which incentivise liquidator both time and value wise

Liquidators fees as prescribed by IBBI under the code

Amount of Realisation/Distribution (Rs.)	Percentage of Fee on the amount realised/distributed			
	In the first six months	In the next six months	In the next one year	Thereafter
Amount of Realisation (exclusive of liquidation costs)				
On the first 1 crore	5.00	3.75	2.50	1.88
On the next 9 crore	3.75	2.80	1.88	1.41
On the next 40 crore	2.50	1.88	1.25	0.94
On the next 50 crore	1.25	0.94	0.68	0.51
On further sums realised	0.25	0.19	0.13	0.10
Amount distributed to Stakeholders				
On the first 1 crore	2.50	1.88	1.25	0.94
On the next 9 crore	1.88	1.40	0.94	0.71
On the next 40 crore	1.25	0.94	0.63	0.47
On the next 50 crore	0.63	0.48	0.34	0.25
On further sums realised	0.13	0.10	0.06	0.05

SCOPE FOR ROLES IN INSOLVENCY BUSINESS (OTHER THAN IP)

Apart from IP, CA and other professionals have following opportunities

- **As Valuer** : As per IBC code IRP need to appoint two valuers to determine liquidation value. Valuers also required for valuation of current assets (akin to stock audit) Valuer is also required for valuing the assets under liquidation. Chartered Accountants with over 10 years of practice are allowed to do valuation.
- **Preparation of Resolution Plan** : Multiple resolution plan can be submitted to IP by interested parties who are called as resolution applicant. CA can assist resolution applicants in preparation of Resolution plan.
- **Due Diligence** : As per code IRP need to collect all information relating to the **assets, finances and operations** of the corporate debtor for determining the financial position of the corporate debtor, including information relating to—
 - (i) business operations for the previous two years;
 - (ii) financial and operational payments for the previous two years;
 - (iii) list of assets and liabilities as on the initiation date; and
 - (iv) such other matters as may be specified;

- **Data processing** : As per IBC code IRP and RP are needed to collate and verify claims of the creditors. In a large operating company data could be huge. IRP/RP may avail services of practicing CA for data processing
- **Management of borrower** : IRP/RP are required to manage business of the borrower on a going concern basis. IRP/RP may engage CA and other professionals for assisting in management e.g. as CFO
- **Secretarial and legal work** : CIRP process requires huge amount of book keeping, holding of meeting, recording minutes, communication with NCLT etc. IP are expected to take help of professionals in this regard.
- **Representing lenders** : Any creditor who is part of COC are allowed to appoint other IP (other than RP) as their representative in COC. FCCB and ECB holders are expected to use this facility.
- **Representing before NCLT / NCLAT** : A party to any proceeding or appeal before the Tribunal or the Appellate Tribunal, as the case may be, may either appear in person or authorise one or more **Chartered Accountants** to present his case before the Tribunal or the Appellate Tribunal.

- **Forensic Audit** : IBC provides for look back period of 2 years in case of related parties and 1 years in case of other parties. It might be needed to conduct an forensic audit in some matters wherein Chartered Accountants can provide services.
- **Stock Audit** : Most corporate Debtors enjoy working capital limits. It may be necessary to conduct periodic Stock Audit of the CD during the CIRP process.
- **Internal / Concurrent Audit** : **RP** can appoint Internal / Concurrent Auditors during the business under CIRP.
- **Monitoring and Supervision of Resolution Plan** : IBC requires provision of Monitoring and Supervision of Resolution Plan after its approval by NCLT during its period. CAs can provide services of such monitoring and supervision.
- **Consultation and Strategizing** : Enjoy the fruit with less risk and legal responsibility.

IRP/ RP/ Liquidator may avail services of other Chartered Accountants in profession.

PRESS CUTTINGS

Banks appoint insolvency professionals for 7 large accounts

ANUP ROY
Mumbai, 27 June

Banks are almost done giving mandates to insolvency professionals for the 12 big accounts, which are responsible for nearly ₹2 lakh crore of bad debts in the banking system.

According to sources, a bank with the highest exposure in working capital loans, and not term loans, will decide on the insolvency professionals. Thus, for example, in case of Amtek Auto, State Bank of India has a share of ₹3,500 crore, while Corporation Bank's share in term loan is ₹400 crore, but the latter has highest share in working capital loan given to the company. Therefore, Corporation Bank invited bids to fix insolvency professionals and gave the mandate to EY.

According to sources, so far in seven large cases insolvency professionals have been appointed.

SNAPSHOT

Accounts and insolvency professional firms

Company	Exposure* (₹ cr)	IP recipient
Amtek Auto Ltd	14,074	EY
Essar Steel	37,284	Alvarez & Marsal
Bhushan Steel	44,478	Deloitte
Electrosteel Steel	10,273.6	PwC
Jyoti Structures Ltd	5,165	BDO
Monnet Ispat & Energy	12,115	Grant Thornton
Alok Industries Ltd	22,075	Grant Thornton
ABG Shipyard	6,953	Yet to be decided
Bhushan Power & Steel Ltd	37,248	Yet to be decided
Lanco Infratech Ltd	44,364.6	Yet to be decided
Era Infra	10,065.4	Yet to be decided
Jaypee Infratech	9,635	Yet to be decided

*Exposures based on PTI story

Amtek Auto Ltd (₹14,074 crore) has gone to EY, Essar Steel (₹37,284 crore) to Alvarez & Marsal, Bhushan Steel (₹44,478 crore) to Deloitte, Electrosteel Steels (₹10,273.6 crore) to PwC, Jyoti Structures Ltd (₹5,165 crore) to BDO, while Monnet Ispat & Energy (₹12,115 crore) and Alok Industries Ltd (₹22,075 crore) have gone to Grant Thornton.

The mandates for ABG Shipyard (₹6,953 crore) and Bhushan Power & Steel Ltd (₹37,248 crore) will be decided

this week, while banks have not called bids for Lanco Infratech Ltd (₹44,364.6 crore), Era Infra (₹10,065.4 crore) and Jaypee Infratech (₹9,635 crore) yet.

In all cases, banks will have to take a huge haircut, while the resolution plan could come from the existing promoters themselves, say bankers. The promoters are now ready to sit at the negotiating table with the bankers as they fear losing full control of the company in a short while. It is also costly for the banks as the haircut and provisioning would be steep.

"Based on CRISIL's assessment of embedded value in the top 50 NPA cases, we estimate a 60 per cent haircut would be needed on these loan assets. That would mean banks will have to increase provisioning by another 25 per cent this fiscal year, compared with 9 per cent in the last," said Krishnan Sitaraman, senior director at CRISIL Ratings.



HOTTEST PROFESSION IN INDIA Many accountants prepare to take the insolvency exam as a ₹8-lakh crore debt recovery initiative is underway

The Rising League of Insolvency Pros

Salkat Das & Joel Rebello

Mumbai: India's incipient battle against bankruptcy is spawning new ideas — and career options.

After India enacted tougher laws to deal with sticky loans and the central bank stepped in to accelerate the pace of recoveries, finance executives have stumbled upon a career-growth opportunity based, ironically, on insolvency. Independent insolvency professionals (IPs), are becoming critical for the success of a ₹8-lakh crore recovery initiative. The Insolvency and Banking Board of India (IBBI), set up last autumn and tasked with providing the framework for recovery proceedings, conducts exams that allow chartered accountants, company secretaries, cost accountants, and advocates to qualify as IPs.

Nagpur-based Arnab Basu, a cost accountant, wants to take the national test so that his 10+ year corporate career, facing a mid-life stagnation, gets a boost.

Kolkata-based Rajarshi Ghosh, a middle-aged accountancy professional, is also preparing for the insolvency examination. "In my city, job opportunities are limited but I need to grow in my career. Insolvency is one area to explore," Ghosh said.

Chartered and cost accountants, company secretaries, and lawyers with a minimum of 10 years of post-qualification experience may be eligible to be appointed as IPs. The IBBI has registered 396 IPs who have cleared their qualifying exams. There are 1,000 unregistered IPs. Former company CEOs, MDs, CGMs are also in the queue to qualify as IPs, which is seen as a crucial link in ensuring

that competing claims from stakeholders are settled and funds made available for productive sectors of the economy.

NOT THE CUSHIEST JOB

The role of IPs comes with its own set of challenges. "Insolvency is the most promising, but an equally challenging career," said Vinod Kothari, an insolvency practitioner from Kolkata.

"In many cases, borrowers do not cooperate while sharing the details, and creditors insist on fast-track processing. You have to manage everything, using all resources," Kothari said. "Your qualification matters, but your experience helps you navigate the situation."

The primary objective of an IP is to find a resolution plan. The professionals can act in two ways: Interim Resolution Professional, who are appointed by the borrower for the first 30 days of proceedings at the National Company Law Board; and Resolution Professionals, who are usually appointed by the committee of creditors for the next 150-240 days of the stipulated period.

"Insolvency professionals should first have huge convincing powers to deal with creditors," said Pavan Kumar Vijay, founder of Corporate Professionals that employs IPs. "They need to deal with warring financial creditors and tell them clearly that they are gathering to draw up a resolution plan. An IP should be a mix bag of management, financial and legal skills while s/he must have knowledge of business and innovative ideas," Sanjay Grover, a CA and CS who has a 20-member team for his newly-launched Delhi firm called Ensemble Resolution Professionals, said the scope for such professionals would only increase

as more bad loans come up for resolution. "Initially, when this law came into effect in December, we were given six months to do some work and we resolved the matter and recovered ₹28 crore for a client," said Grover. "Now, I too plan to give the online test and become a full-time IP because there are lots of small cases where they will require professionals under the new law."

THE PROSPECTS

I plan to give the online test and become a full-time IP because there are lots of small cases where they will require professionals under the new law

SANJAY GROVER, CA and CS

THE CHALLENGES

In many cases, borrowers don't cooperate while sharing details, & creditors insist on fast-track processing. You have to manage everything, using all resources.

VINOD KOTHARI, Insolvency practitioner

COMPLEXITY AND CASH

"The initial fee structure for individual insolvency professionals like us was subdued. But it will increase once you prove your mettle," said Navneet Gupta, an insolvency professional, who claims he was the first chartered accountant to clear the IBBI exam in the country.

IRPs and RPs (Interim Resolution Professionals and Resolution Professionals), collectively called IPs, can earn ₹2 to ₹15 lakh, depending on the size of business and debts of cases, professionals said. For cases between operational creditors and companies, income opportunities are in the range of ₹50,000 to ₹1,50,000 a month as the nature of the cases are less complex.

- ✓ IPs, can earn Rs. 2-15 lakh, depending on the size of business and debts of cases.
- ✓ For cases between operational creditors and companies, income opportunities are in the range of Rs. 50,000 - 1,50,000 a month as the nature of the cases are less complex.



Debt Settlement

an attorney-prepared Debt Settlement forms are typically designed to provide you with the tools to get your debt and can be tailored to your unique situation. Download immediately.

Bankruptcy proceedings to add new revenue streams for consultants

Scope for Higher Earnings

PwC, Deloitte, KPMG, EY, Grant Thornton, BDO and A&M along with the lawyers working with them are set to make anywhere around ₹200 crore by helping 12 companies with insolvency

Fee is not just for one person but for the whole team that is working on insolvency assignment

Many consultants are now looking to increase their team sizes by hiring around **500 executives** in next couple of months

EY has a **96-member** team in its restructuring and turnaround practice and is looking to take the number of about **200** in the coming months

PwC is looking to hire an additional **100** people in next few months

Most consultants are still at price discovery stage but are charging about **₹1 crore to ₹1.25 crore** per month for a period of six to nine months



- Bankruptcy proceedings in all the 12 defaulters would follow RBI guideline
- **12 defaulters** include Monnet Ispat, Jyoti Structures, Electrosteel, Amtek Auto, Essar Steel, Bhushan Steel, Bhushan Power and Steel, Jaypee Infratech, Lanco Infratech, ABG Shipyard, Alok Industries, and Era Infra Engineering



Consultancies have also tied up with law firms like CAM, SAM and AZB who would charge over and above consultants' fees

You Asked for It, so the Bankruptcy Code is Here to Stay

Baby boomers in the United States would remember a show called “You Asked for it”, a human interest television show created and hosted by Art Baker in 1950s for Skippy Peanut Butter. In one of its episodes, a wrestling fan asked for a match between chimpanzee and a man. Similarly, during the days of corporate debt restructuring (CDR), numerous borrowers and their advisors pleaded that “in the absence of Chapter 11”, they have no choice but to approach CDR. Now, we have Insolvency and Bankruptcy Code (IBC), driven by creditors, and borrowers don't like it one bit.

The issue here is not regarding the implementation of IBC which will anyway settle down following a few hiccups, but rather on the positive

changes that it will bring along. Most defaults start with liquidity mismatch at working capital levels. Let's understand this with some facts. Out of 4,470 active listed companies as of March 2016, 2,300 companies had interest coverage ratio of less than 1, 40% have receivables of over 60 days and 30% have payables exceeding 60 days, data from Capitaline shows. Let's not forget that creditor days are over and above the working capital limits availed from banks.

Technically, it is possible to say these many companies are potential default cases as manufacturing businesses cannot be run on long working capital cycles barring some sectors. Banks struggle to enhance working capital limits due to drawing power shortage.

Interestingly, though many would argue that operational creditors have no wherewithal to invoke IBC fearing loss of business and poor chances of recovery, around 50% of applications before the National Company Law Tribunal are from operational creditors. As proper dissemination of information on IBC is yet to evolve, managements are unaware of the implications until they get a notice under IBC.

Given this background, let us examine some possible developments that will be beneficial for the overall economy and, more importantly, to MSMEs who are the backbone of our economy, albeit short-term disruptions. Managements will be forced to shift their focus to cash flow management rather than push-

You Asked for It, so the Bankruptcy Code is Here to Stay

ing top line to show impressive EBITDA, CFO's role will completely change and will become the fulcrum in driving the behavioural change, effective working capital management will improve productivity at operational levels, overall credit rating will improve allowing for interest rate reductions, dependence on banking finance will reduce.

New credit rating agencies will emerge mainly to evaluate credit worthiness of buyers, as suppliers will force the buyers to share their financial statements to such credit ratings agencies. Once credit rating agencies fix limits against supplies, buyers will be forced to mend their ways of doing business. Accounting systems will have to gear up and

may not allow invoicing over and above the limits fixed until approved by the management. Based on the credit limits fixed, suppliers will be able to access trade credit insurance products hitherto available only for established buyers. New trade credit insurance companies will come into business with innovative products.

Markets regulator Sebi formulate new disclosure norms for listed companies and insist on more transparency in corporate governance and management discussions and analysis reporting. Directors will become more vigilant as Section 66 of IBC can make them personally responsible for wrongful trading. Finance, legal and secretarial departments will even take emails

from creditors asking for overdue payments more seriously.

The above may sound simple while reading, but what we are going to witness is phenomenal change in the social behaviour of all players in the next few years. Companies and managements will become more disciplined, growth oriented and can attract real leadership talent. There will be a lot of churning at leadership levels, promoters may be forced to step aside. CFOs will no longer be mere accountants. Alongside, NPAs will also automatically come down.

My mentor told once that "a successful CEO is one who has seen at least 2 bankruptcies in life", and we will see more such people in turning around companies.

- » Opportunities in field are immense; Not only as IP but as other service providers such as valuer, service provider, consultant etc.
- » Considering immense responsibility and work load a person may not be able to take more than 4-5 assignments as IP at a time. Maybe only 1-2 at a time if the CD is of very large size.
- » Fees is being negotiated by applicant and IP. However, no benchmarking as of now. Fees for liquidator are suggested in the Code.
- » It's a new profession which is yet to set its feet. Over course of time fees should settle.
- » Everyone need to create their own niche segment. Big 4 are expected to focus on large ticket mandates.

Team Sumedha towards IBC process

SI No.	Name of IP /Location	Registration No.	Name of IPA Enrolled with
1	Mr. Bijay Murmuria Kolkata	IBBI/IPA-001/IP-N00007/2016-17/10026	The Indian Institute of Insolvency Professionals of ICAI
2	Mr. Mohan Lal Jain New Delhi	IBBI/IPA-002/IP-N00006/2016-17/10006	ICSI Insolvency Professionals Agency
3	Mr. B.S Rathi Mumbai	Passed Limited Insolvency Examination and registration pending.	-
4	Mr. Anil Birla Bangalore	IBBI/IPA-01/IP-00185/2016-17/1831	The Indian Institute of Insolvency Professionals of ICAI
5	Mr. Udayraj Patwardhan Nasik /Mumbai	IBBI/IPA-001/IP-P00024/2016-17/10057	The Indian Institute of Insolvency Professionals of ICAI
6	Mr. Ashok Kumar Gulla New Delhi	IBBI/IPA-003/IPN00024/2016-2017/10174	Insolvency Professional Agency of Institute of Cost Accountants of India
7	Mr. Anup Singh Paliwal Kolkata	IBBI/IPA-001/IPP00153/2017-2018/10322	Pending with The Indian Institute of Insolvency Professionals of ICAI
8	Mr. Arun Kapoor Mumbai	IBBI/IPA-003/IPN00030/2016-2017/10230	Insolvency Professional Agency of Institute of Cost Accountants of India
9	Mr. Gaurav Adukia Mumbai	Passed Limited Insolvency Examination and registration pending	-
10	Ms Rajat Agarwal Kolkata	Passed Limited Insolvency Examination	-
11	Mr. Sunil Birla Bangalore	Passed Limited Insolvency Examination	-
12	Mr. Nikhil Dujari Mumbai	Passed Limited Insolvency Examination	-

NEW DELHI

B1/12, Safdarjung Enclave, 2nd Floor
New Delhi - 110 029.
Telephone: +91 11 4165 4481 / 4482
Fax: +91 11 4165 4483
Email: delhi@sumedhafiscal.com



AHMEDABAD

A/82, Parisima Complex, Opp. IFCI Bhawan,
C.G. Road, Ahmedabad – 380 009
Telephone: +91 79 3002 3337
Fax: +91 79 2645 0394
Email: ahmedabad@sumedhafiscal.com



MUMBAI

C-703, Marathon Innova, Off G KMarg
Opp Peninsula Corporate Park, Lower Parel (West),
Mumbai - 400 013.
Telephone: +91 22 4033 2400/ 4033 2416
Fax: +91 22 2498 2878
Email: mumbai@sumedhafiscal.com



BANGALORE

“Park Plaza” 1st Floor, No.1 Park Road
(Off Infantry Road), Tasker Town,
Bangalore – 560001
Telephone: +91 80 4124 2545 / 2546
Fax: +91 80 4124 2547
Email: bangalore@sumedhafiscal.com



KOLKATA

8 B, Middleton Street, 6 A, Geetanjali
Kolkata – 700071
Telephone: +91 33 2229 8936/6758/3237/4473
Fax: +91 33 2226 4140 / 2265 5830
Email: kolkata@sumedhafiscal.com



HYDERABAD

309/1, “Krishna Plaza”, Khairatabad,
Opp: Shadan College, Hyderabad-500 004
Telephone: +91 40 4020 2826 / 4026 7272
Fax: +91 40 4020 2826
Email: hyderabad@sumedhafiscal.com



Thank You

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