

PRESENTATION ON

SCOPE FOR

INSOLVENCY PROFESSIONAL

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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

| As on March 31 | 2015 | 2016 | 2017 |
|--------------------------------------|-------|-------|-------|
| Overall | | | |
| Gross NPA Ratio / Gross Advances (%) | 4.36 | 7.71 | 9.20 |
| Net NPA Ratio /Net Advnces (%) | 2.50 | 4.65 | 5.30 |
| Stressed Assets/ Gross Advances (%) | 10.54 | 11.11 | 11.58 |
| Public Sector | | | |
| Gross NPA Ratio / Gross Advances (%) | 4.97 | 9.29 | 11.03 |
| Net NPA Ratio /Net Advnces (%) | 2.92 | 5.73 | 6.47 |
| Stressed Assets/ Gross Advances (%) | 12.16 | 13.26 | 13.90 |
| Private Sector | | | |
| Gross NPA Ratio / Gross Advances (%) | 2.11 | 2.79 | 4.19 |
| Net NPA Ratio /Net Advnces (%) | 0.94 | 1.35 | 2.19 |
| Stressed Assets/ Gross Advances (%) | 4.58 | 4.39 | 5.24 |

Source: Care Ratings report



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.

PSU Bank NPA In 2016-17

| FY 16-17 (Rs in Cr) | | | | | |
|---------------------|------------------|------------------|--------------|------------------|-------------|
| No | Bank | Gross NPA | | Net NPA | |
| | | AMT | % | AMT | % |
| 1 | SBI | 112342.99 | 6.90 | 58277.38 | 3.71 |
| 2 | PNB | 55370.45 | 12.53 | 32702.11 | 7.81 |
| 3 | BOB | 42718.70 | 10.46 | 18080.18 | 5.06 |
| 4 | BOI | 52044.52 | 13.22 | 25305.05 | 6.90 |
| 5 | Canara Bank | 34202.04 | 9.63 | 21648.98 | 6.33 |
| 6 | Union Bank | 33712.28 | 11.17 | 18832.10 | 6.57 |
| 7 | Syndicate Bank | 17609.31 | 8.50 | 10410.98 | 5.21 |
| 8 | IDBI Bank | 44752.59 | 21.25 | 25205.80 | 13.21 |
| 9 | Central Bank | 27251.33 | 17.81 | 14217.83 | 10.20 |
| 10 | OBC | 22859.27 | 13.73 | 14117.83 | 8.96 |
| 11 | Corporation Bank | 17045.22 | 11.70 | 11692.18 | 8.33 |
| 12 | Allahabad Bank | 20687.83 | 13.09 | 13433.51 | 8.92 |
| 13 | IOB | 35098.25 | 22.39 | 19749.32 | 13.99 |
| 14 | Andhra Bank | 17669.98 | 12.25 | 10354.81 | 7.57 |
| 15 | UCO Bank | 22540.95 | 17.12 | 10703.39 | 8.94 |
| 16 | Indian Bank | 9893.29 | 7.49 | 5634.71 | 4.41 |
| 17 | BOM | 17188.71 | 16.93 | 11229.56 | 11.76 |
| 18 | Dena Bank | 12618.73 | 16.27 | 7735.12 | 10.66 |
| 19 | Vijaya Bank | 6381.78 | 6.59 | 4118.16 | 4.36 |
| 20 | United Bank | 10951.99 | 15.53 | 6591.85 | 10.02 |
| 21 | PSB | 6297.59 | 10.45 | 4375.08 | 7.51 |
| Total | | 619237.80 | 12.78 | 344415.93 | 7.78 |

- » Government has come out with an Ordinance named Banking Regulation (Amendment) 2017 dated 4th May 2017 has authorised RBI to issue directions to Banks to initiate IBC
- » RBI came out with a press release on 22nd May 2017 expressing their intent to use power vide aforesaid ordinance by working on a framework for deciding cases to be referred to NCLT for resolution under IBC. RBI also informed that it would be forming an Internal Advisory Committee (IAC) comprising of majority of independent Board members.
- » IAC focused on top 500 cases which were NPA with all or majority of the lenders.
- » Vide press release date June 13,2017 RBI informed that IAC has recommended 12 large cases to be referred to NCLT under IBC. Those cases have been selected on non discriminatory basis which is gross outstanding of more than Rs. 5000 crore and NPA with 60% or more classified as NPA as on March 2016. These 12 cases are about 25% of gross NPA of the banking system.
- » Interestingly RBI mentioned that such cases will be accorded priority by NCLT, which was retracted during hearing of Essar Steel case in Gujarat High Court
- » All the aforesaid cases have already been referred to NCLT and most of them have been admitted.
- » For rest of 488 cases RBI has given 6 months time to Banks to come out with a resolution else Insolvency proceedings will have to be initiated.

Accounts identified by RBI for IBC action

| Company | RP | Status |
|-----------------------|----------------|----------------|
| Monnet Ispat | Grant Thornton | Admitted |
| Jyoti Structures | BDO India | Admitted |
| Electrosteel Steels | PWC | Admitted |
| Amtek Auto | EY | Admitted |
| Essar Steel | A&M | Admitted |
| Bhushan Steel | Deloitte | Admitted |
| Bhushan Power & Steel | BDO India | Admitted |
| Lanco Infratech | Deloitte | Admitted |
| ABG Shipyard | BDO India | Admitted |
| Alok Industries | Grant Thornton | Admitted |
| Era Infra | PWC | Order reserved |
| Jaypee Infratech | KPMG | Order reserved |

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

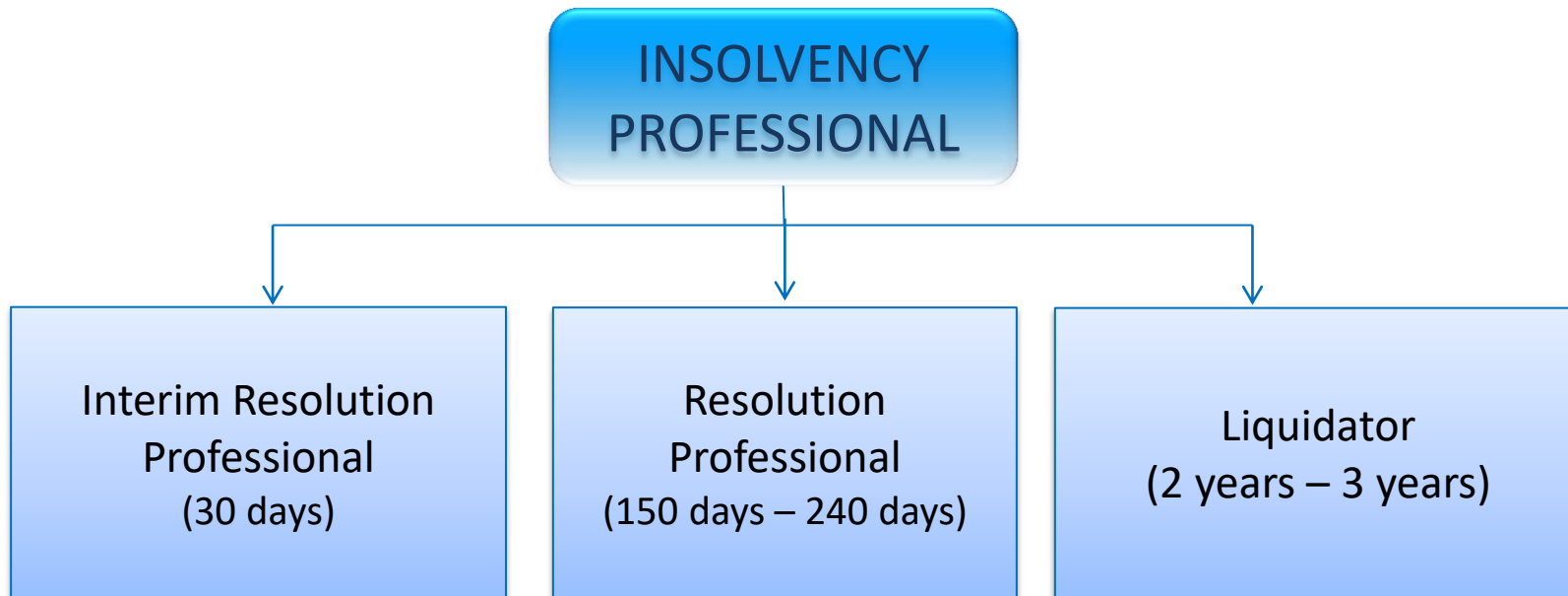
Taxation

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



Responsibilities of IP's Under Different Categories

| Called As | Appointed By | Role | Approval / report to |
|---------------------------------|----------------------------------|--|------------------------|
| Interim Resolution Professional | Applicant or NCLT | <ul style="list-style-type: none"> • Verification of Balance Sheets • Collation of claims • Appointment of valuer • Determine financial position of debtor • Formation and conducting of meeting of COC | None |
| Resolution Professional | Committee of financial creditors | <ul style="list-style-type: none"> • Preserve and protect assets • Update list of claims • Convene and attend all COC meetings • Prepare Information Memorandum • Check resolution plan and present to COC. | Committee of creditors |
| Liquidator | Adjudicating Authority | <ul style="list-style-type: none"> • Prepare preliminary report, assets memorandum, sale report etc • Maintain relevant records • Realise and distribute | Adjudicating Authority |

- 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 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**

Cases filed under IBC so far



Source: <http://economictimes.indiatimes.com/markets/stocks/news/operational-creditors-first-in-line-to-use-bankruptcy-code/articleshow/59379992.cms>

In the seven months since the [Insolvency](#) and Bankruptcy Code (IBC) became operational, the resolution process for **200** companies has started, said [Insolvency](#) and Bankruptcy Board of India (IBBI) Chairman [M S Sahoo](#) on Saturday. This includes the 12 large accounts that were referred to the National Company Law Tribunal (NCLT) by the Reserve Bank of India (RBI).

Source: http://www.business-standard.com/article/current-affairs/cross-border-insolvency-is-the-need-of-the-hour-justice-a-k-sikri-117072900240_1.html

| CLASS | No |
|---|-----|
| Passed Limited insolvency exam and registered as IP | 826 |
| Number of IPE registered so far | 24 |

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 | 70000 |

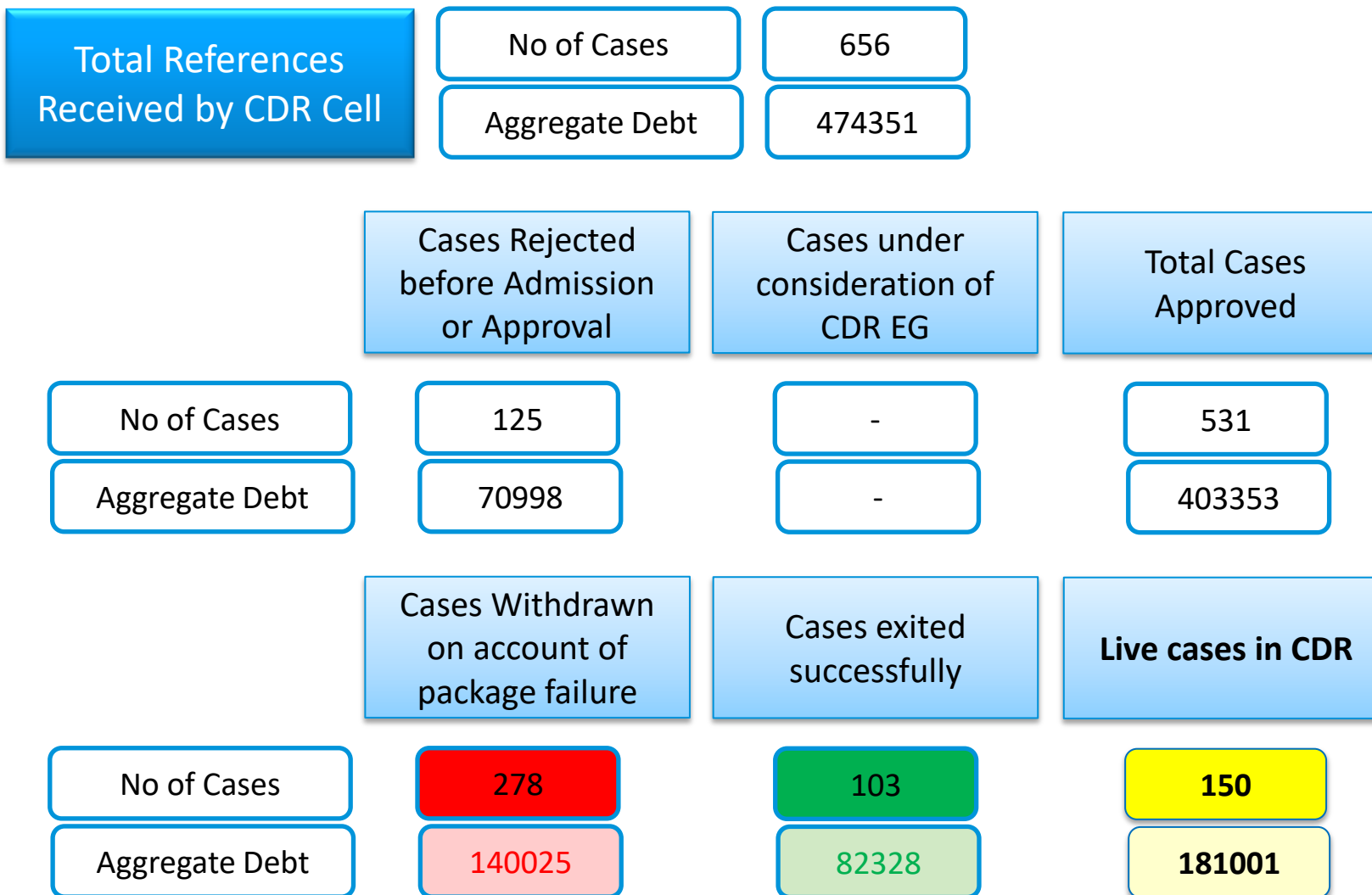
RECENT ICRA REPORT ON SDR

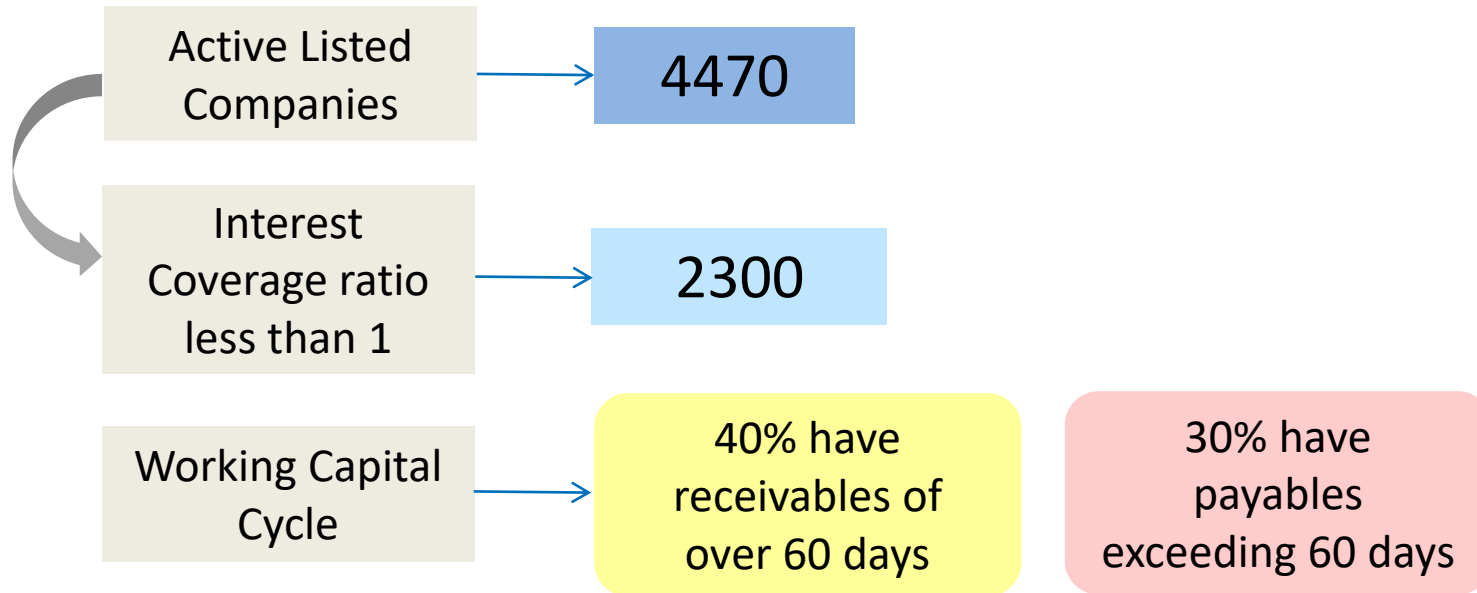
- Bank loans worth Rs 22,000 crore which were recast under SDR in 2015-16 had slipped into NPA category during quarter ended March of 2016-17
- The bill for NPA provisions might expand substantially — slippages from SDR accounts are estimated to have more than doubled to Rs 49,500 crore in the April-June 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.

Former company CEOs, MDs, CGMs are also in the queue to qualify as IPs

"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

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

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."

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

Sumedha Management Solutions Private Limited

IBBI/IPE/0020

| Sl 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 | - |
| 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. Anup Singh Kolkata | IBBI/IPA-001/IP00153/2017-2018/10322 | The Indian Institute of Insolvency Professionals of ICAI |
| 7 | Mr. Arun Kapoor Mumbai | IBBI/IPA-003/IPN00030/2016-2017/10230 | Insolvency Professional Agency of Institute of Cost Accountants of India |
| 8 | Mr. Sunil Birla Bangalore | IBBI/IPA-001/IP-P00352 /2017-18/10653 | Indian Institute of Insolvency Professionals of ICAI |
| 9 | Mr. Gaurav Adukia Mumbai | Passed Limited Insolvency Examination | - |
| 10 | Ms Rajat Agarwal Kolkata | Passed Limited Insolvency Examination | - |
| 11 | Mr. Nikhil Dujari Mumbai | Passed Limited Insolvency Examination | - |

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