भारतीय दिवाला और शोधन अक्षमता बोर्ड
Insolvency and Bankruptcy Board of India

WHITE PAPER ON INTERNATIONAL CONVENTION ON INSOLVENCY RESOLUTION AND VALUATION



RESOLVE-2025
1st - 2nd DECEMBER, MUMBAI
ENABLING RESOLUTION, MAXIMIZING VALUE

1st - 2nd December 2025

Hotel Aurika, Mumbai





Organised by:

Insolvency & Valuation Standards Board of ICAI

In Association with:

Insolvency and Bankruptcy Board of India
Indian Institute of Corporate Affairs
Indian Institute of Insolvency Professionals of ICAI and ICAI Registered Valuers Organisation

Hosted by:

The Western India Regional Council (WIRC)

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

RESOLVE-2025
1st - 2nd DECEMBER, MUMBAI
ENABLING RESOLUTION, MAXIMIZING VALUE

About 3rd International Convention on Insolvency Resolution: RESOLVE 2025

The journey of **RESOLVE** began in 2023 with its inaugural edition held in Singapore, which laid the foundation for structured global dialogue in the areas of insolvency and valuation. This was followed by the second edition in 2024 at Bharat Mandapam, New Delhi, which witnessed participation from global thought leaders and offered in-depth insights into sector-specific and policy-related issues. Each edition made a meaningful contribution towards capacity building and enhancing awareness within the profession. **RESOLVE–2025** carried this legacy forward by deepening international perspectives and equipping professionals to address emerging challenges.

The enactment of the Insolvency and Bankruptcy Code (IBC) in 2016 marked a landmark reform in India's economic history. For financial creditors, particularly banks and lending institutions, the IBC provided a robust legal framework to address the longstanding challenge of non-performing assets (NPAs), which had adversely impacted balance sheets and constrained credit growth for several years. Based on the recommendations of the Bankruptcy Law Reforms Committee (BLRC), the Code redefined insolvency as a commercial decision and empowered creditors to drive the resolution process through the Committee of Creditors (CoC).

Over its nine-year journey, the IBC also facilitated a significant behavioral shift among debtors by encouraging early recognition and resolution of financial distress. The incidence of loans transitioning from an 'Overdue' status to 'Normal' status increased substantially, while the average period for which loans remained overdue before regularisation declined sharply from 248–344 days to 30–87 days. These trends reflected a growing commitment among both debtors and creditors towards timely resolution of financial stress.

RESOLVE–2025, the third edition of the International Convention on Insolvency Resolution and Valuation, was organised by the Institute of Chartered Accountants of India (ICAI) through its Insolvency & Valuation Standards Board, in association with the Insolvency and Bankruptcy Board of India (IBBI), Indian Institute of Corporate Affairs (IICA), Indian Institute of Insolvency Professionals of ICAI (IIIPI) and ICAI Registered Valuers Organisation (ICAI RVO) and was hosted by the Western India Regional Council (WIRC) of ICAI. The Convention was held on 1st and 2nd December 2025 at Hotel Aurika, Mumbai International Airport. Anchored with the theme **"Enabling Resolution, Maximizing Value,"** the Convention brought together regulators, policymakers, insolvency professionals, valuers and domain experts from multiple jurisdictions to deliberate on evolving best practices and forward-looking strategies.

With participation from diverse economies and institutions, **RESOLVE–2025** served as a highly impactful global platform featuring distinguished speakers and thought leaders. The Convention encouraged participants to move beyond conventional boundaries, adopt forward-looking approaches and proactively equip themselves to address the increasing complexity of the insolvency and valuation landscape.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

White Paper
on
RESOLVE-2025:
3rd Edition
of
International Convention on Insolvency Resolution and Valuation
On the theme
Enabling Resolution, Maximising Value
Held on
1st and 2nd December 2025
in
Mumbai

RESOLVE-2025
1st - 2nd DECEMBER, MUMBAI
ENABLING RESOLUTION, MAXIMIZING VALUE

INSOLVENCY & VALUATION STANDARDS BOARD
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up under an Act of Parliament)

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

CONTENTS

S. No.	Particulars	Pg. No.
Background and Introduction		3
Preamble		5
I.	Keynote Address: IBC's Contribution to India's Vibrant Economic Growth	7
II.	Inaugural Session	14
i.	Opening Address by CA. Ketan Damji Saiya, Chairman, Western India Regional Council of ICAI	14
ii.	Setting the Context by CA. Gyan Chandra Misra, Chairman, I & VSB, ICAI	16
iii.	Presidential Address by CA. Charanjot Singh Nanda, President, ICAI	19
iv.	Address by Guest of Honour, Shri Ravi Mital, Chairperson, Insolvency and Bankruptcy Board of India	22
v.	Address by Chief Guest, Shri Tirunelveli Kamalasamy Viswanathan, Chairman, Bankruptcy Law Reforms Committee	29
vi.	Closing Remarks by CA. Rajesh Sharma, Vice Chairman, I & VSB, ICAI	37
III.	Panel Discussion I: India's IBC Regime - Global Comparison	39
IV.	Panel Discussion II: Bridging Legal Gaps - Group Insolvency and Cross-Border Insolvency Framework	47
V.	Technical Session I: Start-ups, Failures & Funders - The Alternative Capital Role in Insolvency	55
VI.	Technical Session II: Independent Valuations as a Pillar of Creditor Confidence - Enhancing Recovery Strategies and Decision-Making	65
VII.	Panel Discussion III: IBC Amendment Bill, 2025 (IBC 2.0) - A Major Thrust Forward	73
VIII.	Panel Discussion IV: Geo-Politics and Insolvency under the IBC - Shaping Policy Amid Global Trade Shifts and Conflicts	82
IX.	Panel Discussion V: Navigating Insolvency Valuation - Fair Value, Liquidation Value, and Value Maximization	90
X.	Panel Discussion VI: Digital Darwinism - When AI Makes Yesterday's Business Model Extinct Overnight	97
XI.	Panel Discussion VII: Bridging Stakeholder Expectations: Judiciary - Regulator - Practitioner - COC - Resolution Applicant Collaboration for Faster Outcomes	105
XII.	Technical Session III: Untangling Real Estate Resolutions and Co-ordination with RERA Law	114
XIII.	Panel Discussion VIII: Empowering the Insolvency Process - A Strategic Re-look at CoC-IP Synergy	121
XIV.	Panel Discussion IX: From Asset Reconstruction to Turnaround Capital - How ARCs and Strategic Situations Funds Shape Corporate Insolvency Outcomes	128
XV.	Panel Discussion X: Driving Effective PUFE Avoidance Actions: How Forensic Investigations Enable Detection and Value Maximisation	136
XVI.	Panel Discussion XI: Strengthening India's Insolvency Ecosystem - Perspective on ADR Integration and Global Framework	145
XVII.	Panel Discussion XII: Strengthening Insolvency and Valuation Ecosystem	153

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

BACKGROUND AND INTRODUCTION

The enactment of the Insolvency and Bankruptcy Code, 2016 (IBC), marked a watershed moment in India's economic and financial reform journey, recasting a fragmented insolvency regime into a unified, time-bound, and market-driven framework that decisively shifted the focus from value erosion to value preservation and from liquidation to resolution. As the framework continues to evolve, effective outcomes are increasingly shaped not merely by statutory architecture but by the quality of professional judgment, the credibility of valuation, institutional depth, and alignment with global best practices, making informed dialogue and shared thought leadership indispensable to the maturity of the insolvency ecosystem.

As the ecosystem matures, the emphasis has moved beyond procedural compliance towards improving resolution outcomes, reducing delays, strengthening institutional capacity, and aligning practices with global developments. This transition has highlighted the need for continuous professional engagement and informed discussion among regulators, practitioners, policymakers, and international experts.

It was in response to this imperative that RESOLVE was conceptualized by the Institute of Chartered Accountants of India as a series of structured global dialogues on insolvency resolution and valuation. Envisioned as a purposeful global platform to facilitate the exchange of ideas among regulators, policymakers, industry leaders, practitioners, academicians, and domain experts, all converging under one roof to collectively deliberate on ways to shape the future of insolvency resolution and valuation. At its core, RESOVE was designed to facilitate the exchange of practical experiences, promote understanding of emerging trends, and encourage convergence of domestic practices with international standards.

The series commenced with RESOLVE-2023, the inaugural International Convention on Insolvency Resolution, held in Singapore. The first edition brought together global experts and professionals to deliberate on debt resolution practices, regulatory perspectives, and cross-border experiences, firmly establishing RESOLVE as a credible platform for international knowledge exchange and comparative learning in insolvency practices.

Building on this foundation, RESOLVE-2024, the second edition of the International Convention on Insolvency Resolution and Valuation, was convened in New Delhi. The convention expanded the scope of discussions by integrating valuation with insolvency resolution and provided focused insights into regulatory developments, judicial trends, and practical challenges faced by professionals.

Continuing this progression, RESOLVE-2025, the third edition of the International Convention on Insolvency Resolution and Valuation, was held on 1st and 2nd December 2025 in Mumbai.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

The convention facilitated deliberations on contemporary issues affecting insolvency and valuation practices, with participation from key stakeholders across the ecosystem. The event reflected the growing maturity of the RESOLVE platform and its relevance in supporting effective resolution and value maximisation.

Anchored around the theme “Enabling Resolution, Maximising Value,” RESOLVE-2025 brought together regulators, policymakers, insolvency professionals, valuers, industry participants, and experts from multiple jurisdictions to deliberate on emerging challenges, evolving jurisprudence, and future-ready strategies for strengthening the insolvency and valuation ecosystem. With its diverse international participation and rich multi-disciplinary engagement, RESOLVE-2025 served as a high-impact platform for thought leadership, policy dialogue, and professional innovation.

Designed for rigorous engagement rather than passive deliberation, RESOLVE has evolved into a catalyst for distilling diverse perspectives, advancing standardisation, and embedding global best practices. Over successive editions, it has emerged as a consistent and credible forum for professional engagement and knowledge sharing, its continuity reflecting ICAI’s sustained commitment to strengthening the insolvency resolution ecosystem through informed dialogue, capacity building, and alignment with a resilient, transparent, and internationally aligned framework, one that is firmly oriented towards enabling timely resolution and maximising value.

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

PREAMBLE

India's insolvency and valuation framework stands at a critical juncture, shaped by continuous legislative evolution, regulatory refinement, judicial interpretation, and growing professional maturity. The Insolvency and Bankruptcy Code, 2016, has emerged as a robust and responsive legislative framework, reflecting India's commitment to a modern, market-oriented insolvency regime aligned with global best practices. As the Code matures, increasing emphasis is being placed on timely resolution, stakeholder balance, and value preservation bringing the disciplines of insolvency resolution and valuation into sharper and more integrated focus as cornerstones of informed decision-making and credible outcomes.

In an era defined by heightened economic uncertainty, rapid technological transformation, and increasingly interconnected markets, the disciplines of insolvency resolution and valuation have assumed unprecedented importance. As jurisdictions worldwide strive to balance creditor confidence, enterprise preservation, and value maximisation, the need for agile, resilient, and globally aligned insolvency and valuation frameworks has never been more pressing. It is against this dynamic backdrop that the third edition of the International Convention on Insolvency Resolution and Valuation- "**RESOLVE-2025"** was being convened.

Building on the strong intellectual foundation and global engagement fostered through **RESOLVE-2023** and **RESOLVE-2024**, the **3rd Edition of the International Convention on Insolvency Resolution and Valuation - RESOLVE-2025** was convened on 1st and 2nd December 2025 in Mumbai as a thought leadership initiative of the Insolvency & Valuation Standards Board of ICAI. The Convention sought to further advance discourse on enhancing the effectiveness, credibility, and consistency of insolvency resolution and valuation practices, while providing a forward-looking platform for deliberation on emerging regulatory imperatives, judicial trends, systemic challenges, and innovative solutions. Through structured technical sessions and panel discussions, the Convention focused on translating experience into actionable insights, addressing systemic challenges, and identifying reforms that can further strengthen the insolvency resolution and valuation framework.

By facilitating collaborative engagement and knowledge exchange across jurisdictions, RESOLVE 2025 contributed constructively to the evolution of insolvency and valuation practices, supported economic resilience, and reinforced trust in institutional mechanisms. The deliberations of the Convention culminated in practical outcomes and thought-provoking recommendations that will aid all stakeholders in collectively enabling effective resolutions and maximising value in an increasingly complex global environment.

The Convention was inaugurated by **Shri Tirunelveli Kamalasamy Viswanathan, Chairperson, Bankruptcy Law Reforms Committee,** as the **Chief Guest**, and was honoured by the presence of **Shri Ravi Mital, Chairperson, Insolvency and Bankruptcy Board of India**, as the **Guest of Honour**. The occasion was further graced by **CA. Charanjot Singh Nanda, President, ICAI.**

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

The Convention was chaired by **CA. Gyan Chandra Misra, Chairman**, Insolvency & Valuation Standards Board (I&VSB), with **CA. Rajesh Sharma, serving as the Vice-Chairman** of the Convention. **CA. Sarika Singhal, Deputy Secretary and Secretary, I&VSB, acted as the Secretary** to the Convention.

RESOLVE-2025 featured nineteen (19) technical sessions and panel discussions covering a wide spectrum of contemporary issues impacting insolvency resolution and valuation. The deliberations were insightful and thought-provoking, highlighting practical challenges faced by stakeholders while also articulating constructive suggestions and policy-oriented recommendations aligned with the core objectives of the Insolvency and Bankruptcy Code, timely resolution, value maximisation, and sustained stakeholder confidence.

This **White Paper** has been prepared to institutionalise and consolidate the outcomes of RESOLVE-2025. It systematically captures the deliberations and insights emerging from the Convention under six thematic pillars:

(i) Deliberations and Session Highlights,

(ii) Key Takeaways,

(iii) Issues and Challenges,

(iv) Suggestions and Recommendations,

(v) Way Forward-Policy Note, and

(vi) Issue-Recommendation Matrix.

The White Paper is not intended to be prescriptive; rather, it seeks to serve as a comprehensive knowledge repository and reference document that reflects contemporary thinking, informs policy discourse, supports professional capacity building, and contributes meaningfully to the continued evolution of a resilient, transparent, and globally aligned insolvency and valuation framework, firmly anchored in the overarching objective of enabling effective resolution and maximising value.

The White Paper released pursuant to RESOLVE-2024 marked a significant milestone in this journey, emerging as a credible and well-regarded knowledge repository that synthesized deliberations into policy-relevant insights and practical guidance. It has since served as a valuable reference for policymakers, regulators, professionals, academicians, and other stakeholders across the insolvency and valuation ecosystem, supporting informed decision-making, capacity building, and constructive engagement. Building on this foundation, the present White Paper seeks to extend and deepen this body of knowledge by capturing the advanced discourse, evolving perspectives, and forward-looking recommendations that emerged from RESOLVE-2025, thereby reinforcing RESOLVE's role as a sustained platform for knowledge dissemination and thought leadership.

Together, these efforts underscore the growing maturity of the RESOLVE platform and its enduring relevance in shaping informed dialogue at the intersection of insolvency resolution and valuation.

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

KEYNOTE ADDRESS: IBC'S CONTRIBUTION TO INDIA'S VIBRANT ECONOMIC GROWTH

Opening Remarks:

CA. Chandrashekhar Vasant Chitale, Central Council Member, ICAI

Speaker:

CA. Atul Kumar Goel, Chief Executive, Indian Banks' Association

Closing Remarks:

CA. Mangesh Pandurang Kinare, Central Council Member, ICAI

A. Deliberations / Highlights of the Session

The first session of RESOLVE set the intellectual and thematic foundation for the Convention by situating India's insolvency journey within its broader economic, institutional, and policy context. Delivered as a keynote address, the session sought to reflect on the evolution of the Insolvency and Bankruptcy Code, 2016, assess its outcomes over nearly a decade of implementation, and frame the Convention's theme, "Enabling Resolution, Maximising Value," as both a reflection of achieved progress and a roadmap for the next phase of reform. The address positioned insolvency not merely as a legal process, but as a strategic instrument for business revival, credit discipline, and long-term economic resilience, thereby setting the tone for the substantive deliberations that followed across the Convention.

Relevance of the Theme and Context of the Address: The session underscored the contemporary relevance of the Convention's theme, "**Enabling Resolution, Maximising Value**," noting that it aligns closely with the current stage of evolution of India's insolvency framework. Insolvency resolution was positioned not merely as a legal or financial mechanism, but as a strategic tool for sustainable business revival and economic resilience. The address framed the Insolvency and Bankruptcy Code, 2016, as a catalyst that has reshaped how financial distress is addressed, enabling revival-oriented outcomes rather than value-destructive exits.

Contextualising the Insolvency and Bankruptcy Code as a Catalyst for Business Revival: The session highlighted the pivotal role of the Insolvency and Bankruptcy Code in facilitating resolution and acting as a catalyst for business revival. It was emphasised that, over nine years of implementation, the Code has enabled a paradigm shift in India's approach to insolvency, from a recovery-driven and debtor-dominated framework to a creditor-in-control, resolution-centric system. This shift has allowed stressed and distressed enterprises to be viewed as economic opportunities capable of revival, rather than as failed ventures destined for liquidation.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Development of a Robust Institutional Ecosystem: The address highlighted the scale and maturity of the institutional ecosystem that has evolved under the Code. Reference was made to the presence of a large pool of insolvency professionals, insolvency professional entities, insolvency professional agencies, and registered valuers, supported by an operational information utility issuing record of default. This ecosystem was characterised as a foundational strength of the insolvency framework, enabling effective implementation and contributing to consistency, credibility, and transparency in insolvency processes.

Resilience and Evolution of the Insolvency Framework: The Code was described as resilient and responsive to emerging needs, having evolved through periodic legislative amendments and regulatory fine-tuning. The proposed Insolvency and Bankruptcy Code (Amendment) Bill, 2025, was highlighted as a forward-looking initiative aimed at strengthening the framework further. Key reform areas identified include cross-border insolvency, group insolvency, creditor-initiated resolution processes, and procedural clarifications. These amendments were viewed as enablers for reducing delays in admission and resolution, improving efficiency, and aligning the Indian insolvency regime with global best practices.

Shift in Mindset: From Recovery to Resolution and Revival: A central theme of the session was the philosophical transformation introduced by the Code, **from recovery to resolution**, and **from liquidation to revival**. The deliberations emphasised that the core features of the Corporate Insolvency Resolution Process, creditor control with checks and balances, moratorium protection and going concern status, a structured and time-bound process, and explicit focus on value maximization, were inherently aligned with business revival. Differentiated tools such as fast-track insolvency and the pre-packaged resolution process were cited as further evidence of the Code's revival-oriented design.

It was observed that stressed assets are no longer viewed as dead or unproductive capital, but as economic resources capable of regeneration. This mindset shift has had far-reaching implications, enabling the revival of companies that were earlier considered defunct, thereby preserving productive capacity, employment, and economic value.

Empirical Evidence of Resolution Outcomes and Value Realisation: The session presented empirical data demonstrating the effectiveness of the insolvency framework. It was highlighted that thousands of corporate insolvency cases have been admitted, with a significant proportion resulting in approved resolution plans or settlements post-admission. In financial terms, recoveries under approved resolution plans were noted to be substantially higher than liquidation values, approximating recovery levels of 170 percent of liquidation value and a significant proportion of admitted claims. The address emphasised that a notable share of resolved entities were defunct or non-going concerns, yet were successfully revived through resolution, leading to renewed economic activity, employment generation, and value creation.

Deterrent Effect and Improvement in Credit Discipline: The deterrent impact of the Code was highlighted as one of its most significant achievements. A large number of cases were noted to have been settled even before formal admission into insolvency proceedings, involving substantial default amounts. This behaviour was attributed to the fear of loss of control faced by defaulting promoters, which has acted as a powerful discipline mechanism. The deterrent effect was recognised as having strengthened credit behaviour, improved lender confidence, and reduced prolonged litigation.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Transformation in Borrower and Market Behaviour: The session emphasised that the Code has fundamentally transformed stakeholder mindsets, from "recovery" to "resolution" and from "liquidation" to "revival." It has **disciplined borrowers,** improved overall credit culture, created an active market for stressed assets, and enabled the sustainable revival of viable enterprises while facilitating the orderly exit of unviable businesses. This transformation was presented as a key structural achievement of the insolvency framework.

Academic Evidence on Post-Resolution Performance: Reference was made to academic research conducted by the Indian Institute of Management Ahmedabad, which examined firm performance before and after resolution and compared resolved firms with sectoral and size-based benchmarks. The findings demonstrated significant post-resolution improvements in sales, operational performance, asset base, capital expenditure, liquidity, market capitalisation, and employment. Convergence of resolved firms' performance with industry benchmarks was highlighted as evidence of sustainable revival rather than short-term recovery.

Employment Impact and Socio-Economic Outcomes: The session highlighted employment protection and generation as important indirect outcomes of the insolvency framework. Increases in employee expenses, workforce size, and employment intensity in resolved firms were cited as indicators of renewed business activity. The revival of enterprises through insolvency resolution was thus positioned as contributing not only to financial recovery but also to broader socio-economic stability and productive utilisation of national assets.

Role of Industry Institutions in Strengthening the Framework: The address outlined the role played by the Indian Banks' Association as an active stakeholder in the insolvency ecosystem. Its engagement in policy advocacy, stakeholder consultations, and structured deliberations on proposed legislative amendments was highlighted as contributing to strengthening the effectiveness, efficiency, and resilience of the insolvency framework. Collaboration between industry bodies, regulators, and policymakers was emphasised as critical to the continued evolution of the Code.

Concluding Perspective on Knowledge Sharing and Capacity Building: The session concluded by emphasising the importance of platforms such as RESOLVE in fostering awareness, clarifying stakeholder roles and responsibilities, and facilitating informed dialogue on challenges and solutions within the insolvency ecosystem. Such forums were recognised as essential for translating experience into learning, supporting capacity building, and advancing the objectives of effective resolution and value maximisation.

B. Key Takeaways

- ✓ The Insolvency and Bankruptcy Code, 2016, has firmly established resolution and revival, rather than recovery or liquidation, as the central objective of India's insolvency framework.
- ✓ Over nine years of implementation, the Code has enabled a paradigm shift in mindset, transforming stressed assets from value-eroding failures into opportunities for revival, value creation, and productive economic use.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ A robust institutional ecosystem comprising insolvency professionals, insolvency professional entities, registered valuers, information utilities, and regulatory oversight has evolved as a key strength supporting effective implementation of the Code.
- ✓ The insolvency framework has demonstrated resilience and adaptability, with continuous legislative amendments and regulatory refinements ensuring responsiveness to emerging challenges and market realities.
- ✓ Proposed legislative reforms, including provisions relating to cross-border insolvency, group insolvency, creditor-initiated resolution processes, and procedural clarifications, reflect a forward-looking approach aimed at improving efficiency and reducing delays.
- ✓ Empirical evidence indicates that recoveries under approved resolution plans consistently exceed liquidation values, reinforcing the economic superiority of resolution-led outcomes.
- ✓ The Code has enabled the revival of defunct and non-going-concern companies, underscoring its capacity to generate economic and social value beyond financial recoveries.
- ✓ The insolvency framework has produced a strong deterrent effect, with fear of loss of control acting as a discipline mechanism and resulting in a substantial number of settlements prior to formal admission.
- ✓ Academic research, including studies by the Indian Institute of Management Ahmedabad, confirms sustained post-resolution improvement in operational performance, asset creation, liquidity, market valuation, and employment levels of resolved firms.
- ✓ Employment protection and employment generation have emerged as significant indirect outcomes of insolvency resolution, strengthening the socio-economic relevance of the Code.
- ✓ The Code has contributed to the development of a market for stressed assets, improved credit behaviour, and enhanced lender confidence, thereby strengthening overall financial system stability.
- ✓ Active engagement by industry bodies and stakeholders in policy advocacy and consultation has played a critical role in strengthening the effectiveness and resilience of the insolvency ecosystem.

C. Issues & Challenges Identified

Capacity constraints at adjudicating authorities continue to pose challenges to the timely admission and completion of insolvency proceedings, affecting the effectiveness of time-bound resolution envisaged under the Code.

Procedural delays arising from the multiplicity of applications, including repeated interventions by promoters and other stakeholders, impede the efficient conduct of the Corporate Insolvency Resolution Process.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Regulatory dependencies and approval-related delays contribute to elongation of resolution timelines, particularly in cases involving sector-specific clearances and compliance requirements.

Increasing complexity and scale of insolvency cases, including those involving large corporate groups and multi-jurisdictional operations, place significant pressure on existing institutional and professional capacity.

Absence of fully operational legal frameworks for cross-border and group insolvency limits the effectiveness of resolution in cases involving interconnected entities and overseas assets or creditors.

Delays at the admission stage of insolvency proceedings reduce value realisation and undermine the objective of early intervention and timely resolution.

Need for greater procedural clarity and consistency to reduce litigation and enhance predictability for creditors, resolution applicants, and other stakeholders.

Balancing resolution speed with stakeholder safeguards remains a continuing challenge, particularly in complex cases where competing interests and regulatory considerations intersect.

D. Suggestions & Recommendations

Addressing Capacity Constraints at Adjudicating Authorities: To support the objective of time-bound resolution, there is a need to strengthen institutional capacity at adjudicating authorities through enhanced infrastructure, increased judicial and technical benches, and dedicated insolvency-focused case management systems. Augmenting institutional resources will help ensure timely admission and expeditious disposal of insolvency cases.

Reducing Procedural Delays and Multiplicity of Applications: Procedural streamlining is required to minimise avoidable delays arising from repeated applications and interventions by stakeholders. Clearer procedural thresholds, defined timelines, and stricter scrutiny of repetitive filings may help reduce litigation-driven delays and improve process efficiency.

Mitigating Delays Arising from Regulatory Dependencies: To prevent elongation of resolution timelines, mechanisms may be explored for time-bound regulatory approvals within the insolvency framework, including deemed approvals or parallel processing of regulatory clearances during the resolution process, while ensuring compliance with sectoral safeguards.

Managing Complexity of Large and Multi-Entity Insolvency Cases: Given the growing complexity of insolvency cases, particularly those involving corporate groups and interconnected entities, specialised handling mechanisms, including dedicated benches or expert support, may be considered. Capacity building for insolvency professionals and valuers should be strengthened to address complex and large-scale resolutions.

Enabling Effective Cross-Border and Group Insolvency Resolution: Early implementation of proposed legislative provisions relating to cross-border insolvency and group insolvency is recommended to enhance the effectiveness of resolution in multi-jurisdictional and group structures. Alignment with internationally accepted frameworks can improve coordination and certainty in such cases.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Expediting Admission of Insolvency Proceedings: To preserve value and enable early intervention, procedural clarity and efficiency at the admission stage should be prioritised. Simplified admission processes, enhanced use of information utilities, and defined timelines for admission may help reduce delays and improve predictability.

Enhancing Procedural Clarity and Consistency: Continued regulatory refinement and issuance of guidance may be considered to enhance consistency and predictability in insolvency processes. Clearer procedural norms can reduce interpretational disputes and strengthen stakeholder confidence in the framework.

Balancing Speed of Resolution with Stakeholder Safeguards: Policy measures should continue to balance the need for speedy resolution with adequate stakeholder protections. Structured checks and balances, coupled with procedural discipline, can ensure that expedited processes do not compromise fairness, transparency, or value maximisation.

E. Way Forward-Policy Note

India's insolvency framework has entered a phase of institutional maturity, with the resolution-centric philosophy of the Insolvency and Bankruptcy Code, 2016 firmly established. The policy focus must now shift from framework creation to consolidation and execution, with emphasis on operational efficiency, institutional capacity, and timely outcomes.

Strengthening the capacity of adjudicating authorities is critical to preserving enterprise value and ensuring swift admission and completion of insolvency proceedings. Delays at the entry stage dilute the effectiveness of resolution and undermine creditor confidence, making early intervention and procedural discipline a policy priority.

As insolvency cases grow in scale and complexity, particularly involving corporate groups and cross-border elements, expeditious implementation of proposed reforms relating to group insolvency, cross-border insolvency, and creditor-initiated processes is essential. Alignment with internationally accepted frameworks will enhance predictability, coordination, and confidence in complex resolutions.

Procedural streamlining and regulatory clarity remain key to reducing avoidable litigation and process-driven delays. Policy measures should encourage greater reliance on information utilities, simplified admission processes, and parallel handling of regulatory approvals, while maintaining appropriate stakeholder safeguards.

Sustained investment in professional capacity building across insolvency and valuation disciplines is equally important, as the quality of judgment and valuation credibility increasingly determines resolution outcomes. Continuous stakeholder engagement and evidence-based policy refinement will ensure that the insolvency regime continues to function as a catalyst for sustainable business revival, employment protection, and long-term economic resilience, consistent with the overarching objective of enabling timely resolution and maximising value.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

F. Issues-Recommendations Matrix

Issue-Recommendation Matrix	
Keynote Session: Insolvency Resolution - Catalyst for Sustainable Business Revival	
Issues Identified	**Policy Recommendations**
Capacity constraints at adjudicating authorities	Augment institutional capacity through additional benches, enhanced infrastructure, specialised insolvency case management systems, and increased judicial and technical resources
Procedural delays due to the multiplicity of applications	Introduce stricter procedural thresholds, defined timelines, and scrutiny mechanisms to discourage repetitive or frivolous filings
Delays arising from regulatory approvals	Enable time-bound regulatory approvals, parallel processing of clearances, or deemed approvals within the insolvency framework, while preserving sectoral safeguards
Increasing complexity of insolvency cases	Establish specialised handling mechanisms, including dedicated benches and expert support, and strengthen capacity building for insolvency professionals and valuers
Absence of cross-border and group insolvency frameworks	Expedite implementation of legislative provisions on cross-border and group insolvency aligned with international best practices
Delays at the admission stage	Streamline admission procedures through clearer standards, enhanced reliance on information utilities, and defined timelines for admission
Lack of procedural clarity and consistency	Issue detailed regulatory guidance and clarifications to promote consistency, reduce interpretational disputes, and enhance stakeholder confidence
Balancing speed with stakeholder safeguards	Maintain structured checks and balances to ensure that faster resolution does not dilute transparency, fairness, or value maximisation

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

INAUGURAL SESSION

Opening Address:

CA. Ketan Damji Saiya, Chairman, Western India Regional Council of ICAI

Setting the Context:

CA. Gyan Chandra Misra, Chairman, I & VSB, ICAI

Presidential Address:

CA. Charanjot Singh Nanda, President, ICAI

Address by Guest of Honour:

Shri Ravi Mital, Chairperson, Insolvency and Bankruptcy Board of India

Address by Chief Guest:

Shri Tirunelveli Kamalasamy Viswanathan, Chairman, Bankruptcy Law Reforms Committee

Closing Remarks:

CA. Rajesh Sharma, Vice Chairman, I & VSB, ICAI

i. Opening Address by CA. Ketan Damji Saiya, Chairman, Western India Regional Council of ICAI

A. Key Highlights of the Address

Hosting RESOLVE-2025 at a Defining Moment: The Welcome Address set a strong contextual foundation for RESOLVE-2025 by situating the Convention at a critical juncture in the evolution of India's insolvency framework. Hosting the third edition of RESOLVE in Mumbai, the financial capital of India, was highlighted as symbolically significant, reinforcing the city's role as a hub for financial reform, professional discourse, and institutional leadership.

Evolution of RESOLVE as a Global Platform: The address traced the progression of the RESOLVE platform from RESOLVE-2023 in Singapore to RESOLVE-2024 in New Delhi, culminating in its third edition in Mumbai. This continuity was presented as reflective of RESOLVE's emergence as a global platform that has consistently elevated professional dialogue, strengthened the insolvency ecosystem, and advanced the resolution profession towards a more mature and globally aligned phase.

Relevance of Timing and Legislative Context: Special emphasis was placed on the relevance of the timing of RESOLVE-2025, coinciding with the introduction and parliamentary consideration of proposed amendments to the Insolvency and

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Bankruptcy Code, 2016. Against this backdrop, the Convention was positioned as a timely forum for stakeholders to deliberate on legislative and regulatory developments and their implications for insolvency practice.

Resolution-Led Value Creation as the Central Theme: The theme "Enabling Resolution, Maximising Value" was underscored as central to the Convention's purpose and reflective of the evolving role of insolvency professionals. Resolution was emphasised not as a procedural or compliance-driven exercise, but as a journey of renewal, revival, and value creation marking a decisive shift from recovery-centric approaches.

Curated Platform for Learning and Collaboration: The two-day programme of RESOLVE-2025 was highlighted as being thoughtfully curated to cover a wide spectrum of contemporary and forward-looking issues in insolvency resolution and valuation. The Convention was positioned as a platform for focused deliberation, experiential learning, and professional networking, bringing together regulators, policymakers, practitioners, academicians, and industry participants.

Setting the Tone for Technical Deliberations: The presence of senior dignitaries and institutional leaders was acknowledged as lending depth and perspective to the inaugural proceedings. Their participation was noted as instrumental in setting a strong and purposeful tone for the technical sessions and policy discussions that would follow over the course of the Convention.

B. Key Takeaways

- ✓ Insolvency resolution is to be viewed not merely as a procedural or compliance-driven exercise, but as a mechanism for renewal, revival, and sustainable value creation within the economy.
- ✓ The theme "Enabling Resolution, Maximising Value" reflects the evolving role and responsibility of the insolvency profession, signalling a shift towards strategic engagement in achieving resolution outcomes.
- ✓ RESOLVE has progressively evolved into a global platform for learning, dialogue, and collaboration, contributing to the strengthening of professional discourse and convergence of best practices in insolvency and valuation.
- ✓ The timing of RESOLVE-2025, coinciding with proposed amendments to the Insolvency and Bankruptcy Code, underscores the importance of informed stakeholder dialogue during periods of legislative and regulatory transition.
- ✓ Structured professional engagement, knowledge sharing, and networking are essential for capacity building and for addressing emerging complexities in the insolvency ecosystem.
- ✓ Hosting RESOLVE-2025 in Mumbai reinforces the city's role as a focal point for financial reform, institutional leadership, and professional collaboration in India.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

C. Way Forward- Policy Note

The Welcome Address highlighted the need for continuous institutional strengthening of India's insolvency framework to remain aligned with legislative amendments, regulatory evolution, and increasing market complexity under the Insolvency and Bankruptcy Code. As the framework matures, sustained focus on capacity building, professional development, and ecosystem-wide collaboration is essential to ensure timely resolution and effective value maximisation.

The timing of RESOLVE-2025, alongside proposed amendments to the Insolvency and Bankruptcy Code, underscored the importance of structured stakeholder consultation and informed professional dialogue in shaping practical and implementable reforms. Platforms facilitating engagement between policymakers, regulators, and practitioners play a vital role in bridging policy intent with on-ground implementation.

The address further reinforced that insolvency resolution must be viewed beyond procedural compliance, as a mechanism for economic renewal and enterprise revival. This evolving policy perspective places greater responsibility on insolvency professionals to function as strategic enablers of value creation, requiring deeper engagement with financial, valuation, and stakeholder considerations.

Finally, the growing complexity of insolvency cases highlights the need for multi-disciplinary discourse integrating legal interpretation, resolution strategy, valuation rigour, and coordinated stakeholder engagement. Sustained knowledge dissemination and professional collaboration remain critical to building a resilient, resolution-led insolvency ecosystem anchored in value maximisation.

ii. Setting the Context by CA. Gyan Chandra Misra, Chairman, I & VSB, ICAI

A. Key Highlights of the Address

The contextual address delivered during the inaugural session of RESOLVE-2025 framed the Convention not merely as a professional gathering, but as part of a continuing intellectual and institutional journey shaping India's insolvency and valuation ecosystem. The address positioned RESOLVE as an evolving thought process, one that has grown in scale, influence, and purpose with each edition, and underscored the role of insolvency and valuation professionals as active contributors to economic resilience, institutional maturity, and national development. By linking the evolution of the Insolvency and Bankruptcy Code to India's broader growth aspirations, the address set a forward-looking tone for the Convention, highlighting the transition towards IBC 2.0, the expanding role of technology, and the collective responsibility of professionals in strengthening the insolvency framework as a pillar of sustainable economic progress.

RESOLVE as a Continuing Thought Process: The address emphasised that RESOLVE is not merely an event or annual convention, but a continuing and evolving thought process shaping the future of the insolvency and valuation ecosystem in India. The progression of RESOLVE from Singapore (2023) to New Delhi (2024) and Mumbai (2025) was highlighted as reflective of its growing stature and its role in influencing long-term professional and policy thinking.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Thought Leadership Beyond the Dais: A key emphasis of the address was the inclusive conception of thought leadership. The session highlighted that leadership in insolvency is not confined to regulators or speakers on the dais, but extends to every professional contributing to the insolvency and valuation ecosystem. Insolvency and valuation professionals were positioned as active participants in nation-building and economic development.

Insolvency Framework as an Enabler of Economic Growth: The address contextualised the role of the Insolvency and Bankruptcy Code within India's broader economic growth trajectory. While rapid economic growth brings structural challenges and financial stress, the insolvency framework was highlighted as a critical stabilising mechanism that supports continuity, revival, and resilience in the economy.

Evolution and Maturity of the Insolvency and Bankruptcy Code: Reflecting on nearly a decade of implementation, the session acknowledged the initial limitations of the Insolvency and Bankruptcy Code and credited the Government and regulators for continuously strengthening the framework. The increasing number of resolution plans and revived companies was cited as evidence of the Code's growing maturity and effectiveness as a tool for business revival.

Transition Towards IBC 2.0: The impending phase of IBC 2.0 was highlighted as a significant milestone in the evolution of India's insolvency regime. The session noted that multiple amendments are currently under consideration by the Parliamentary Select Committee, signaling a forward-looking policy shift aimed at addressing structural and operational gaps identified during the initial phase of implementation. Confidence was expressed in the readiness of insolvency and valuation professionals to operate within the evolving regulatory architecture.

Scale and Inclusiveness of RESOLVE-2025: The session highlighted the scale and reach of RESOLVE-2025, with participation from professionals across 18 States and 42 cities. This breadth of representation was described as reflective of the growing seriousness, acceptance, and institutionalisation of the insolvency framework across the country, positioning RESOLVE-2025 as one of the largest insolvency-focused professional gatherings in India.

Technology as a Key Enabler of the Future Insolvency Ecosystem: A strong emphasis was placed on the role of technology in shaping the future of insolvency and valuation practice. The session highlighted that technology integration is becoming central to efficiency, transparency, and scalability in insolvency processes. Ongoing engagement with the regulator on technology adoption was cited as indicative of significant advancements in technological enablement expected in the near future.

Professional Commitment to National Development Goals: Concluding the contextual framing, the session expressed confidence that the insolvency and valuation profession will continue to play a meaningful role in India's economic development. Professionals were positioned not merely as service providers within a legal framework, but as contributors to systemic stability and to the national objective of transitioning towards a developed economy.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

B. Key Takeaways

- ✓ RESOLVE has evolved beyond an annual convention into a continuing thought process that shapes professional, institutional, and policy discourse on insolvency resolution and valuation in India.
- ✓ Thought leadership within the insolvency ecosystem is broad-based and inclusive, extending beyond institutional leadership to every professional contributing to resolution, valuation, and economic stability.
- ✓ India's sustained economic growth underscores the need for a robust insolvency framework capable of addressing structural stress and supporting business continuity and revival.
- ✓ The Insolvency and Bankruptcy Code has demonstrated institutional maturity and adaptability, evolving through amendments and regulatory refinement to address emerging challenges.
- ✓ The transition towards IBC 2.0 reflects a forward-looking policy approach aimed at strengthening the framework by addressing operational and structural limitations identified during the initial phase of implementation.
- ✓ The growing number of successful resolution plans reinforces the effectiveness of the Code as a mechanism for business revival and economic resilience.
- ✓ The scale and geographic diversity of participation at RESOLVE-2025 highlight deepening stakeholder engagement and growing confidence in the insolvency and valuation framework.
- ✓ Technology integration is emerging as a critical enabler of efficiency, transparency, and scalability in insolvency and valuation processes.
- ✓ Continued collaboration between regulators, institutions, and professionals is essential to ensure that technological advancements are effectively embedded within insolvency practice.
- ✓ Insolvency and valuation professionals play a strategic role in national economic development, extending beyond case-level outcomes to systemic stability and long-term growth.

C. Way Forward- Policy Note

The session reinforced that India's insolvency and valuation framework has reached a stage of institutional maturity, supported by continuous legislative refinement and regulatory adaptability under the Insolvency and Bankruptcy Code. As the framework transitions towards IBC 2.0, policy focus must remain on addressing structural and operational limitations identified during the initial phase of implementation, while preserving the resolution-centric philosophy of the Code.

Rapid economic growth and increasing market complexity underscore the importance of a robust insolvency regime as a stabilising mechanism capable of addressing financial stress and supporting business continuity. In this context, the expanding

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

number of successful resolution outcomes highlights the effectiveness of the Code as a tool for revival rather than liquidation, reinforcing its relevance to broader economic resilience.

The session also highlighted the need to recognise insolvency and valuation professionals as strategic contributors to systemic stability and nation-building, rather than purely compliance-oriented service providers. Strengthening professional capacity, accountability, and multidisciplinary engagement will be essential to sustaining the next phase of reforms.

Technology integration emerged as a critical policy enabler for improving efficiency, transparency, and scalability in insolvency and valuation processes. Ongoing regulatory engagement on digital adoption reflects a forward-looking approach that must be supported through coordinated implementation, investment in technological infrastructure, and readiness across the professional ecosystem.

Finally, platforms such as RESOLVE were recognised as essential institutional mechanisms for collective vision-building, stakeholder alignment, and policy feedback. Sustained professional dialogue and broad-based participation will remain central to ensuring that insolvency reforms are informed, inclusive, and responsive to evolving economic and market realities.

iii. Presidential Address by CA. Charanjot Singh Nanda, President, ICAI

A. Key Highlights of the Address

The Presidential Address set an aspirational and grounding tone for RESOLVE-2025 by situating the insolvency and valuation profession within India's broader nation-building narrative. Drawing upon institutional history, empirical outcomes under the Insolvency and Bankruptcy Code, and the profession's global leadership in standards and technology, the address reinforced the idea that insolvency reform is as much a professional and ethical endeavour as it is a legal or economic one. It underscored the responsibility entrusted to Chartered Accountants and insolvency professionals, not merely to implement the law, but to uphold institutional trust, drive value-led outcomes, and continuously elevate professional standards in step with India's growing economic and global ambitions.

Institutional Pride and Professional Strength: The address reflected institutional pride in the scale, diversity, and strength of participation at RESOLVE-2025, positioning it as a testament to India's professional maturity. The presence of a large number of professionals on a working day was highlighted as evidence of the profession's commitment and seriousness towards insolvency reform and nation-building.

Historical Mandate and Nation-Building Role of the Profession: A key highlight of the address was the historical perspective on the establishment of the Institute of Chartered Accountants of India in 1949, even prior to the adoption of the Constitution. This was presented as a deliberate institutional choice to create a disciplined professional cadre entrusted with steering the country towards economic stability, governance, and sustained growth. Chartered Accountants were positioned as "financial soldiers" playing a foundational role in India's economic architecture.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Transformational Impact of the Insolvency and Bankruptcy Code: The address underscored the transformational role of the Insolvency and Bankruptcy Code over the past eight years in reshaping India's approach to distress, discipline, and debt resolution. The Code was credited with strengthening credit culture, enhancing investor confidence, improving value realisation, and contributing to the credibility of Indian markets as a serious insolvency and restructuring jurisdiction.

Empirical Validation of Resolution-Led Outcomes: Drawing on data published by the Insolvency and Bankruptcy Board of India, the address highlighted empirical outcomes demonstrating that resolution plans have consistently delivered recoveries significantly higher than liquidation values. These outcomes were cited as validation of the policy choice to prioritise resolution-led revival over liquidation and as evidence of India's capability to interpret and implement insolvency law in a balanced and effective manner.

Global Leadership in Professional Standards and Technology Adoption: The address highlighted ICAI's global leadership in professional standard-setting, including early adoption of remote auditing standards, forensic standards, information systems audit standards, and technology-driven audit practices. Emerging technologies such as data analytics, blockchain, cybersecurity audits, and information systems audits were identified as integral to transparency, accountability, and quality in insolvency, valuation, and financial reporting.

Professional Responsibility and Caution Against Complacency: While acknowledging the profession's achievements, the address issued a clear caution against complacency. It emphasised that rising economic scale and global expectations place heightened responsibility on professionals, requiring continuous improvement in performance, mindset, and ethical commitment. Professional excellence was framed not as static competence, but as a dynamic obligation aligned with national interest.

Institutional Trust and Parliamentary Engagement: The address highlighted Parliament's trust in ICAI as a professional partner in law-making and policy formulation, citing proactive engagement with parliamentary committees on major legislative reforms, including the Income Tax Code and the proposed IBC Amendment Bill. This engagement was presented as reflective of the Institute's credibility and its role in shaping India's economic governance framework.

Call for Excellence, Integrity, and Value Creation: Concluding the address, a strong call was made for integrating a professional mindset, continuous education, hands-on training, and technology adoption towards a singular objective of performance and value creation. Insolvency professionals were urged to pursue excellence, integrity, and error-free execution, reinforcing their collective responsibility in building a strong, empowered, and globally respected Indian economy.

B. Key Takeaways

- ✓ The Insolvency and Bankruptcy Code has fundamentally transformed India's approach to distress resolution, strengthening credit discipline, investor confidence, and the credibility of Indian markets as a restructuring jurisdiction.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ Resolution-led outcomes have been empirically validated, with recoveries under approved resolution plans consistently exceeding liquidation values, reinforcing the policy preference for revival over liquidation.
- ✓ The sustained performance and resilience of Indian capital markets reflect the systemic confidence generated by insolvency and bankruptcy reforms.
- ✓ The Chartered Accountancy profession, led institutionally by the Institute of Chartered Accountants of India, occupies a system critical role in insolvency, valuation, and financial governance, extending beyond compliance to safeguarding economic integrity.
- ✓ The historical mandate and statutory foundation of the profession underscore its responsibility as a disciplined institutional pillar in nation-building and economic governance.
- ✓ Professional standard-setting and early adoption of global best practices particularly in auditing, valuation, forensics, and information systems have positioned India as a leader in professional and regulatory innovation.
- ✓ Technology adoption, including data analytics, blockchain applications, cybersecurity audits, and information systems audits, has become indispensable for transparency, efficiency, and quality in insolvency and valuation processes.
- ✓ Parliamentary engagement with professional bodies reflects institutional trust and highlights the importance of professional input in shaping major legislative and policy reforms.
- ✓ Rising economic scale and global expectations require professionals to avoid complacency and continuously elevate standards of performance, competence, and ethical conduct.
- ✓ Excellence in insolvency and valuation practice demands an integrated focus on mindset, continuous professional education, hands-on training, and technology, aligned with the broader objective of value creation and national economic advancement.

C. Way Forward- Policy Note

The Presidential Address reinforced the Insolvency and Bankruptcy Code as a cornerstone of India's financial and economic reform architecture, highlighting its role in strengthening credit discipline, investor confidence, and market credibility. The consistent outperformance of resolution outcomes over liquidation values provides strong empirical support for the policy choice of prioritising resolution-led revival, affirming the Code's effectiveness as an instrument of economic continuity rather than mere debt enforcement.

The address underscored the system-critical role of the Chartered Accountancy profession in the insolvency ecosystem, extending beyond technical compliance to safeguarding institutional integrity, transparency, and trust. The historical mandate

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

and statutory foundation of the profession highlight the importance of discipline, independence, and ethical conduct as essential pillars of economic governance and nation-building.

A clear policy signal emerged on the centrality of professional standard-setting and technology adoption in sustaining the next phase of insolvency reforms. Early leadership in areas such as valuation standards, forensic practices, information systems audits, and technology-enabled assurance reflects the need for continuous innovation to match the growing scale and complexity of the economy. Technology integration when combined with professional judgment was positioned as a foundational requirement for achieving transparency, efficiency, and error-minimised outcomes in insolvency and valuation processes.

The address also highlighted the significance of structured engagement between professional institutions and Parliament in shaping effective legislation. Institutional trust reposed in professional bodies underscores the importance of informed, evidence-based inputs in law-making and policy formulation. As India advances towards higher economic ambitions, the policy emphasis must remain on continuous professional development, accountability, and a strong performance-oriented mindset, ensuring that insolvency and valuation professionals remain aligned with national economic priorities and global expectations.

iv. Address by the Guest of Honour Shri Ravi Mital, Chairperson, Insolvency and Bankruptcy Board of India

A. Key Highlights of the Address

The Guest of Honour's address provided a regulator's perspective on the maturing insolvency ecosystem, emphasising the tangible impact of informed professional dialogue on policy, regulation, and legislative reform. The address underscored how practitioner-led insights from platforms such as RESOLVE have actively shaped amendments to the Insolvency and Bankruptcy Code, reinforcing the importance of continuous engagement between regulators and the profession. Situating the IBC within a broader macroeconomic and global context, the address highlighted India's comparative strengths in resolution outcomes, the growing international standing of Indian insolvency professionals, and the regulator's preparedness for the next phase of reforms, particularly in valuation, technology enablement, and cross-border and group insolvency, while reaffirming resolution as a non-negotiable policy priority.

Comparative Effectiveness of India's Insolvency Framework: A comparative international perspective was presented to illustrate the relative strength of India's insolvency regime. Contrasting outcomes from large international insolvency cases with Indian precedents, the address highlighted how the Indian framework has delivered socially and economically balanced outcomes, ensuring stakeholder protection, meaningful recoveries, and asset revival. These outcomes were attributed to the design of the Insolvency and Bankruptcy Code and the quality of its implementation.

Capability and Global Standing of Indian Resolution Professionals: The address strongly emphasised the competence and global competitiveness of Indian resolution

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

professionals, particularly in handling complex, stakeholder-intensive insolvency cases. Successful outcomes in challenging cases were cited as evidence that Indian professionals rank among the best internationally, reinforcing confidence in domestic institutional capacity.

Macroeconomic Impact of the Insolvency and Bankruptcy Code: The Insolvency and Bankruptcy Code was positioned as a reform with significant macroeconomic implications beyond individual case outcomes. Recoveries under the Code were linked to improved capital adequacy of banks, enabling expanded lending capacity and enhanced credit flow to the economy. This multiplier effect was highlighted as a critical contribution of the IBC to India's long-term economic growth and its aspiration to become a developed economy.

Legislative Developments and Regulatory Preparedness: The address provided clarity on the status of the Insolvency and Bankruptcy Code (Amendment) Bill currently before Parliament, noting that the proposed amendments seek to reinforce the original principles of the Code, particularly strict timelines for admission and resolution. It was highlighted that the regulator has proactively commenced drafting subordinate regulations, with a commitment to release draft regulations shortly after legislative approval for stakeholder consultation.

Digital Infrastructure and Technology Enablement: Institutional and technological reforms were highlighted as key enablers of future efficiency in insolvency processes. Reference was made to the Ministry of Corporate Affairs' initiative to develop an integrated national IT network connecting insolvency professionals, adjudicating authorities, and other stakeholders. This digital infrastructure was positioned as a major step towards improving transparency, coordination, and process efficiency across the insolvency ecosystem.

Valuation Reform as a Regulatory Priority: A substantial focus of the address was on valuation reforms. The IBBI's initiative of issuing a comprehensive discussion paper on valuation was highlighted, covering measures to improve enterprise and fair value assessment, capture synergies, standardise valuation report formats, harmonise valuation standards across resolution and liquidation, and review the necessity of multiple valuations in smaller cases. The address acknowledged the role of standards developed by the Institute of Chartered Accountants of India in informing regulatory thinking and invited detailed stakeholder feedback.

Implementation of Cross-Border and Group Insolvency Frameworks: The address referred to forthcoming rule-making in areas such as cross-border insolvency and group insolvency, highlighting that IBBI has already started making regulations on these topics and invited practitioners to actively contribute suggestions to ensure effective drafting and operational feasibility. Continued stakeholder engagement was emphasised as essential for translating legislative intent into workable frameworks.

Resolution as a Non-Negotiable Policy Priority: In concluding remarks, the address delivered a strong policy message that resolution must always be preferred over liquidation. Empirical evidence highlighting significantly higher recoveries under

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

resolution compared to liquidation was cited to underscore the economic inefficiency of liquidation outcomes. Insolvency professionals were urged to adopt innovative, solution-oriented approaches and to engage proactively with the regulator to minimise liquidations wherever feasible.

Collaborative Regulatory Approach: The address reinforced the regulator's openness to collaboration, explicitly encouraging professionals to seek guidance and engage directly when faced with challenges. This approach was positioned as integral to strengthening the credibility, effectiveness, and long-term success of the insolvency framework.

B. Key Takeaways

- ✓ Practitioner-driven recommendations emerging from platforms such as RESOLVE have directly influenced legislative amendments and regulatory reforms, demonstrating the value of structured professional dialogue in shaping the insolvency framework.
- ✓ India's Insolvency and Bankruptcy Code has proven to be comparatively effective at a global level, delivering socially and economically balanced outcomes in complex insolvency cases.
- ✓ Indian resolution professionals possess high capability and global competitiveness, particularly in handling large, stakeholder-intensive insolvency matters.
- ✓ Recoveries achieved under the Insolvency and Bankruptcy Code have had a significant macroeconomic impact, strengthening banks' capital adequacy and enabling expanded lending capacity across the economy.
- ✓ The Insolvency and Bankruptcy Code functions not only as a recovery mechanism but as a foundational instrument supporting India's long-term development objectives, including the vision of becoming a developed economy.
- ✓ The proposed Insolvency and Bankruptcy Code (Amendment) Bill seeks to reinforce the original statutory timelines for admission and resolution, reaffirming time-bound resolution as a core policy objective.
- ✓ Regulatory preparedness is evident in the proactive drafting of subordinate regulations to enable swift implementation of legislative amendments following parliamentary approval.
- ✓ Development of an integrated national IT platform is expected to enhance efficiency, transparency, and coordination across insolvency processes.
- ✓ Valuation reform has emerged as a key regulatory priority, with a focus on improving enterprise valuation, capturing synergies, standardising valuation reporting, and harmonising valuation standards across resolution and liquidation.
- ✓ Active stakeholder engagement is essential for the effective implementation of cross-border insolvency and group insolvency frameworks.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ Resolution consistently delivers superior value outcomes compared to liquidation, reinforcing the need to minimise liquidation wherever feasible.
- ✓ A collaborative regulatory approach, including openness to practitioner engagement, is central to strengthening the credibility and effectiveness of the insolvency.

C. Issues and Challenges

Delayed translation of professional recommendations into reforms: While practitioner-driven recommendations have demonstrably influenced amendments and regulations, the process remains time-intensive, highlighting the need for more structured and timely feedback loops between professional forums and regulatory action.

Persistence of liquidation outcomes despite superior resolution value: Empirical evidence continues to show significantly lower recoveries in liquidation compared to resolution, yet liquidation outcomes remain prevalent in a substantial number of cases, indicating structural, behavioural, or process-related impediments to successful resolution.

Valuation inconsistencies affecting resolution outcomes: Existing valuation practices often fail to fully capture enterprise-level synergies, and the absence of standardised reporting formats has resulted in non-comparable valuation outcomes, affecting decision-making by creditors and other stakeholders.

Multiplicity and complexity of valuation standards: The coexistence of different valuation standards for resolution and liquidation has led to interpretational inconsistencies and procedural inefficiencies, underscoring the need for harmonisation.

Procedural burden of multiple valuations in smaller cases: The requirement for multiple valuations, particularly in smaller insolvency cases, raises concerns regarding proportionality, cost efficiency, and process timelines.

Implementation challenges in cross-border and group insolvency: While legislative intent exists, the operationalisation of cross-border insolvency and group insolvency frameworks through subordinate rules presents challenges relating to coordination, clarity, and practitioner readiness.

Gaps in digital integration across insolvency processes: The absence of a fully integrated digital platform linking insolvency professionals, adjudicating authorities, and other stakeholders continues to limit efficiency, transparency, and real-time coordination.

Need for greater innovation in resolution strategies: The continued occurrence of liquidations indicates the need for more innovative, solution-oriented approaches by stakeholders to preserve enterprise value and avoid terminal outcomes.

Capacity and capability pressures on insolvency professionals: As insolvency cases grow in scale and complexity, there is increasing pressure on professional capacity, judgment quality, and multidisciplinary expertise within the insolvency ecosystem.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Balancing regulatory responsiveness with process certainty: While regulatory openness to engagement is evident, ensuring that frequent reforms and consultations translate into predictable, stable processes for stakeholders remains an ongoing challenge.

D. Suggestions & Recommendations

Strengthening Practitioner-Regulator Feedback Mechanisms: To enhance the responsiveness of the insolvency framework, structured mechanisms should be institutionalised to enable timely consolidation and regulatory consideration of practitioner-driven recommendations emerging from professional platforms such as RESOLVE. Formalised feedback loops between professional bodies and regulators can facilitate smoother translation of field-level insights into legislative and regulatory action.

Reinforcing Resolution as the Preferred Outcome: Given the consistent empirical evidence that resolution delivers significantly higher value than liquidation, policy and practice must continue to prioritise resolution as the default outcome. Stakeholders should be encouraged to adopt innovative, solution-oriented approaches, supported by early regulatory engagement where required, to minimise liquidation and preserve enterprise value.

Advancing Valuation Reform for Credible Outcomes: Valuation reform should be pursued as a critical enabler of effective resolution. Measures aimed at improving enterprise and fair value assessment particularly through capturing synergies should be advanced. Prescribing standardised valuation reporting formats will enhance comparability, transparency, and confidence among creditors, adjudicating authorities, and resolution applicants.

Harmonising Valuation Standards and Rationalising Multiple Valuations: To address inconsistencies and inefficiencies, valuation standards applicable to resolution and liquidation should be harmonised. Further, the requirement for multiple valuations, especially in smaller or less complex cases, should be reviewed to ensure proportionality, cost efficiency, and procedural discipline without compromising the reliability of outcomes.

Operationalising Cross-Border and Group Insolvency Frameworks: The implementation of cross-border insolvency and group insolvency provisions through subordinate legislation should be undertaken in close consultation with practitioners. Continued stakeholder engagement will be essential to ensure legal clarity, operational feasibility, and effective coordination in complex, multi-entity insolvency cases.

Accelerating Technology Integration in Insolvency Processes: The development and deployment of an integrated national IT platform linking insolvency professionals, adjudicating authorities, regulators, and other stakeholders should be prioritised. Technology-enabled processes can significantly improve coordination, transparency, data reliability, and overall efficiency across insolvency proceedings.

Enhancing Professional Capacity and Capability: As insolvency cases grow in scale and complexity, sustained focus on capacity building and professional development is

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

essential. Continuous training, multidisciplinary skill enhancement, and reinforcement of ethical standards should be prioritised to ensure that insolvency and valuation professionals are equipped to deliver high-quality, value-maximising outcomes aligned with the objectives of the Insolvency and Bankruptcy Code.

E. Way Forward- Policy Note

The address underscored that the next phase of India's insolvency reform must focus on consolidating the gains achieved under the Insolvency and Bankruptcy Code while sharpening its effectiveness as an instrument of resolution-led value creation. With empirical evidence consistently demonstrating the economic superiority of resolution over liquidation, policy and practice must remain firmly oriented towards preserving enterprise value, protecting stakeholder interests, and sustaining confidence in the insolvency framework.

A key policy imperative emerging from the address is the institutionalisation of structured practitioner-regulator engagement. Professional forums such as RESOLVE have proven their relevance by directly informing legislative amendments and regulatory reforms. Going forward, systematic mechanisms for capturing, synthesising, and responding to practitioner insights can further strengthen the responsiveness and practical relevance of insolvency regulation.

The forthcoming amendments to the Insolvency and Bankruptcy Code and the associated rule-making process present an opportunity to reaffirm the foundational principles of the Code, particularly strict timelines for admission and resolution. Swift operationalisation of legislative changes, supported by timely issuance of subordinate regulations and stakeholder consultation, will be critical to ensure certainty, predictability, and efficiency in insolvency outcomes.

Valuation reform emerged as a central pillar for strengthening resolution outcomes. Policy efforts should focus on improving enterprise value assessment, harmonising valuation standards across resolution and liquidation, and standardising valuation reporting to enhance comparability and decision-making. Rationalising procedural requirements, including the number of valuations in smaller cases, can further balance rigour with efficiency.

Technology integration represents a key enabler of the next phase of insolvency reform. The development of an integrated digital infrastructure linking insolvency professionals, adjudicating authorities, regulators, and other stakeholders can materially improve transparency, coordination, and process efficiency. Successful implementation will require alignment between regulatory design, technological capability, and professional readiness.

Finally, the address reinforced the collective responsibility of insolvency professionals to actively pursue resolution and minimise liquidation. Innovation, perseverance, and proactive engagement with the regulator were identified as essential attributes in achieving this objective. Strengthening professional capacity, multidisciplinary skills,

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

and ethical commitment will be central to ensuring that the insolvency framework continues to support economic resilience, credit expansion, and India's long-term development aspirations.

F. Issue-Recommendation Matrix

Issue-Recommendation Matrix Policy Directions Emerging from the Guest of Honour's Address	
Issues Identified	**Policy Recommendations**
Delayed translation of professional recommendations into reforms	Institutionalise structured and time-bound practitioner-regulator feedback mechanisms to ensure faster consolidation, evaluation, and regulatory action on recommendations emerging from professional platforms such as RESOLVE.
Persistence of liquidation outcomes despite a higher value under resolution	Reinforce resolution as the default and preferred outcome through policy signalling, early regulatory engagement, and encouragement of innovative, solution-oriented resolution strategies to minimise avoidable liquidations.
Valuation inconsistencies affecting resolution outcomes	Advance valuation reforms focused on enterprise value and synergies, supported by mandatory standardised valuation report formats to improve comparability, transparency, and creditor confidence.
Multiplicity and complexity of valuation standards	Harmonise valuation standards applicable to resolution and liquidation to eliminate interpretational inconsistencies and procedural inefficiencies across insolvency processes.
Procedural burden of multiple valuations in smaller cases	Rationalise the requirement of multiple valuations in small and less complex cases to ensure proportionality, cost efficiency, and adherence to timelines without compromising valuation reliability.
Implementation challenges in cross-border and group insolvency	Frame subordinate legislation for cross-border and group insolvency in close consultation with practitioners to ensure clarity, operational feasibility, and effective coordination in multi-jurisdictional and multi-entity cases.
Gaps in digital integration across insolvency processes	Accelerate the development of an integrated national insolvency IT platform linking insolvency professionals, adjudicating authorities, regulators, and stakeholders to enhance transparency, coordination, and real-time process efficiency.
Limited innovation in resolution strategies leading to liquidations	Encourage stakeholders to adopt creative and commercially pragmatic resolution approaches, supported by regulatory openness and guidance, to preserve enterprise value and avoid terminal outcomes.
Capacity and capability pressures on insolvency professionals	Strengthen continuous professional development, multidisciplinary skill-building, and ethical reinforcement to equip insolvency and valuation professionals to handle the increasing scale and complexity of cases.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue-Recommendation Matrix Policy Directions Emerging from the Guest of Honour's Address	
Issues Identified	**Policy Recommendations**
Balancing regulatory responsiveness with process certainty	Maintain regulatory openness to engagement while ensuring reforms are implemented through predictable, stable, and well-communicated processes to enhance stakeholder confidence and certainty.

v. Address by Chief Guest, Shri Tirunelveli Kamalasamy Viswanathan, Chairman, Bankruptcy Law Reforms Committee

A. Key Highlights of the Address

The Chief Guest's address served as a defining anchor for the Convention, setting a reflective and forward-looking tone for the deliberations that followed. Drawing on his seminal role as Chairman of the Bankruptcy Law Reforms Committee, Sh. T. K. Vishwanathan contextualised the Insolvency and Bankruptcy Code, 2016, as a historic and transformative legislative reform, consciously designed to repose faith in market mechanisms, empower financial creditors, and minimise judicial intervention to ensure time-bound and value-maximising resolution of financial distress. The address invited participants to revisit the legislative philosophy, institutional design, and policy choices that underpin India's insolvency framework.

The Code was presented not merely as a statutory instrument, but as a deliberate reimagining of how financial distress should be addressed in a modern economy through market confidence, creditor-led decision-making, and disciplined restraint on judicial intervention. By situating the IBC as an empirically driven, continuously monitored, and ecosystem-based reform, the address framed insolvency resolution as a cornerstone of economic stability and enterprise renewal.

This perspective laid the intellectual foundation for the Convention, reinforcing the central theme of "Enabling Resolution, Maximising Value" and underscoring the responsibility of institutions and professionals alike in carrying the framework into its next phase of evolution.

Genesis and Legislative Philosophy of the Insolvency and Bankruptcy Code: The Chief Guest traced the origins of the Insolvency and Bankruptcy Code, 2016, to the mandate received in 2014 to design a comprehensive and contemporary bankruptcy framework for India. The foundational philosophy underlying the Code was to repose faith in the wisdom of market participants, empower financial creditors to determine the prospects of revival or liquidation of distressed enterprises, and minimise judicial intervention to avoid systemic delays that characterised earlier restructuring regimes. The experience of the Code over the past decade, he noted, has validated this approach by enabling a decisive shift from court-driven processes to creditor-led, time-bound resolution.

IBC as a Historic Law Reform and a "Jewel in the Statute Book": Drawing upon his experience as a legislative draftsman, the Chief Guest described the Insolvency and

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Bankruptcy Code as a landmark reform and a "jewel in the Indian statute book." He observed that the Code represents a fundamental departure from traditional law reform in India, which historically relied on doctrinal research and the accidents of litigation. In contrast, the IBC has introduced a new paradigm anchored in empirical research, impact analysis, and continuous refinement, marking a structural shift in the manner in which legislation is evaluated and evolved.

Ecosystem-Based Architecture of the IBC: The address emphasised that the strength of the IBC lies in its rich and integrated ecosystem, making it a dynamic and self-contained legislation. This ecosystem includes:

- Specialised adjudicatory tribunals for insolvency matters
- Information Utilities to address information asymmetry in credit markets
- A new cadre of insolvency professionals drawn from diverse disciplines
- A professional regulator in the form of the Insolvency and Bankruptcy Board of India, staffed with experts in finance, credit, and technology

This institutional design, he noted, enables stakeholders to access reliable data and market indicators, keeping the law aligned with economic and social realities.

Continuous Oversight, Monitoring, and Empirical Evaluation: A distinctive feature of the IBC, as highlighted in the address, is the post-enactment oversight mechanism established by the Government through the Standing Committee on the Insolvency and Bankruptcy Code and the Insolvency Law Committee. The Chief Guest observed that no other legislation in India has attracted comparable focus on implementation and continuous monitoring. He also acknowledged the proactive role of the regulator in commissioning law-in-action and behavioural impact studies, including empirical research conducted by leading academic institutions, which provides evidence-based insights into the functioning of the Code.

Datafication and Transparency in the Credit Market: The address underscored the role of complementary legislative reforms in advancing datafication and transparency in the credit market. Measures enabling the creation of a Central Registry for secured transactions and integration of data across multiple statutory regimes were noted as critical enablers in reducing information asymmetry. The availability of comprehensive data on insolvency outcomes, including decisions of adjudicating authorities, allows policymakers and regulators to evaluate effectiveness, identify gaps, and undertake calibrated reforms.

Responding to Criticism: Resolution vs Recovery: Addressing critiques of the Insolvency and Bankruptcy Code, the Chief Guest cautioned against evaluating the framework as a recovery-oriented legislation. He reiterated that the Code is designed to facilitate resolution and value maximisation, not merely recovery of dues. Judging the Code solely by liquidation outcomes or haircuts, he observed, is a misplaced benchmark. The transparency of the IBC, where outcome data is publicly available, makes it one of the most accountable legislations in India and enables informed critique and responsive reform.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Insolvency and Bankruptcy Code (Amendment) Bill, 2025: Key Legislative Advancements: The Chief Guest outlined key features of the Insolvency and Bankruptcy Code (Amendment) Bill, 2025, including:

- Electronic Portal and Virtual Hearings
    - Statutory enablement of electronic portals for insolvency proceedings
    - Facilitation of virtual hearings, case allocation based on tribunal workload, and cross-border joint sittings
- Cross-Border Insolvency Framework
    - Rule-making powers for administering cross-border insolvency proceedings
    - Parliamentary oversight through mandatory laying of draft rules
- Group Insolvency Framework
    - Introduction of a dedicated chapter enabling coordinated insolvency proceedings for corporate groups to maximise value
- Clean-Slate Principle
    - Statutory recognition that approved resolution plans extinguish past claims, preventing revival of liabilities post-resolution
- Creditor-Initiated Insolvency Resolution Process
    - Introduction of a new framework allowing continued management control during select creditor-initiated processes

Valuation as a Core Pillar of Insolvency Outcomes: The address underscored that the determination of fair market value and liquidation value is central to the effective functioning of the insolvency framework. The constitution of an Expert Committee by the regulator to review and strengthen the valuation framework was highlighted as a critical policy initiative aimed at improving conceptual clarity, procedural rigour, and outcome reliability in insolvency valuations.

ICAI as a Strategic Partner in Insolvency and Valuation Reforms: The Chief Guest acknowledged the Institute of Chartered Accountants of India as a strategic partner in advancing insolvency and valuation reforms. He highlighted ICAI's contributions in policy formulation, participation in key committees, establishment of the Valuation Standards Board, and issuance of valuation standards designed to promote uniformity, transparency, and global alignment. These standards, he noted, provide a benchmark for consistency and quality in valuation practices across insolvency proceedings.

Professional Capacity and the Future of Insolvency Practice: Reflecting on early concerns regarding the creation of a new cadre of insolvency professionals, the Chief Guest observed that India's professional ecosystem has demonstrated remarkable depth and capability. The strong participation of young professionals at RESOLVE-2025 was cited as evidence of the vitality, competence, and future readiness of the profession.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

He concluded by expressing confidence that, supported by robust institutions, capable professionals, and continuous reform, India can emerge as a leading restructuring hub in Asia, comparable with established global jurisdictions.

B. Key Takeaways

- ✓ The Insolvency and Bankruptcy Code, 2016, was consciously designed as a market-oriented and creditor-driven framework, with minimal judicial intervention, to enable timely and effective resolution of financial distress.
- ✓ The IBC represents a landmark shift in India's law reform approach, introducing empirical evaluation, impact analysis, and continuous legislative refinement as integral components of legal governance.
- ✓ The strength of the IBC lies in its comprehensive institutional ecosystem, comprising specialised adjudicatory forums, Information Utilities, insolvency professionals, and a technologically equipped regulator, collectively enabling informed and data-driven decision-making.
- ✓ Continuous post-enactment oversight through dedicated committees and law-in-action studies has been critical in ensuring the responsiveness and adaptability of the insolvency framework.
- ✓ Datafication and transparency in credit and insolvency processes have significantly reduced information asymmetry, enabling objective assessment of statutory effectiveness and judicial outcomes.
- ✓ The Insolvency and Bankruptcy Code is not a recovery legislation; its success must be assessed in terms of resolution, value maximisation, and economic continuity rather than liquidation statistics or haircuts alone.
- ✓ The proposed Insolvency and Bankruptcy Code (Amendment) Bill, 2025, seeks to reinforce the foundational principles of the Code by enabling digital processes, introducing cross-border and group insolvency frameworks, codifying the clean-slate principle, and providing for creditor-initiated resolution mechanisms.
- ✓ Valuation is a core pillar of credible insolvency outcomes, and strengthening the valuation framework through expert review and standardisation is essential for effective resolution and stakeholder confidence.
- ✓ The Institute of Chartered Accountants of India plays a strategic role in insolvency reform through policy engagement, professional capacity building, and the formulation of valuation standards aligned with global best practices.
- ✓ India's insolvency and valuation profession has demonstrated depth, capability, and future readiness, positioning the country to emerge as a leading restructuring hub in the region.

C. Issues and Challenges

Need to Sustain Market-Oriented, Creditor-Led Resolution: While the IBC was designed to repose faith in market participants and empower creditors, maintaining this

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

balance in practice requires constant vigilance to prevent excessive judicial intervention or procedural drift that could dilute the time-bound nature of resolution.

Institutionalisation of Empirical Law Reform: Although the IBC has pioneered the use of empirical analysis and law-in-action studies, the systematic integration of impact assessment into broader legislative reform processes remains an evolving challenge

Operational Complexity of a Multi-Institutional Ecosystem: The effectiveness of the insolvency framework depends on seamless coordination among adjudicatory authorities, insolvency professionals, Information Utilities, and regulators. Managing this complexity without creating procedural friction or delays remains a key concern.

Effective Use of Data and Transparency Tools: While extensive data on insolvency outcomes is available, translating Big Data into actionable policy insights and real-time process improvements requires further institutional capacity and analytical integration.

Misinterpretation of Insolvency Outcomes: Public and stakeholder discourse continues to assess the IBC through the lens of recovery percentages and haircuts, reflecting a persistent misunderstanding of the Code's core objective of resolution and value maximisation.

Timely Implementation of Legislative Amendments: The effectiveness of proposed amendments under the Insolvency and Bankruptcy Code (Amendment) Bill, 2025, will depend on the speed and clarity with which subordinate legislation and rules are framed and operationalised.

Operationalisation of Cross-Border and Group Insolvency Frameworks: While enabling provisions are proposed, translating cross-border and group insolvency frameworks into workable processes presents challenges relating to jurisdictional coordination, procedural clarity, and practitioner preparedness.

Valuation Reliability and Conceptual Consistency: Inconsistencies in valuation approaches and outcomes continue to pose risks to stakeholder confidence, particularly where fair value and liquidation value determinations materially influence resolution decisions.

Ensuring Uniform Adoption of Valuation Standards: The existence of valuation standards does not automatically ensure consistent application across cases, highlighting the need for stronger adoption, interpretation, and oversight mechanisms.

Sustaining Professional Capacity and Quality: As insolvency cases increase in scale, complexity, and cross-border dimensions, ensuring consistent professional competence, ethical standards, and multidisciplinary expertise remains an ongoing challenge.

D. Suggestions & Recommendations

Preserving the Market-Oriented and Creditor-Led Architecture: It is recommended that the foundational philosophy of the Insolvency and Bankruptcy Code, market-led decision-making with creditor control and minimal judicial intervention, be consistently

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

reinforced in practice. Procedural safeguards and interpretative guidance should ensure that the time-bound and commercial character of resolution processes is not diluted over time.

Embedding Empirical Impact Assessment in Law Reform: The use of law-in-action studies and empirical impact analysis, pioneered under the IBC, should be institutionalised as a regular component of insolvency law reform. Periodic, data-driven assessments of legislative provisions and judicial outcomes can support evidence-based amendments and improve policy calibration.

Strengthening Coordination Across the Insolvency Ecosystem: Given the multi-institutional nature of the insolvency framework, continued efforts are required to enhance coordination among adjudicating authorities, insolvency professionals, Information Utilities, and the regulator. Streamlined processes and clearer role demarcation can reduce friction and improve overall system efficiency.

Leveraging Data and Transparency for Policy Responsiveness: The extensive availability of insolvency-related data should be leveraged more systematically for real-time policy monitoring and process improvement. Developing analytical capabilities to translate data insights into actionable reforms will further enhance the transparency and accountability of the insolvency framework.

Reframing the Narrative from Recovery to Resolution: Stakeholder communication and professional discourse should consistently emphasise that the IBC is a resolution-centric framework rather than a recovery mechanism. Policymakers, regulators, and professional bodies should work collectively to address misconceptions arising from an overemphasis on liquidation statistics and haircuts.

Ensuring Swift and Clear Operationalisation of Amendments: To maximise the impact of the Insolvency and Bankruptcy Code (Amendment) Bill, 2025, it is recommended that subordinate legislation and rules be framed and notified expeditiously, accompanied by stakeholder consultation and clarificatory guidance to ensure smooth implementation.

Operational Readiness for Cross-Border and Group Insolvency: The rollout of cross-border and group insolvency frameworks should be supported by detailed procedural rules, capacity-building initiatives, and practitioner guidance. Continued engagement with stakeholders will be essential to ensure that these frameworks are legally robust and operationally feasible.

Enhancing Valuation Consistency and Conceptual Clarity: Valuation reform should focus on improving conceptual consistency and reliability of fair market and liquidation value determinations. The recommendations of the Expert Committee on valuation should be translated into clear standards, harmonised processes, and enhanced oversight to strengthen stakeholder confidence.

Driving Uniform Adoption of Valuation Standards: Mechanisms should be strengthened to ensure uniform interpretation and application of valuation standards across insolvency cases. Training, guidance notes, and supervisory review can help embed consistent valuation practices within the insolvency ecosystem.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Sustaining Professional Capacity and Ethical Standards: As the insolvency regime evolves towards greater complexity, sustained investment in professional capacity building is essential. Continuous education, multidisciplinary skill development, and reinforcement of ethical standards should remain central to ensuring high-quality, value-maximising resolution outcomes.

E. Way Forward- Policy Note

The address underscored that the future trajectory of India's insolvency framework must be guided by consolidation rather than reinvention. The Insolvency and Bankruptcy Code has established a strong market-oriented, creditor-led architecture supported by a robust institutional ecosystem. The policy priority going forward is to preserve these foundational principles while continuously refining operational effectiveness through evidence-based reform.

The proposed Insolvency and Bankruptcy Code (Amendment) Bill, 2025, presents an opportunity to reinforce the core objectives of the Code, timeliness, certainty, and value maximisation. Swift operationalisation of the amendments through clearly articulated subordinate legislation, informed by stakeholder consultation, will be critical to translating legislative intent into practical outcomes. In particular, the introduction of digital processes, cross-border insolvency, group insolvency, and creditor-initiated resolution mechanisms must be accompanied by detailed procedural guidance and capacity building.

Valuation reform emerged as a central policy lever for strengthening resolution outcomes. Enhancing enterprise value assessment, harmonising valuation standards across resolution and liquidation, and improving consistency in valuation reporting are essential to reinforcing creditor confidence and decision-making. Effective implementation of valuation reforms will require close coordination between the regulator and professional bodies, with continued emphasis on training and standard setting.

The address also highlighted the strategic importance of datafication and transparency in enabling responsive governance. Leveraging insolvency data for real-time monitoring, impact assessment, and course correction should remain a core policy focus, reinforcing the IBC's position as one of India's most transparent and empirically grounded legislations.

Finally, the next phase of insolvency reform will depend significantly on professional capability and ethical commitment. As cases grow in complexity and scale, insolvency and valuation professionals must continue to evolve as strategic enablers of resolution and value creation. Sustained investment in professional capacity, multidisciplinary expertise, and institutional collaboration will be essential to positioning India as a leading restructuring hub and ensuring that the Insolvency and Bankruptcy Code continue to support economic resilience and long-term growth.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

F. Issue-Recommendation Matrix

Issue-Recommendation Matrix Chief Guest's Address: Policy and Framework-Level Observations	
Key Issue Identified	**Policy Recommendation**
Sustaining the market-oriented, creditor-led architecture of the IBC	Consistently reinforce the foundational philosophy of creditor-led, market-driven resolution through interpretative guidance and procedural discipline, ensuring that judicial intervention remains proportionate and does not dilute timelines or commercial decision-making.
Limited institutionalisation of empirical law reform beyond insolvency	Embed law-in-action studies and empirical impact assessments as a permanent feature of insolvency law reform, enabling evidence-based calibration of statutory provisions, regulations, and judicial practices.
Operational complexity of a multi-institutional insolvency ecosystem	Strengthen coordination mechanisms among adjudicating authorities, insolvency professionals, Information Utilities, and the regulator through clearer role demarcation, streamlined processes, and standardised interfaces to minimise friction and delay.
Under-utilisation of insolvency data for real-time policy improvement	Develop enhanced analytical and institutional capabilities to translate insolvency data into actionable policy insights, enabling continuous monitoring, early identification of bottlenecks, and responsive regulatory intervention.
Persistent misinterpretation of insolvency outcomes as recovery-centric	Reframe stakeholder discourse through consistent regulatory communication and professional guidance to reinforce that the IBC is a resolution- and value-maximisation framework, not a recovery or haircut-measurement mechanism.
Risk of delayed operationalisation of IBC 2.0 amendments	Ensure expeditious drafting and notification of subordinate legislation under the Insolvency and Bankruptcy Code (Amendment) Bill, 2025, supported by structured stakeholder consultation and timely clarificatory guidance.
Practical challenges in implementing cross-border and group insolvency	Support the rollout of cross-border and group insolvency frameworks with detailed procedural rules, capacity-building initiatives, and practitioner toolkits to ensure legal certainty and operational readiness.
Inconsistencies in valuation approaches affecting resolution outcomes	Translate expert committee recommendations into harmonised valuation standards, clearer conceptual guidance on fair and liquidation value, and strengthened oversight to enhance reliability and stakeholder confidence.
Uneven adoption and interpretation of valuation standards	Strengthen mechanisms for uniform application of valuation standards through targeted training, interpretative guidance notes, peer review, and supervisory oversight within the insolvency ecosystem.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue-Recommendation Matrix Chief Guest's Address: Policy and Framework-Level Observations	
Key Issue Identified	**Policy Recommendation**
Sustaining professional capacity amid growing complexity of cases	Prioritise continuous professional education, multidisciplinary skill development, and reinforcement of ethical standards to ensure that insolvency and valuation professionals remain capable of delivering high-quality, value-maximising outcomes in complex and cross-border cases.

vi. Closing Remarks by CA. Rajesh Sharma, Vice Chairman, I & VSB, ICAI

A. Key Highlights of the Address

The Closing Remarks acknowledged the collective contribution of dignitaries, regulators, speakers, professionals, and the organising institutions in shaping RESOLVE-2025 as a meaningful and impactful convention.

Particular emphasis was placed on the foundational role played by the Chief Guest in shaping India's insolvency framework and on the continuing leadership of the regulator in advancing the insolvency and valuation profession.

The address recognised the significant macroeconomic impact of the Insolvency and Bankruptcy Code, including substantial recoveries, reduction in non-performing stress, and the stabilisation of the financial system.

The pivotal role of Chartered Accountants in the success of the insolvency framework was highlighted, acknowledging their contribution across resolution, valuation, banking, and institutional processes.

The remarks underscored the continued scope and opportunity within the insolvency profession, encouraging wider participation and reaffirming that the evolving insolvency ecosystem continues to offer significant professional and institutional avenues.

The address situated insolvency reform within the broader national and global context, linking India's demographic dividend, startup ecosystem, and global economic engagement with the need for strong institutional and financial frameworks.

B. Key Takeaways

- ✓ The success of the insolvency framework is a collective outcome, driven by collaboration between policymakers, regulators, professionals, and institutions.
- ✓ Chartered Accountants have emerged as central enablers of India's insolvency and valuation ecosystem, contributing materially to its credibility, effectiveness, and global standing.
- ✓ The Insolvency and Bankruptcy Code has delivered tangible economic outcomes, including reduction in financial stress and improved system-wide discipline.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ The insolvency profession continues to present significant opportunities for new and existing professionals, reflecting the growing scale and complexity of India's economy.
- ✓ India's broader economic trajectory characterised by demographic strength, innovation, and global engagement reinforces the importance of a resilient and forward-looking insolvency framework.

C. Way Forward- Policy Note

The Closing Remarks reinforced the view that India's insolvency and valuation framework must be seen as a long-term institutional asset supporting economic stability, growth, and global credibility. As India's economy expands in scale, complexity, and international integration, the insolvency ecosystem will be required to evolve in parallel both in capacity and sophistication.

Sustained professional participation and institutional collaboration will be critical to ensure that the Insolvency and Bankruptcy Code continues to deliver value-driven outcomes. Strengthening professional capability, encouraging wider entry into the insolvency profession, and leveraging India's demographic and entrepreneurial strengths can further enhance the effectiveness of resolution processes.

The remarks also underscored the importance of aligning insolvency reform with India's broader economic aspirations. A robust insolvency and valuation framework is integral not only to financial stability but also to India's emergence as a global economic partner and innovation-driven economy. Continued investment in professional standards, institutional trust, and collaborative platforms such as RESOLVE will remain essential to supporting this trajectory.

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

PANEL DISCUSSION I: INDIA'S IBC REGIME: GLOBAL COMPARISON

Opening Remarks:

CA. Ravi Kumar Patwa, Central Council Member, ICAI

Moderator:

CA. Sripriya Kumar, Central Council Member, ICAI

Panelists:

1. Shri Sudhaker Shukla, Former Whole-Time Member, Insolvency and Bankruptcy Board of India
2. Shri Abizer Diwanji, Founder, Neostrat Advisor LLP
3. Shri Bahram N. Vakil, Founder, AZB & Partners

Closing Remarks:

CA. Vishnu Kumar Agarwal, Central Council Member, ICAI

A. Deliberations / Highlights of the Session

The first panel discussion of RESOLVE-2025 undertook a comparative examination of India's Insolvency and Bankruptcy Code (IBC) against global insolvency frameworks. The discussion focused on the foundational design choices of the Code, its performance over nearly a decade, the role of institutions and professionals, and the future direction of insolvency reforms. The deliberations were anchored around a set of carefully framed questions addressing structural design, behavioural impact, professional capability, and emerging resolution tools such as pre-packaged insolvency and alternative dispute resolution mechanisms.

Creditor-in-Control versus Debtor-in-Possession: Assessing the Core Design Choice: The panel examined whether India's choice of a creditor-in-control model, over a debtor-in-possession framework, has delivered the intended outcomes. It was noted that this design decision was made against the backdrop of historically high non-performing assets, concentrated largely in public sector banks, and the limited success of earlier debtor-driven restructuring mechanisms. The Bankruptcy Law Reforms Committee's emphasis on vesting commercial decision-making with creditors, rather than courts, was reaffirmed as a deliberate policy choice that has since received consistent judicial endorsement.

The panel observed that in the initial years of implementation, particularly before the COVID-19 period, the Code delivered globally competitive outcomes, including time-bound resolution of large and complex cases, improved recoveries, and relatively low resolution costs. While performance has weakened in recent years due to delays and capacity constraints, the

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

consensus was that the underlying creditor-in-control model remains fundamentally sound and capable of renewed effectiveness with targeted reforms.

Behavioural Impact of the IBC: Deterrence and Credit Discipline: Beyond metrics such as recoveries and timelines, the panel deliberated on whether the IBC has achieved its intended behavioural impact. There was unanimous agreement that the most significant success of the Code lies in transforming borrower behaviour. Default is no longer consequence-free, and the growing number of settlements occurring even before formal admission into CIRP was cited as strong evidence of enhanced credit discipline and deterrence. This behavioural shift was recognised as a structural and enduring contribution of the IBC to India's credit ecosystem.

Professional Capability and Global Benchmarking of Insolvency Practice: The panel examined what would be required for Indian insolvency professionals to match or exceed global standards. It was observed that insolvency is a permanent feature of economic cycles and that, in advanced jurisdictions, professionals play an early-stage role as turnaround specialists rather than entering only at the point of statutory default. In the Indian context, insolvency professionals are often engaged after substantial value erosion has already occurred.

The discussion highlighted the need for the profession to evolve from a largely compliance-driven role to a proactive advisory function encompassing early restructuring, refinancing, and crisis management. Insolvency was viewed as one among several resolution tools, rather than the default response to financial distress, with professional judgment emerging as a critical determinant of successful outcomes.

Differentiating Distress: Business Failure, Financial Stress, and Fraud: The panel deliberated on the importance of distinguishing between different forms of distress, business failure, financial stress, and fraud at an early stage. It was emphasised that not all insolvencies are fraud-driven and that early identification of the nature of distress can materially improve outcomes. Viable businesses with stressed balance sheets may be candidates for resolution, fundamentally unviable businesses may warrant timely liquidation, and cases involving fraud require enforcement action. Such differentiation, the panel noted, depends more on professional experience and judgment than on prescriptive regulation.

Price Discovery and the Role of Auctions: The necessity of mandatory auction-based price discovery was examined, particularly in scenarios where operational creditors are paid in full and financial creditors have exercised their commercial wisdom to approve a resolution plan. The panel observed that rigid reliance on auctions may not always add value, especially in pre-packaged or negotiated resolutions, and may even deter early resolution by forcing premature disclosure of sensitive business information. Flexibility in price discovery mechanisms was therefore viewed as an important enabler of efficient resolution.

Integrating Alternative Dispute Resolution into the Insolvency Framework: The panel explored whether Alternative Dispute Resolution (ADR) mechanisms could be meaningfully integrated into the IBC framework to reduce delays and tribunal burden. Drawing from global experience, it was noted that ADR plays a significant role in resolving inter-creditor

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

disputes and ancillary issues. While India has examined this possibility through reports and discussion papers, wider institutional acceptance remains limited. Targeted and structured use of ADR, particularly at pre-admission stages or for inter-creditor disputes, was seen as a pragmatic means of improving efficiency without undermining the core architecture of the Code.

Pre-Packaged Insolvency: Future Direction and Safeguards: The panel deliberated on the role of pre-packaged insolvency as a future-oriented resolution tool. Pre-packs were recognised as enabling stakeholders to negotiate outcomes in advance and seek judicial approval primarily for implementation. The discussion highlighted key principles for effective pre-pack frameworks, including applicability to viable businesses, protection of operational creditors, flexibility in price discovery where creditors agree, and consideration of creditor equity participation to enhance recoveries. While acknowledging that the current Indian framework is conservative due to safeguards, the panel expressed the view that increased experience and confidence could justify wider adoption over time.

Institutional Capacity, Governance, and the Next Phase of Reform: The deliberations also addressed broader institutional and governance issues, including capacity constraints at adjudicating authorities, delays at admission and resolution stages, and the need to restore process discipline. Greater reliance on Information Utilities, particularly NESL's debt and default repository, was emphasised as critical to reducing information asymmetry and facilitating timely outcomes. The panel also highlighted the importance of early identification of stress at the board level, advocating stronger corporate governance, early warning systems, and the inclusion of resolvability considerations in corporate reporting.

Concluding Observations: The panel concluded that while implementation challenges persist, the Insolvency and Bankruptcy Code has delivered a fundamental cultural shift by positioning default as a serious commercial consequence. The creditor-in-control framework was reaffirmed as structurally sound, with early intervention, professional evolution, pre-packs, ADR integration, and institutional capacity building identified as key priorities for the next phase of India's insolvency reform journey.

B. Key Takeaways

- ✓ The creditor-in-control model adopted under the Insolvency and Bankruptcy Code remains structurally sound and was an appropriate policy response to India's banking-led credit system and historically high levels of non-performing assets.
- ✓ Early implementation of the IBC delivered globally competitive outcomes, including time-bound resolution of complex cases, improved recoveries, and relatively low resolution costs, demonstrating the inherent strength of the framework.
- ✓ The most significant contribution of the IBC has been behavioural transformation, with default no longer perceived as consequence-free, evidenced by a growing number of pre-admission settlements and improved credit discipline.
- ✓ Delays in admission, prolonged CIRP timelines, and capacity constraints at adjudicating authorities have eroded value in recent years, underscoring the need to restore process discipline and institutional efficiency.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ Insolvency should be viewed as one among several resolution tools rather than the default response to financial stress, with early intervention delivering superior value preservation outcomes.
- ✓ Insolvency professionals must evolve from a compliance-driven role to proactive turnaround and crisis-management specialists, exercising professional judgment alongside procedural expertise.
- ✓ Early differentiation between business failure, financial distress, and fraud is critical to determining appropriate resolution pathways and improving outcome efficiency.
- ✓ Rigid reliance on auction-based price discovery may not always maximise value, particularly in negotiated or pre-packaged resolutions, warranting greater flexibility where creditor consensus exists.
- ✓ Pre-packaged insolvency frameworks hold significant potential for efficient resolution of viable businesses, provided adequate safeguards for operational creditors, and transparency is maintained.
- ✓ Targeted integration of Alternative Dispute Resolution mechanisms can reduce litigation, ease tribunal burden, and accelerate resolution without undermining the core architecture of the Code.
- ✓ Strong institutional architecture under the IBC, including the role of the regulator and Information Utilities, remains a key strength, though continued capacity building and governance reforms are essential for the next phase of insolvency reform.

C. Issues & Challenges Identified

Erosion of Timeliness in Resolution Processes: Despite a robust statutory design, delays at the admission stage and prolonged CIRP timelines have undermined the time-bound character of the IBC, leading to value erosion and diminishing confidence in resolution outcomes.

Capacity Constraints at Adjudicating Authorities: Institutional capacity limitations at adjudicating forums continue to affect efficiency, contributing to backlog, procedural delays, and inconsistent timelines across cases.

Late Engagement of Insolvency Professionals: Insolvency professionals are often appointed after substantial financial stress and value erosion have already occurred, limiting the scope for early intervention and effective turnaround.

Over-Reliance on Formal Insolvency as the Primary Resolution Tool: Financial distress is frequently addressed through formal insolvency proceedings rather than earlier restructuring, refinancing, or renegotiation mechanisms, reducing flexibility and increasing costs.

Challenges in Differentiating Nature of Distress: Absence of systematic mechanisms to distinguish early between business failure, financial distress, and fraud can result in misaligned resolution strategies and suboptimal outcomes.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Rigid Application of Auction-Based Price Discovery: Mandatory reliance on auction mechanisms in all cases may inhibit early resolution and discourage negotiated outcomes, particularly in pre-pack scenarios where creditor consensus exists.

Limited Adoption of Pre-Packaged Insolvency: While pre-packs offer efficiency and value preservation, cautious regulatory design and limited practitioner confidence have constrained their wider adoption.

Under-utilisation of Alternative Dispute Resolution Mechanisms: Despite global precedent, ADR remains underused within the Indian insolvency framework, particularly for inter-creditor disputes and pre-admission issues.

Governance and Early Warning Deficiencies at the Corporate Level: Inadequate early warning systems and insufficient board-level focus on financial stress hinder timely intervention and increase the likelihood of value-destructive outcomes.

Inconsistent Use of Information Utilities: While Information Utilities significantly reduce information asymmetry, their full potential in facilitating timely admission and resolution remains under-utilised.

Need for Enhanced Professional Skills and Multidisciplinary Expertise: The Growing complexity of insolvency cases, including group and cross-border dimensions, demands greater skills, commercial acumen, and multidisciplinary expertise from insolvency professionals.

D. Suggestions & Recommendations

Restoring Timeliness and Process Discipline: Targeted procedural reforms should be undertaken to reduce delays at the admission stage and reinforce adherence to statutory timelines during CIRP. Greater reliance on authenticated default data from Information Utilities, coupled with stricter scrutiny of avoidable adjournments, can help restore the time-bound character of the insolvency framework.

Augmenting Institutional Capacity of Adjudicating Authorities: Capacity constraints at adjudicating forums should be addressed through additional benches, specialised case allocation, technology-enabled hearings, and administrative support. These measures can reduce backlogs, improve consistency, and enhance the predictability of insolvency timelines.

Promoting Early Engagement and Preventive Restructuring: Policy and practice should encourage earlier involvement of insolvency professionals, well before statutory default. Frameworks supporting early restructuring, refinancing, and renegotiation, outside formal insolvency, should be strengthened to preserve enterprise value and avoid value-destructive outcomes.

Embedding Distress Differentiation into Resolution Strategy: Mechanisms should be developed to facilitate early and objective differentiation between business failure, financial distress, and fraud. Such differentiation can guide appropriate resolution pathways, revival, orderly exit, or enforcement, thereby improving efficiency and outcomes.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Introducing Flexibility in Price Discovery Mechanisms: The insolvency framework should allow calibrated flexibility in price discovery where creditor consensus exists, particularly in negotiated and pre-packaged resolutions. Auctions should not be mandated where they do not materially enhance value or where stakeholder interests are already protected.

Expanding and Normalising Pre-Packaged Insolvency: Pre-packaged insolvency should be progressively expanded beyond its current limited scope, subject to safeguards for transparency and protection of operational creditors. Increased regulatory confidence and practitioner experience can enable wider adoption as an efficient resolution tool for viable businesses.

Integrating Alternative Dispute Resolution into Insolvency Processes: Structured and targeted use of Alternative Dispute Resolution mechanisms, especially for inter-creditor disputes and pre-admission issues, should be institutionalised to reduce litigation, ease tribunal burden, and expedite resolution.

Strengthening Corporate Governance and Early Warning Systems: Corporate governance frameworks should be reinforced to promote early identification of financial stress at the board level. Adoption of early warning indicators, resolvability assessments, and enhanced disclosure can facilitate timely intervention and informed decision-making.

Enhancing Utilisation of Information Utilities: Wider and more consistent use of Information Utilities should be encouraged to reduce information asymmetry, improve admission efficiency, and support objective determination of default and claims.

Deepening Professional Capability and Multidisciplinary Skills: Continuous professional development should focus on building multidisciplinary expertise, commercial judgment, and turnaround skills among insolvency professionals. This is particularly critical in anticipation of more complex cases involving group structures and cross-border elements.

E. Way Forward - Policy Note

The deliberations underscored that the Insolvency and Bankruptcy Code has laid a strong structural foundation, but its next phase must focus on restoring operational efficiency and adapting resolution tools to evolving economic realities. Reinvigorating the time-bound nature of the insolvency process through improved institutional capacity, technology-enabled adjudication, and disciplined process management is essential to prevent further erosion of enterprise value.

Future reforms should prioritise early and proactive distress management, positioning insolvency professionals as turnaround specialists rather than end-stage administrators. Encouraging pre-insolvency restructuring, negotiated settlements, and timely engagement can materially improve resolution outcomes and reduce reliance on formal proceedings.

Greater flexibility in resolution tools will be critical. Expanded use of pre-packaged insolvency, calibrated price discovery mechanisms, and targeted integration of Alternative Dispute Resolution can enhance efficiency while preserving the commercial autonomy of creditors. These approaches must be supported by clear safeguards to maintain transparency and protect stakeholder interests.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Strengthening governance at the corporate level, improving utilisation of Information Utilities, and embedding early warning systems can further enhance the effectiveness of the insolvency framework. Equally important is sustained investment in professional capacity building, particularly in anticipation of group and cross-border insolvency regimes.

Collectively, these measures can restore momentum to India's insolvency framework, reinforce credit discipline, and ensure that the Insolvency and Bankruptcy Code continue to deliver timely, value-maximising outcomes aligned with India's long-term economic objectives.

F. Issue-Recommendation Matrix

Issue-Recommendation Matrix India's IBC Regime - Global Comparison	
Issue Identified	**Policy Recommendation**
Erosion of timeliness in resolution processes	Reinforce process discipline through stricter adherence to admission timelines, reduced tolerance for avoidable adjournments, and greater reliance on authenticated default data from Information Utilities to preserve the time-bound character of the IBC.
Capacity constraints at adjudicating authorities	Augment institutional capacity through additional benches, specialised insolvency-focused case allocation, technology-enabled hearings, and enhanced administrative support to reduce backlog and ensure predictable timelines.
Late engagement of insolvency professionals	Encourage earlier involvement of insolvency professionals through strengthened early restructuring and preventive resolution frameworks, enabling timely intervention before irreversible value erosion sets in.
Over-reliance on formal insolvency proceedings	Promote out-of-court restructuring, refinancing, and renegotiation mechanisms as credible alternatives to formal CIRP, aligning with global best practices that prioritise early rescue over terminal insolvency.
Inability to differentiate between business failure, financial distress, and fraud	Develop structured mechanisms for early and objective distress classification to guide appropriate resolution pathways revival, restructuring, orderly exit, or enforcement thereby improving efficiency and outcomes.
Rigid application of auction-based price discovery	Introduce calibrated flexibility in price discovery mechanisms, particularly where creditor consensus exists, ensuring auctions are not mandated in cases where negotiated outcomes or pre-pack solutions better preserve value.
Limited adoption of pre-packaged insolvency	Expand the scope and normalise the use of pre-packaged insolvency frameworks, supported by regulatory clarity and safeguards, to enable faster, less disruptive resolution for viable businesses.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue-Recommendation Matrix India's IBC Regime - Global Comparison	
Issue Identified	**Policy Recommendation**
Under-utilisation of Alternative Dispute Resolution (ADR)	Institutionalise structured use of ADR mechanisms, especially for inter-creditor disputes and pre-admission issues, to reduce litigation, ease tribunal burden, and expedite resolution timelines.
Weak corporate governance and early warning mechanisms	Strengthen board-level accountability, early warning indicators, and resolvability assessments to ensure timely identification and response to financial stress before value-destructive insolvency becomes inevitable.
Inconsistent utilisation of Information Utilities	Encourage uniform and mandatory use of Information Utilities across creditors to reduce information asymmetry, improve admission efficiency, and support objective determination of default and claims.
Need for enhanced professional capability and multidisciplinary expertise	Deepen continuous professional development for insolvency professionals with emphasis on commercial judgment, restructuring skills, sectoral knowledge, and cross-border expertise to match the growing complexity of insolvency cases.

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

PANEL DISCUSSION II: BRIDGING LEGAL GAPS - GROUP INSOLVENCY AND CROSS-BORDER INSOLVENCY FRAMEWORK

Opening Remarks:

CA. Priti Paras Savla, Central Council Member, ICAI

Moderator:

CA. Pramod Jain, Central Council Member, ICAI

Panelists:

1. CA. Jayesh Sanghrajka, Managing Partner, Incorp Restructuring Services LLP
2. Shri Pulkit Deora, Advocate, Enterprise Chambers (Door Tenant)
3. CA. Udayraj Patwardhan, Insolvency Professional

Closing Remarks:

CA. Priti Paras Savla, Central Council Member, ICAI

A. Deliberations / Highlights of the Session

The second panel discussion of RESOLVE-2025 examined two of the most significant frontiers in India's insolvency reform journey, group insolvency and cross-border insolvency. The discussion was anchored in the recognition that modern corporate structures increasingly operate through complex group entities and across jurisdictions, rendering entity-by-entity and purely domestic resolution approaches inadequate. The panel explored how the proposed amendments to the Insolvency and Bankruptcy Code seek to bridge existing legal and operational gaps while aligning Indian practice with global standards.

Defining the Scope of Group Insolvency: Who Constitutes an "Eligible Group"?: A key question before the panel was how the proposed group insolvency framework defines an "eligible group" and the nature of corporate relationships that would qualify for coordinated proceedings. The discussion acknowledged that group insolvency is not entirely new to India, as courts and professionals have previously adopted judicially driven consolidation in large real estate and infrastructure cases.

The panel observed that defining a group is inherently complex in today's corporate environment, where entities may be linked through control, significant ownership, guarantees, common lenders, or shared security structures. The proposed framework recognises corporate groups as integrated economic units, while carefully preserving the

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

legal separateness of individual entities. Importantly, coordination under the framework is procedural rather than automatic consolidation of assets and liabilities.

It was further noted that the framework adopts a voluntary approach. Group entities meeting the definitional thresholds are not mandatorily drawn into insolvency proceedings, and solvent entities may remain outside the process, thereby safeguarding value and flexibility.

Interplay Between Group Insolvency and Cross-Border Insolvency: The panel deliberated on whether group insolvency and cross-border insolvency can be addressed independently. There was a broad consensus that the two are deeply interconnected, as large corporate groups frequently span multiple jurisdictions. Addressing domestic group insolvency in isolation may therefore result in fragmented and inefficient outcomes.

Drawing on international experience, the panel noted that global insolvency regimes have often evolved from cross-border insolvency frameworks toward enterprise group insolvency, recognizing the practical interdependence between the two. The proposed Indian framework reflects this learning by enabling coordination mechanisms that can operate across both group and cross-border contexts.

Procedural Coordination as the Cornerstone of the Framework: Another key area of deliberation concerned the procedural mechanisms envisaged for coordinating insolvency proceedings among group entities and their impact on efficiency and value maximisation. The panel highlighted that the framework prioritizes procedural coordination rather than substantive consolidation.

Key coordination tools discussed included the appointment of a common insolvency professional where feasible, the use of common valuers and forensic experts to ensure consistency, allocation of proceedings to a common adjudicating authority or bench, and alignment of timelines and information-sharing mechanisms. Each corporate debtor continues to retain its own Committee of Creditors, thereby respecting creditor autonomy while enabling coordinated outcomes.

The panel noted that such mechanisms are already being applied in practice through judicial innovation and market-driven solutions, and statutory recognition would provide greater certainty and consistency.

Balancing Coordination with Fairness and Entity Separateness: The discussion examined how the framework balances coordination with fairness to external creditors, particularly in relation to intra-group claims and the principle of entity separateness. It was emphasised that entity separateness remains foundational, and substantive consolidation is expected to remain an exceptional remedy, typically reserved for cases involving fraud or extreme entanglement.

India's cautious approach statutorily recognising procedural coordination while leaving substantive consolidation to judicial discretion was viewed as aligned with international jurisprudence. The panel acknowledged that complex issues such as upstream guarantees, recharacterisation of intra-group debt, and equitable subordination will require careful judicial development over time.

Safeguards Against Abuse and Value Erosion: The panel deliberated on safeguards to prevent abuse of the group and cross-border insolvency framework, protect minority

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

creditors, and avoid value erosion. It was recognised that no legal framework can fully eliminate opportunistic behaviour, particularly in complex group structures.

Potential risks discussed included marginalisation of minority creditors within group CoCs, strategic conduct by creditors across multiple entities, and resolution plans that comply procedurally but may be discriminatory in effect. The panel emphasised that safeguards will evolve through a combination of regulatory guidance, judicial oversight, and high standards of professional conduct, supported by consistent jurisprudence.

Cross-Border Insolvency: Legal and Practical Challenges: The panel examined the key challenges in implementing cross-border insolvency in India, including recognition of foreign proceedings, coordination among multiple jurisdictions, enforcement of orders, and equitable treatment of creditors subject to different legal systems.

The proposed amendments were discussed as providing a structured starting point by incorporating recognition, cooperation, and coordination mechanisms inspired by global best practices. While acknowledging that cross-border insolvency will remain complex in application, the panel viewed the framework as an essential step toward global integration.

Concluding Observations on the Reform Trajectory: In its concluding deliberations, the panel agreed that statutory recognition of group insolvency and cross-border insolvency represents a significant strengthening of India's insolvency architecture. Such recognition is expected to provide greater certainty and predictability, reduce reliance on ad hoc judicial innovation, empower insolvency professionals and creditors, and align Indian practice with international standards.

While implementation challenges are inevitable, the panel viewed the amendments as enabling and evolutionary, building upon judicial experience and market practice to support more efficient, coordinated, and value-maximising resolution outcomes.

B. Key Takeaways

- ✓ Statutory recognition of group insolvency is a critical evolution of India's insolvency framework, responding to the economic reality that corporate groups often operate as integrated business enterprises despite legal separateness.
- ✓ The proposed group insolvency framework prioritises procedural coordination over substantive consolidation, enabling efficiency and value maximisation while preserving entity-level creditor rights and legal separateness.
- ✓ Defining an "eligible group" requires flexibility, as modern corporate groups may be linked through control, ownership, guarantees, common lenders, or shared security, rather than simple parent-subsidiary structures.
- ✓ Voluntary participation is a key safeguard in the group insolvency framework, ensuring that solvent group entities are not automatically drawn into insolvency proceedings and unnecessary value destruction is avoided.
- ✓ Group insolvency and cross-border insolvency are inherently interconnected, and addressing one without the other risks fragmented outcomes, particularly for multinational corporate groups.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ International best practices demonstrate a phased evolution, where cross-border insolvency frameworks often precede enterprise group insolvency, reinforcing the need for coordinated legislative development.
- ✓ Procedural tools such as common insolvency professionals, shared valuers, coordinated timelines, and allocation to common benches can significantly improve consistency, efficiency, and resolution outcomes.
- ✓ Entity separateness remains a foundational principle, with substantive consolidation recognised internationally and under the Indian approach as an exceptional remedy, typically reserved for cases involving fraud or extreme entanglement.
- ✓ Intra-group claims and creditor expectations must be respected, with complex issues such as upstream guarantees, recharacterisation of debt, and equitable subordination requiring careful judicial development.
- ✓ Safeguards against abuse are essential, particularly to protect minority creditors and prevent strategic behaviour within group Committees of Creditors.
- ✓ Cross-border insolvency implementation will pose legal and practical challenges, including recognition of foreign proceedings, coordination across jurisdictions, and enforcement of orders, but the Amendment Bill provides a structured starting framework.
- ✓ Statutory frameworks reduce reliance on ad hoc judicial innovation, offering greater certainty and predictability while empowering insolvency professionals and creditors to manage complex group and cross-border cases.
- ✓ Professional judgment and institutional capacity will be decisive, as the success of group and cross-border insolvency regimes depends as much on skilled implementation as on legislative design.
- ✓ Overall, the proposed reforms signal India's transition toward a mature, globally aligned insolvency regime, capable of addressing complex, multi-entity and multi-jurisdictional distress in a coherent and value-maximising manner.

C. Issues & Challenges Identified

Absence of a codified group insolvency framework to date has led to reliance on judicial innovation, resulting in uncertainty, inconsistency, and case-specific solutions rather than predictable outcomes.

Complexity in defining an "eligible corporate group" poses challenges, given modern business structures involving layered ownership, guarantees, shared security, associate entities, joint ventures, LLPs, and overseas subsidiaries.

Risk of fragmented outcomes if group insolvency and cross-border insolvency are addressed in isolation, particularly where corporate groups operate across multiple jurisdictions.

Balancing coordination with entity separateness remains a key concern, as excessive consolidation could prejudice creditors of individual entities, while insufficient coordination may erode enterprise value.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Potential marginalisation of minority creditors in group insolvency proceedings, especially where dominant creditors exercise disproportionate influence across multiple entities.

Treatment of intra-group claims presents unresolved challenges, including issues relating to upstream guarantees, inter-corporate loans, recharacterisation of debt, and equitable subordination.

Lack of established jurisprudence on substantive consolidation, which, while recognised as an exceptional remedy, lacks clear statutory thresholds and guiding principles in the Indian context.

Operational challenges in procedural coordination, including appointment of common insolvency professionals, allocation to common benches, and synchronisation of timelines across entities.

Legal and practical difficulties in cross-border insolvency, particularly regarding recognition of foreign proceedings, cooperation with foreign courts and insolvency representatives, and enforcement of orders across jurisdictions.

Risk of strategic or opportunistic behaviour by creditors or stakeholders across group entities, potentially leading to discriminatory resolution outcomes that comply formally with the Code but undermine fairness.

Institutional and capacity constraints within adjudicating authorities and among professionals may be exacerbated by the complexity of group and cross-border cases.

Need for enhanced professional skill sets, as effective handling of group and cross-border insolvency requires advanced expertise in finance, valuation, international law, coordination, and stakeholder management.

Implementation uncertainty during the transition phase, as practitioners and tribunals adapt to new statutory provisions, rules, and emerging jurisprudence under the amended framework.

D. Suggestions & Recommendations

Codified yet flexible implementation of the group insolvency framework: While statutory recognition is a significant step forward, the framework should be implemented through clear, principle-based rules that allow flexibility to accommodate diverse corporate structures without imposing a one-size-fits-all approach.

Clear guidance on the identification of an "eligible group": Regulatory guidance may be issued to supplement statutory provisions, outlining indicative factors such as control, economic interdependence, common financing arrangements, and shared business operations, to reduce ambiguity in determining group eligibility.

Preference for procedural coordination over substantive consolidation: Procedural coordination should remain the default approach, with substantive consolidation reserved as an exceptional remedy, applied only under clearly articulated circumstances such as fraud, extreme entanglement, or impossibility of entity-level separation.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Safeguards for the protection of minority and external creditors: Explicit safeguards should be incorporated to ensure that coordination does not dilute the rights of creditors of individual entities, including transparent disclosure, entity-wise CoC decision-making, and reasoned approval of coordinated resolution plans.

Guidance on treatment of intra-group transactions and claims: Policy clarity is required on the treatment of inter-corporate loans, guarantees, and related-party claims, including circumstances warranting recharacterization, subordination, or differential treatment to prevent value leakage or abuse.

Integrated approach to group and cross-border insolvency: Rules governing group insolvency should be harmonised with the cross-border insolvency framework to avoid fragmented proceedings and ensure coordinated resolution of multinational corporate groups.

Phased and consultative rollout of cross-border insolvency rules: Given the complexity of cross-border cases, a phased implementation supported by stakeholder consultation, pilot cases, and capacity building is recommended to ensure smooth operationalisation.

Strengthening adjudicatory and institutional capacity: Dedicated benches, specialised training for judges, and procedural standardisation will be essential to manage the increased complexity of group and cross-border insolvency matters.

Enhanced professional capacity and skilling: Insolvency professionals should be supported through targeted training in group restructuring, cross-border coordination, international insolvency principles, valuation of interconnected entities, and stakeholder management.

Development of jurisprudential guidance through reasoned orders: Adjudicating authorities should be encouraged to issue detailed, reasoned orders in group and cross-border cases to aid the gradual development of consistent jurisprudence and market confidence.

Leveraging technology for coordination and transparency: Digital platforms may be used to enable information sharing, coordinated timelines, and communication among stakeholders across entities and jurisdictions, reducing delays and information asymmetry.

Continuous monitoring and review of the framework: A structured review mechanism should be instituted to periodically assess the effectiveness of the group and cross-border insolvency provisions, enabling timely regulatory refinements based on empirical outcomes and stakeholder feedback.

E. Way Forward - Policy Note

The statutory recognition of group insolvency and cross-border insolvency marks a decisive evolution in India's insolvency framework, signalling a shift from case-by-case judicial innovation to a structured, predictable, and globally aligned regime. As corporate groups increasingly operate as integrated economic units across jurisdictions, the effectiveness of insolvency resolution will depend on the system's ability to respond to complexity without sacrificing fairness, transparency, or creditor confidence.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Going forward, policy focus must remain anchored in procedural coordination as the norm, preserving entity separateness while enabling collective value maximisation. Substantive consolidation should continue to operate as a narrowly tailored judicial tool, applied only in exceptional circumstances. Clear regulatory guidance, supported by evolving jurisprudence, will be critical to balance coordination with creditor protection and to prevent opportunistic behaviour within group structures.

The intersection of group insolvency and cross-border insolvency necessitates an integrated and harmonised implementation strategy. Fragmented or sequential adoption risks inconsistent outcomes and value erosion. A phased rollout, complemented by stakeholder consultation and pilot implementation, will allow institutions, professionals, and adjudicating authorities to build capacity while refining operational processes.

Institutional preparedness will be central to success. Dedicated benches, specialised training, and technology-enabled coordination mechanisms must evolve in parallel with legislative reform. Insolvency professionals will need deeper expertise in group restructuring, international insolvency principles, valuation of interconnected enterprises, and multi-jurisdictional stakeholder management.

Finally, continuous review based on empirical outcomes should guide future refinements. Group and cross-border insolvency frameworks must remain dynamic, learning from early cases and international experience. If implemented with clarity, discipline, and collaboration, these reforms have the potential to significantly enhance certainty, reduce value destruction, and position India as a credible and competitive jurisdiction for complex domestic and cross-border restructurings, reinforcing the IBC's long-term objective of timely resolution and maximisation of value.

F. Issue-Recommendation Matrix

Issue-Recommendation Matrix Bridging Legal Gaps in Group Insolvency and Cross-Border Insolvency Framework	
Key Issue Identified	**Policy Recommendation**
Absence of a codified group insolvency framework leading to judicial innovation and uncertainty	Statutorily recognise group insolvency through a clear yet flexible framework that reduces reliance on case-by-case judicial solutions and enhances the predictability of outcomes.
Complexity in defining an "eligible corporate group" in modern business structures	Issue regulatory guidance identifying indicative factors such as control, economic interdependence, common financing, guarantees, and shared operations to guide the determination of group eligibility.
Risk of fragmented outcomes when group insolvency and cross-border insolvency are addressed separately	Harmonise group insolvency rules with cross-border insolvency provisions to enable coordinated resolution of multinational corporate groups and prevent value erosion through fragmented proceedings.
Tension between coordination and preservation of entity separateness	Adopt procedural coordination as the default mechanism, while reserving substantive consolidation as an exceptional remedy under clearly defined statutory thresholds.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue-Recommendation Matrix Bridging Legal Gaps in Group Insolvency and Cross-Border Insolvency Framework	
Key Issue Identified	**Policy Recommendation**
Potential marginalisation of minority and entity-specific creditors	Incorporate explicit safeguards such as entity-wise creditor decision-making, transparent disclosures, and reasoned approval of coordinated resolution plans to protect minority and external creditors.
Uncertainty in the treatment of intra-group claims and guarantees	Provide policy clarity on treatment of inter-corporate loans, upstream guarantees, related-party claims, and circumstances warranting recharacterisation or subordination to prevent abuse and value leakage.
Lack of statutory guidance on substantive consolidation	Codify guiding principles and thresholds for substantive consolidation, limiting its application to cases involving fraud, extreme financial entanglement, or impossibility of entity-level separation.
Operational challenges in procedural coordination across group entities	Enable appointment of common insolvency professionals, allocation to common benches, and synchronised timelines through procedural rules to enhance efficiency and coherence.
Legal and practical difficulties in cross-border insolvency recognition and enforcement	Operationalise cross-border insolvency through detailed subordinate legislation enabling recognition of foreign proceedings, cooperation with foreign courts, and enforcement of orders.
Risk of strategic or opportunistic behaviour across group entities	Strengthen oversight mechanisms to detect and deter discriminatory or opportunistic conduct that may formally comply with the Code but undermine fairness and value maximisation.
Institutional and capacity constraints in handling complex group and cross-border cases	Establish dedicated benches, specialised judicial training, and procedural standardisation to manage the increased complexity of coordinated insolvency matters.
Need for enhanced professional expertise in group and cross-border insolvency	Invest in targeted capacity building for insolvency professionals covering group restructuring, cross-border coordination, valuation of interconnected entities, and stakeholder management.
Implementation uncertainty during transition to the amended framework	Adopt a phased, consultative rollout of group and cross-border insolvency rules, supported by pilot cases, guidance notes, and continuous stakeholder engagement.
Limited jurisprudential guidance in early-stage group and cross-border cases	Encourage adjudicating authorities to issue detailed and reasoned orders to facilitate consistent jurisprudence development and build market confidence.
Information asymmetry and coordination gaps across entities and jurisdictions	Leverage digital platforms for information sharing, coordinated timelines, and stakeholder communication to reduce asymmetry and procedural delays.
Need for continuous assessment of framework effectiveness	Institute a structured monitoring and review mechanism to periodically assess outcomes and refine group and cross-border insolvency provisions based on empirical evidence.

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

TECHNICAL SESSION I: START-UPS, FAILURES & FUNDERS - THE ALTERNATIVE CAPITAL ROLE IN INSOLVENCY

Opening Remarks:

CA. Jay Chhaira, Central Council Member, ICAI

Speaker:

CA. Manoj Fadnis, Past President, ICAI

Closing Remarks:

CA. Jay Chhaira, Central Council Member, ICAI

A. Deliberations / Highlights of the Session

The first technical session was framed around the growing recognition that start-ups occupy a distinct and increasingly important space within India's insolvency and capital markets ecosystem. As innovation-driven, high-risk enterprises with unconventional funding structures and compressed life cycles, start-ups challenge traditional notions of business failure, restructuring, and recovery. Against this backdrop, the session examined how alternative capital providers, venture capital, private equity, and special situations funds, interact with insolvency frameworks, not merely as recovery mechanisms but as critical enablers of risk-taking, capital recycling, and orderly exits. The deliberations sought to contextualise insolvency law as a foundational pillar supporting innovation-led growth, investor confidence, and adaptive resolution pathways in a rapidly evolving start-up economy.

Start-ups and the Nature of Business Failure: The session deliberated on the distinctive characteristics of start-ups and the implications these have for insolvency and restructuring frameworks. While start-ups share foundational principles with traditional enterprises, the discussion recognised that they differ materially in terms of risk profile, pace of growth, funding structures, and vulnerability to failure. Start-ups were characterised as inherently high-risk, high-reward ventures, capable of rapid scaling and accelerated value creation, but equally susceptible to swift and often irreversible value erosion.

It was observed that start-up failures are rarely attributable to a single cause. Instead, distress typically emerges from a confluence of factors, including unsustainable or untested business models, inadequate market acceptance, weak branding and storytelling, failure to achieve product-market fit, excessive cash burn, working capital stress, and lack of disciplined financial planning. Unlike traditional businesses, where distress often develops gradually, start-up failures tend to be abrupt, leaving limited scope for corrective intervention.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

This underscores the importance of early-stage restructuring mechanisms and efficient exit options within the insolvency ecosystem.

Emotional Capital, Market Perception, and Execution Risk: A key thematic emphasis of the session was that business success, particularly in start-ups, is not driven by financial metrics alone. Beyond sound ideas and innovation, factors such as emotional connect, narrative building, branding, and market perception play a decisive role. The discussion highlighted that even promising business models may fail in the absence of effective execution and stakeholder confidence, reinforcing the need for a holistic assessment of start-up viability during funding and resolution processes.

Changing Funding Landscape and Liquidity Dynamics: The deliberations examined the evolving liquidity environment in India, noting significant shifts in the financial system. Declining interest rates, shrinking net interest margins, and increasing diversion of household savings toward capital markets and mutual funds have altered the traditional funding landscape. These trends have constrained conventional bank lending while simultaneously amplifying the role of private equity, venture capital, and other alternative capital providers.

Against this backdrop, banks and alternative investors were observed to increasingly prioritise investments that offer not only attractive returns but also predictable, credible, and efficient exit mechanisms. The availability of such exit pathways was identified as a critical determinant influencing capital allocation decisions in high-risk segments such as start-ups.

Role of Alternative Capital in the Start-up Ecosystem: The session highlighted the growing significance of alternative capital, venture capital, private equity, and special situations funds in financing start-ups. Unlike traditional lenders, these investors typically adopt a portfolio-based approach, where a small number of successful ventures are expected to offset multiple failures. In this context, legal certainty, enforceability of rights, and availability of restructuring or exit mechanisms assume central importance.

The insolvency framework was therefore viewed not merely as a recovery tool, but as a foundational enabler of capital formation, risk-taking, and innovation. A predictable and credible insolvency regime was recognised as essential for sustaining investor confidence and facilitating capital recycling within the start-up ecosystem.

Insolvency Law as an Enabler of Investment and Exit: The deliberations emphasised that insolvency law plays a critical role in supporting start-ups by providing structured pathways for restructuring, revival, or orderly exit. Rather than being perceived as a mechanism of last resort, insolvency was viewed as one of several tools available for addressing financial stress. Early restructuring, negotiated exits, and pre-insolvency solutions were identified as value-preserving alternatives to formal insolvency proceedings, particularly in the start-up context, where time is of the essence.

Judicial Experience and Case-Based Learning: The session drew extensively from judicial experience to illustrate the evolutionary nature of insolvency jurisprudence in India. The Bhushan Steel case was cited as a landmark example demonstrating how initial procedural uncertainty and prolonged litigation can eventually give way to legal clarity and strengthened confidence in resolution outcomes. The eventual affirmation of the resolution

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

plan reinforced investor faith in the insolvency framework, an essential factor for alternative capital deployment.

In contrast, the Jet Airways case was discussed as a cautionary illustration of failed resolution outcomes. The case highlighted the risks arising from delayed funding commitments, non-implementation of resolution plans, and failure to secure critical regulatory approvals. These factors were identified as particularly relevant for start-ups and businesses operating in regulated sectors.

Regulatory Approvals and Sector-Specific Risks: A significant portion of the discussion focused on the heightened insolvency risk faced by start-ups operating in heavily regulated sectors such as aviation, telecommunications, pharmaceuticals, and financial services. The session noted that regulatory approvals, often beyond the control of promoters, creditors, or resolution applicants, can decisively influence the feasibility of resolution plans.

Regulatory uncertainty and approval risk were identified as key considerations for alternative capital providers when evaluating investments and resolution strategies. Delays or denial of approvals can materially impair value, increase the cost of capital, and deter potential investors, even where the underlying business remains commercially viable.

Need for Early Intervention and Adaptive Insolvency Frameworks: The deliberations underscored the importance of early identification of financial stress and timely intervention in start-ups. Given the rapid pace at which start-up distress can escalate, delayed engagement often results in irreversible value destruction. The panel emphasised the need for flexible restructuring mechanisms, simplified insolvency pathways, and adaptive legal tools aligned with the realities of innovation-driven businesses.

Evolution of Insolvency Law and Future Readiness: Concluding the session, it was observed that insolvency law in India continues to evolve through judicial interpretation, regulatory refinement, and stakeholder experience. Early challenges and divergent outcomes were acknowledged as part of the natural maturation of a relatively young legal framework. Continued jurisprudential clarity, regulatory coordination, and responsiveness to emerging business models were identified as essential for strengthening the insolvency ecosystem.

The session reaffirmed that a well-calibrated insolvency framework is critical not only for addressing failure but also for sustaining innovation, encouraging responsible risk-taking, and supporting long-term economic growth in an increasingly start-up-driven economy.

B. Key Takeaways

- ✓ Start-ups exhibit a distinct insolvency profile marked by rapid scaling, high volatility, and abrupt failure, necessitating insolvency and restructuring frameworks that are materially different from those designed for traditional businesses.

- ✓ Failure in start-ups is multi-causal rather than singular, typically arising from a combination of weak execution, inadequate market positioning, excessive cash burn, working-capital stress, and governance gaps, even where the underlying idea or innovation is sound.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ Time is the most critical variable in start-up distress, as value erosion occurs swiftly, leaving limited scope for corrective intervention once distress becomes visible.
- ✓ Alternative capital is the primary funding source for start-ups, with venture capital, private equity, and special situation funds adopting a portfolio-based risk approach that relies on predictable and efficient exit mechanisms.
- ✓ Investor confidence in start-ups is closely linked to insolvency certainty, with clarity on restructuring and exit pathways being a decisive factor in capital allocation decisions.
- ✓ Insolvency law functions as an enabler of investment, not merely a recovery mechanism, by reducing downside uncertainty and facilitating capital recycling in high-risk, innovation-driven sectors.
- ✓ Judicial evolution has strengthened the insolvency framework, as demonstrated by landmark cases, which have progressively improved legal certainty and investor confidence despite initial procedural challenges.
- ✓ Execution certainty is as important as commercial viability, with failures of resolution plans often arising from delayed funding commitments or non-compliance with regulatory requirements.
- ✓ Start-ups operating in regulated sectors face heightened insolvency risk, as dependence on statutory and regulatory approvals can materially affect resolution feasibility and investor appetite.
- ✓ Regulatory approval risk directly influences the cost of capital, requiring careful assessment during funding, restructuring, and resolution planning for start-ups.
- ✓ Early restructuring and negotiated exits preserve value more effectively than late-stage formal insolvency proceedings, particularly in fast-moving start-up environments.
- ✓ Insolvency should be viewed as one of several resolution tools, alongside early-stage restructuring and pre-insolvency solutions, rather than as a measure of last resort.
- ✓ A responsive and adaptive insolvency framework is essential to accommodate innovative business models, evolving capital structures, and sector-specific risks within the start-up ecosystem.
- ✓ Sustained evolution of insolvency jurisprudence and regulation is critical to aligning the insolvency framework with the needs of start-ups, alternative capital providers, and a dynamic, innovation-led economy.

C. Issues & Challenges Identified

Multi-Dimensional Fragility and High Failure Sensitivity of Start-ups: Start-ups are structurally distinct from traditional businesses in that success requires simultaneous performance across multiple dimensions business model viability, market acceptance, emotional connect with consumers, storytelling and branding, governance standards,

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

and financial discipline. Unlike conventional enterprises, where strength in one area may compensate for weakness in another, start-ups operate on an "all-or-nothing" dynamic. Failure in even one critical dimension can trigger rapid collapse, making early-stage distress difficult to arrest and significantly elevating insolvency risk.

Abrupt Value Erosion and Limited Window for Intervention: Start-up distress typically manifests suddenly rather than gradually. Once liquidity stress sets in, value erosion is swift, leaving minimal scope for corrective action. Existing insolvency and restructuring processes, which are largely calibrated for traditional businesses with longer distress cycles, may not respond with the speed required to preserve value in start-up failures.

Cash Burn and Working Capital Stress as Primary Triggers: Excessive cash burn, weak working capital management, and inadequate financial planning emerged as dominant causes of start-up distress. In pursuit of rapid scaling, valuation narratives, and customer acquisition, many start-ups defer cash-flow discipline, resulting in liquidity stress even where the underlying product or idea remains sound. This often pushes start-ups prematurely into insolvency situations.

Shrinking Bank Liquidity and Limited Access to Traditional Debt: The session highlighted a structural shift in the banking landscape. Declining interest rates, shrinking CASA ratios, and diversion of household savings toward capital markets and mutual funds have constrained bank liquidity and reduced appetite for high-risk lending. Start-ups, already viewed as risk-heavy borrowers, face restricted access to conventional debt financing, increasing reliance on non-bank funding sources.

Dependence on Alternative Capital with Elevated Risk and Exit Expectations: Start-ups are increasingly dependent on venture capital, private equity, and special situation funds. While such alternative capital is critical for innovation, it carries heightened risk expectations and a strong emphasis on predictable, time-bound exit mechanisms. Uncertainty in insolvency outcomes weakens investor confidence, affects funding availability, and increases pricing pressure on start-ups.

Mismatch Between Insolvency Frameworks and Equity-Dominated Capital Structures: The existing insolvency framework is largely creditor- and debt-centric, whereas start-ups are predominantly funded through equity, convertible instruments, and hybrid capital. This structural mismatch limits the effectiveness of insolvency processes as tools for restructuring and revival, particularly where investor interests, governance rights, and exit strategies differ materially from traditional lending relationships.

Procedural Uncertainty and Litigation Risk in Insolvency Resolution: Judicial experience, including cases such as Bhushan Steel, highlighted how procedural lapses, compliance gaps, and prolonged litigation can destabilise resolution outcomes. Although eventual judicial clarification restored confidence, interim uncertainty exposed vulnerabilities in the insolvency process. For start-ups and alternative capital providers, such unpredictability weakens insolvency law's credibility as a reliable restructuring or exit mechanism.

Execution Risk and Funding Uncertainty in Resolution Plans: Resolution outcomes are particularly vulnerable where funding commitments are delayed, conditional, or inadequately structured. Failures in implementation rather than lack of commercial viability can derail

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

resolution plans, eroding value and undermining stakeholder confidence, especially in capital-intensive or time-sensitive start-up businesses.

Regulatory Approval Dependency and Sector-Specific Risks: Start-ups operating in regulated sectors, such as fintech, aviation, telecommunications, pharmaceuticals, and education, face heightened insolvency risk due to dependence on statutory and regulatory approvals. Delays or denial of approvals, often beyond the control of promoters, creditors, or resolution applicants, can cause even commercially viable resolution plans to fail.

Higher Cost of Capital for Regulated-Sector Start-ups: Because insolvency outcomes in regulated sectors are contingent on external approvals, investors price in regulatory uncertainty and execution risk. This leads to a structurally higher cost of capital, more selective funding, and reduced revival prospects for distressed start-ups operating in regulated environments.

Lack of Tailored Insolvency Pathways for Start-ups: The absence of simplified or differentiated insolvency and restructuring mechanisms for start-ups imposes procedural complexity and costs disproportionate to the scale and nature of such enterprises. This limits the practical utility of insolvency law as a flexible tool for early-stage restructuring, orderly exit, or value preservation.

Limited Use of Insolvency as a Strategic Restructuring Tool: Insolvency continues to be perceived primarily as a terminal process rather than a strategic mechanism for restructuring or early exit. This perception discourages timely engagement and prevents insolvency law from being used proactively to preserve value, recycle capital, and support entrepreneurial renewal.

D. Suggestions & Recommendations

Strengthening Financial Discipline, Governance, and Cash-Flow Management in Start-ups: Start-ups should institutionalise financial discipline and governance frameworks at an early stage rather than treating them as post-failure corrective measures. Greater emphasis must be placed on realistic business models, prudent cash burn strategies, robust working capital planning, and transparent accounting practices. In parallel, start-ups should invest in credible storytelling, branding, and stakeholder communication, as these directly influence investor confidence and funding continuity. Early adoption of governance mechanisms, such as advisory boards, internal controls, periodic financial stress testing, and disciplined reporting, can materially reduce failure rates and enhance resilience to economic and market shocks.

Expanding Access to Credit and Addressing Systemic Liquidity Constraints: In view of shrinking bank liquidity, declining CASA ratios, and reduced risk appetite of traditional lenders, policymakers should explore alternative credit-support mechanisms for viable start-ups. These may include credit enhancement structures, partial guarantees, blended finance models, and risk-sharing frameworks that encourage participation by specialised financial institutions and alternative lenders. Such mechanisms can improve access to debt funding without disproportionately burdening the banking system.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Recognising and Supporting the Role of Alternative Capital Providers: Alternative capital, venture capital, private equity, private credit, and special situation funds, has become the principal source of start-up financing. Insolvency frameworks must therefore be responsive to the risk-return expectations of these investors by ensuring predictable, timely, and enforceable resolution outcomes. Enhanced insolvency certainty will enable more accurate risk pricing, sustain investor confidence, and encourage continued capital flows into early-stage and high-growth enterprises.

Enhancing Predictability, Consistency, and Timeliness in Insolvency Processes: Procedural uncertainty and prolonged litigation remain significant deterrents to the effective use of insolvency as a restructuring or exit mechanism. Strict adherence to statutory timelines, procedural standardisation, and consistency in judicial interpretation must be reinforced. Learnings from cases such as Bhushan Steel underscore the need to minimise compliance lapses and post-approval disruptions to preserve stakeholder confidence and ensure certainty of outcomes.

Introducing Safe-Harbour Protections for Bona Fide Commercial Decisions: Given the high-risk and fast-evolving nature of start-up environments, safe-harbour provisions should be considered to protect founders, directors, and insolvency professionals from retrospective scrutiny and liability for bona fide commercial decisions taken in good faith. Such protections would reduce defensive behaviour, encourage timely and decisive action, and promote innovation-driven risk-taking within a responsible governance framework.

Addressing Regulatory Approval Dependencies in Resolution Planning: Resolution plans, particularly for start-ups in regulated sectors such as fintech, aviation, telecommunications, and pharmaceuticals, must proactively account for regulatory approval requirements and statutory timelines. Early engagement with sectoral regulators should be encouraged, and insolvency authorities should facilitate inter-regulatory coordination. Consideration may be given to consultative or fast-track approval mechanisms for insolvency-driven restructurings to prevent the collapse of commercially viable plans due to regulatory delays, as highlighted by the Jet Airways case.

Developing a Start-up-Specific Insolvency and Restructuring Framework: The current insolvency framework, designed primarily for debt-heavy traditional corporations, does not fully align with the equity-dominated capital structures of start-ups. A simplified, flexible, and founder-sensitive insolvency and restructuring framework should be explored for start-ups, with a focus on business continuity, restructuring, and value preservation rather than immediate loss of control or liquidation. Such a framework could draw from international best practices, including models like the US Subchapter V regime.

Positioning Insolvency as an Enabler of Entrepreneurship and Innovation: Insolvency law should be reframed as a facilitative mechanism that supports entrepreneurship, innovation, and capital formation, rather than being perceived solely as a recovery or punitive tool. Predictable restructuring and exit pathways reduce downside risk for investors and founders alike, encouraging funding of innovative but high-risk ventures. Aligning insolvency policy with India's broader start-up and innovation agenda will strengthen the ecosystem and support sustained economic growth.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Strengthening Institutional Capacity and Ecosystem Coordination: Effective insolvency outcomes depend not only on legal provisions but also on institutional capacity. Adjudicatory bodies must be adequately staffed, trained, and technologically enabled to handle complex start-up and alternative capital cases. Enhanced coordination among insolvency professionals, regulators, sectoral authorities, investors, and adjudicating forums is essential to ensure cohesive, timely, and commercially viable resolution outcomes.

Building a Culture of Trust and Failure Tolerance: Finally, the session underscored the need for a cultural shift toward recognising business failure as an inherent component of innovation. Policy, regulation, and enforcement should clearly distinguish between genuine entrepreneurial failure and misconduct. A trust-based, failure-tolerant ecosystem will encourage responsible risk-taking, attract global capital, and position India as a competitive hub for innovation and start-up-led growth.

E. Way Forward - Policy Note

As India's start-up ecosystem continues to expand in scale, complexity, and economic significance, insolvency law must evolve from a purely corrective framework into a proactive enabler of innovation, capital formation, and orderly risk-taking. The deliberations of this session underscore that start-ups represent a structurally distinct class of enterprises, characterised by equity-heavy capital structures, accelerated growth cycles, and heightened sensitivity to liquidity shocks, which demand differentiated regulatory and insolvency responses.

Going forward, policy attention must focus on early intervention, flexibility, and speed. Insolvency frameworks should facilitate timely restructuring and negotiated exits before irreversible value erosion sets in. This requires moving beyond a one-size-fits-all, debt-centric approach and exploring start-up-specific restructuring pathways that prioritise continuity, value preservation, and rapid resolution over prolonged procedural control battles.

A critical pillar of future reform lies in strengthening insolvency certainty for alternative capital providers. Venture capital, private equity, and special situation funds are central to financing innovation, but their continued participation depends on predictable exit mechanisms and enforceable outcomes. Enhancing procedural discipline, minimising litigation risk, and ensuring adherence to statutory timelines will be essential to sustaining investor confidence and lowering the cost of capital for distressed but viable start-ups.

Policy must also address the regulatory dimension of insolvency, particularly for start-ups operating in heavily regulated sectors. Improved coordination between insolvency authorities and sectoral regulators, coupled with consultative or fast-track approval mechanisms, can prevent the collapse of viable resolution plans due to external delays beyond stakeholder control.

Equally important is the creation of a trust-based, failure-tolerant ecosystem. Safe-harbour protections for bona fide commercial decisions, clear differentiation between entrepreneurial failure and misconduct, and reduced retrospective scrutiny can encourage timely decision-making and responsible risk-taking by founders, investors, and insolvency professionals alike.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Finally, institutional capacity will be decisive. Adjudicating authorities, insolvency professionals, and regulators must be equipped through training, technology, and cross-disciplinary engagement to address the nuanced challenges posed by start-ups and alternative capital structures. With these reforms, insolvency law can play a transformative role: not merely resolving failure, but actively supporting innovation, capital recycling, and India's aspiration to emerge as a global hub for start-ups and high-growth enterprises.

This forward-looking alignment of insolvency policy with the realities of entrepreneurship and alternative capital will be central to enabling sustainable growth, maximising value, and reinforcing confidence across the start-up ecosystem.

F. Issue-Recommendation Matrix

Issue-Recommendation Matrix Start-ups, Failures & Alternative Capital in Insolvency	
Key Issue Identified	**Recommendation**
Multi-dimensional fragility and high failure sensitivity of start-ups	Encourage early institutionalisation of governance, financial discipline, and risk monitoring frameworks, including advisory boards, stress testing, and transparent reporting, to improve resilience across business, financial, and reputational dimensions.
Abrupt value erosion and a limited window for intervention	Develop faster, simplified restructuring and exit pathways tailored for start-ups, enabling early intervention before irreversible value destruction occurs.
Cash burn and working capital stress as the primary triggers of distress	Promote disciplined cash-flow management, realistic scaling strategies, and stronger working capital planning as integral elements of start-up governance and investor oversight.
Shrinking bank liquidity and constrained access to traditional debt	Explore alternative credit-support mechanisms such as blended finance, partial guarantees, and risk-sharing structures to supplement reduced bank lending to viable start-ups.
Heavy dependence on alternative capital with high exit expectations	Strengthen insolvency predictability and enforceability to align with the risk-return and exit expectations of venture capital, private equity, and special situation funds.
Mismatch between debt-centric insolvency framework and equity-dominated start-up capital structures	Design a start-up-specific or differentiated insolvency and restructuring framework that recognises equity-heavy funding models and prioritises continuity and restructuring over liquidation.
Procedural uncertainty and litigation risk in insolvency resolution	Reinforce procedural discipline, standardisation, and adherence to statutory timelines to reduce uncertainty and enhance confidence in insolvency as a credible restructuring tool.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue-Recommendation Matrix Start-ups, Failures & Alternative Capital in Insolvency	
Key Issue Identified	**Recommendation**
Execution risk and funding uncertainty in resolution plans	Mandate stronger scrutiny of funding commitments, clearer implementation milestones, and safeguards against post-approval delays to ensure resolution plans are executable and credible.
Regulatory approval dependency in sector-specific start-ups	Encourage early and structured engagement with sectoral regulators and develop coordinated or fast-track approval mechanisms for insolvency-driven restructurings in regulated sectors.
Higher cost of capital for regulated-sector start-ups	Reduce regulatory uncertainty through predictable approval timelines and coordinated regulatory responses, thereby lowering perceived risk and cost of capital.
Absence of tailored insolvency pathways for start-ups	Introduce simplified, proportionate insolvency and restructuring mechanisms calibrated to the scale, speed, and capital structures of start-ups.
Limited use of insolvency as a strategic restructuring or exit tool	Reframe insolvency law as a facilitative mechanism for restructuring and orderly exit, encouraging earlier engagement by founders and investors.
Exposure of founders, directors, and professionals to hindsight scrutiny	Introduce safe-harbour protections for bona fide commercial decisions taken in good faith, reducing defensive behaviour and enabling timely action.
Institutional and coordination constraints in handling start-up insolvencies	Strengthen adjudicatory capacity, technological enablement, and coordination among insolvency professionals, regulators, investors, and sectoral authorities.
Cultural aversion to failure and low tolerance for entrepreneurial risk	Foster a trust-based, failure-tolerant policy and enforcement culture that clearly distinguishes genuine business failure from misconduct, supporting innovation and capital formation.

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

TECHNICAL SESSION II: INDEPENDENT VALUATIONS AS A PILLAR OF CREDITOR CONFIDENCE - ENHANCING RECOVERY STRATEGIES AND DECISION-MAKING

Opening Remarks:

CA. Abhay Chhajed, Central Council Member, ICAI

Speaker:

Shri Santosh Kumar Shukla, Chief General Manager, SEBI and Ex-Executive Director, IBBI

Closing Remarks:

CA. Abhay Chhajed, Central Council Member, ICAI

A. Deliberations / Highlights of the Session

The Conference next turned to a critical component of the insolvency ecosystem, independent valuation, and its role in strengthening creditor confidence and enabling resolutions. The session underscored independent valuation as a foundational element of the insolvency ecosystem, central to creditor confidence, fairness of outcomes, and integrity of the resolution process. It was emphasised that valuation-led decision-making lies at the heart of effective insolvency resolution, influencing choices on restructuring, reorganisation, asset sale, or liquidation. As the Insolvency and Bankruptcy Code (IBC) approaches a decade of implementation, the session called for a renewed examination of valuation practices as a systemic enabler rather than a procedural formality.

Valuation as a Core Enabler of Value Maximisation: The deliberations reaffirmed that value maximization, rather than procedural resolution alone, lies at the heart of the insolvency framework. Independent, unbiased, and transparent valuation of assets and enterprises was identified as fundamental to achieving this objective. Valuation reports were recognised as decisive instruments not only for determining fair value and liquidation value but also for building confidence among creditors, enabling the Committee of Creditors (CoC) to exercise informed commercial wisdom, and assisting adjudicating authorities in assessing the feasibility and fairness of resolution outcomes.

Valuation was thus positioned not as a compliance formality but as a critical decision-support mechanism shaping recovery strategies, restructuring choices, and liquidation decisions.

Evolution of the Valuation Ecosystem and Regulatory Oversight: The session traced the early recognition of valuation as a system-critical discipline, noting that regulatory oversight

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

was entrusted to the Insolvency and Bankruptcy Board of India (IBBI) at an early stage of the Code's implementation. While a comprehensive valuation legislation contemplated in 2018 did not materialise, the regulatory framework has evolved through discussion papers, guidance notes, documentation requirements, and initiatives aimed at standardisation of valuation formats and processes.

These incremental but targeted measures were viewed as essential for improving consistency, transparency, and comparability across valuation exercises and for strengthening institutional confidence in valuation outputs relied upon in insolvency proceedings.

Judicial Deference, Professional Judgment, and Accountability: A key area of deliberation concerned the treatment of valuation opinions by courts and regulators. Valuation was reaffirmed as an expert, opinion-based exercise involving judgment and subjectivity rather than the determination of price. Judicial pronouncements, including those of the Supreme Court, were noted to have consistently recognised that expert valuation opinions should not be substituted merely because alternative views are possible.

At the same time, the judiciary has delineated clear and limited grounds for scrutiny of valuation reports, including departures from accepted valuation principles, omission of relevant material factors, adoption of demonstrably erroneous methodologies, or fundamental errors affecting the core of the valuation. These parameters were highlighted as benchmarks that reinforce both professional autonomy and accountability, providing safeguards for valuers while ensuring rigour and discipline.

Quality Concerns and Sector-Specific Challenges: Drawing from regulatory experience, concerns were expressed regarding the quality and consistency of valuation reports in certain cases, particularly in the SME segment. Challenges relating to asset quality, availability of reliable data, methodological rigour, and documentation were identified as recurring issues. The session emphasised that as valuation professionals assume a more central role in insolvency outcomes, expectations regarding diligence, technical competence, and professional scepticism must correspondingly rise.

It was noted that increased responsibility necessarily entails heightened accountability, requiring continuous professional development and awareness of evolving regulatory and market expectations.

Holistic Valuation and Emerging ESG Dimensions: The deliberations highlighted the growing importance of holistic valuation approaches that extend beyond tangible assets. Particular emphasis was placed on recognising and assessing intangible assets such as goodwill, brand value, intellectual property, and enterprise synergies, which are often decisive drivers of value in resolution scenarios focused on continuity and future cash flows.

Environmental, Social, and Governance (ESG) considerations were identified as an emerging dimension of valuation practice. With expanding ESG disclosure and compliance frameworks under securities and corporate regulations, valuation professionals will increasingly be required to assess ESG-linked risks and value creation. The session cautioned against risks such as greenwashing and noted that ESG non-compliance, particularly among SMEs, could materially impact valuation outcomes, placing additional responsibility on valuers to exercise professional judgement and scepticism.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Standardisation, Coordination, and Litigation Risk Reduction: The session welcomed regulatory initiatives aimed at standardising valuation report formats, coordinating valuation exercises in large insolvency cases, and consolidating valuation outcomes to avoid inconsistencies. The need to minimise divergent valuations, which often become focal points of dispute and litigation, was strongly emphasised.

Demonstrable compliance with valuation standards, transparent assumptions, physical verification, and robust documentation were recognised as essential safeguards for valuation professionals and insolvency practitioners alike, significantly reducing litigation risk and delays.

Forward-Looking Nature of Valuation: The deliberations reiterated that valuation is inherently forward-looking, with enterprise value driven by future cash flows, sustainability of business models, and growth potential. This aligns closely with the insolvency framework's emphasis on reorganisation and revival rather than mere asset disposal. Valuers were encouraged to continuously adapt methodologies to evolving business models, market dynamics, and regulatory expectations while appropriately addressing uncertainty and risk.

Expanding Role and Professional Responsibility: The session noted the expanding relevance of valuation across regulatory domains, including insolvency, securities markets, corporate restructuring, and competition law. As valuation outputs increasingly inform critical economic and regulatory decisions, valuation professionals face heightened expectations with respect to independence, rigour, documentation, and ethical conduct.

Reference was made to regulatory actions and orders issued by authorities such as SEBI and NFRA as important learning tools that reinforce professional standards and inter-regulatory convergence.

Conclusion: In conclusion, the deliberations reaffirmed that valuation professionals occupy a position of trust within the insolvency ecosystem. For valuation to function as a true pillar of the IBC framework, sustained regulatory support, adherence to uniform standards, continuous professional development, and unwavering professional integrity are essential. A credible, consistent, and forward-looking valuation ecosystem was recognised as fundamental to strengthening creditor confidence, improving recovery strategies, and delivering value-driven insolvency outcomes.

B. Key Takeaways

- ✓ Independent valuation has emerged as a critical institutional pillar of the insolvency ecosystem, playing a central role in strengthening creditor confidence, enabling informed decision-making, and supporting the overarching objective of value maximisation under the Insolvency and Bankruptcy Code.
- ✓ Valuation is not a mere procedural requirement but a core decision-support tool that directly influences the Committee of Creditors' commercial wisdom, resolution strategy selection, bid evaluation, and liquidation decisions. Credible valuation inputs are essential for fair, transparent, and efficient insolvency outcomes.
- ✓ Regulatory oversight by the Insolvency and Bankruptcy Board of India has been instrumental in improving discipline and consistency in valuation practices through

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

discussion papers, guidance, and initiatives aimed at standardisation, even in the absence of a standalone valuation statute.

- ✓ Judicial jurisprudence has consistently recognised valuation as an expert, opinion-based exercise deserving deference, while clearly defining limited grounds for scrutiny where accepted principles are violated, or fundamental errors exist. This balance reinforces both professional autonomy and accountability.
- ✓ Quality and consistency of valuation reports remain uneven, particularly in the SME segment, underscoring the need for stronger methodological rigour, better documentation, and continuous professional upskilling among valuation professionals.
- ✓ Holistic valuation approaches, incorporating intangible assets, enterprise synergies, and future cash-flow potential, are increasingly necessary to reflect true enterprise value, especially in resolution-focused insolvency proceedings.
- ✓ Environmental, Social, and Governance (ESG) considerations are becoming an important determinant of enterprise value, placing new expectations on valuation professionals to assess ESG-related risks and value drivers with diligence and professional scepticism.
- ✓ Standardisation of valuation report formats, coordination among valuers in large insolvency cases, and consolidation of valuation outcomes are essential to reduce inconsistencies, minimise litigation risk, and enhance comparability and transparency.
- ✓ Valuation is inherently forward-looking and must continuously adapt to evolving business models, market realities, and regulatory expectations to remain relevant and credible within the insolvency framework.
- ✓ Sustained regulatory support, adherence to uniform standards, and strong professional ethics are indispensable for positioning valuation as a trusted, value-enhancing pillar of India's insolvency and restructuring ecosystem.

C. Issues & Challenges Identified

Quality and Reliability of Valuation Reports: The session identified persistent concerns regarding the quality, depth, and reliability of valuation reports, particularly in the SME segment. Constraints relating to the availability and reliability of financial and operational data, inadequate disclosures, and inconsistent application of professional judgment were observed to impair the credibility of valuation outcomes. Sub-standard valuation reports undermine creditor confidence, weaken the decision-making process of the Committee of Creditors, and often become focal points for disputes during insolvency proceedings.

Absence of Uniform Valuation Standards and Practices: The lack of uniformly prescribed and mandatorily applicable valuation standards was highlighted as a systemic challenge. Divergent valuation methodologies, assumptions, and reporting formats across cases reduce transparency and comparability of valuation outcomes. This absence of uniformity complicates evaluation of resolution plans, increases interpretational ambiguity, and places an additional burden on adjudicating authorities and creditors in assessing the reliability of valuation inputs.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Methodological and Analytical Deficiencies: The deliberations noted that valuation outcomes are frequently weakened by methodological deficiencies, including inadequate consideration of relevant financial, operational, sectoral, and market factors. Adoption of inappropriate or demonstrably erroneous valuation approaches, or failure to justify departures from accepted principles, increases the risk of mispricing enterprise and asset value. Such shortcomings expose valuation reports to regulatory examination and judicial scrutiny, thereby elevating both professional and procedural risks.

Limited Integration of ESG Considerations: The session observed that Environmental, Social, and Governance (ESG) factors are not yet systematically embedded within valuation frameworks. The absence of structured methodologies to assess ESG-related risks, compliance levels, and long-term value drivers limits the ability of valuation reports to reflect enterprise sustainability and evolving regulatory expectations. This gap assumes greater significance as ESG considerations increasingly influence investor perception, creditor decision-making, and enterprise valuation.

Multiplicity and Inconsistency of Valuation Outcomes: In large and complex insolvency cases, the conduct of multiple valuation exercises has often resulted in inconsistent or contradictory outcomes. Such divergence weakens stakeholder confidence, delays resolution processes, and may give rise to inter-creditor disputes and litigation. The lack of coordination among valuers and the absence of consolidated or harmonised valuation approaches were identified as contributing factors.

Heightened Regulatory and Litigation Exposure for Valuers: The session highlighted that increasing regulatory expectations and evolving judicial scrutiny have significantly raised the accountability threshold for valuation professionals. Deficiencies in valuation reports, whether procedural, methodological, or disclosure-related, can attract regulatory action, adverse judicial observations, and reputational consequences. In this environment, valuation professionals face heightened compliance risk, necessitating stronger documentation, greater diligence, and strict adherence to accepted standards and regulatory guidance.

D. Suggestions & Recommendations

Enhancing professional standards and technical rigour: Valuation professionals should consistently strive to enhance professional standards and technical rigour in the conduct of valuation assignments. This includes adherence to accepted valuation principles, application of sound professional judgement, and robust analytical processes. Continuous upskilling and awareness of evolving regulatory, judicial, and market developments are essential to ensure the relevance and reliability of valuation outcomes. Institutions and professional bodies should facilitate structured learning initiatives to support practitioners in meeting rising expectations.

Standardisation of valuation formats and documentation: The adoption of standardised valuation formats and documentation practices should be actively encouraged across insolvency proceedings. Uniform reporting structures, consistent disclosures, and clearly articulated assumptions would improve transparency, comparability, and ease of understanding for stakeholders. Standardisation would also reduce interpretational ambiguity, assist adjudicating authorities in review, and mitigate the risk of disputes arising from inconsistencies in valuation reports.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Collaborative development of uniform Valuation Standards: Regulators, professional bodies, and key stakeholders should work collaboratively towards the formulation and adoption of uniform valuation standards applicable across insolvency and securities markets. Such standards should provide clarity on valuation approaches, treatment of assets and liabilities, and disclosure requirements, while allowing sufficient flexibility to address sector-specific considerations. A harmonised framework would enhance consistency, reduce fragmentation, and promote confidence in valuation practices.

Improving Methodological Rigour and Analytical Discipline: Valuation professionals should ensure strict adherence to accepted valuation principles and demonstrate clear justification for the choice of valuation approaches and assumptions. Regulatory guidance should emphasise alignment of methodology with the nature of the asset, business model, and sectoral realities. Continuous professional education programmes must focus on advanced valuation techniques, sector-specific challenges, and evolving jurisprudence to strengthen analytical competence and reduce methodological errors.

Comprehensive asset assessment and physical verification: Greater emphasis should be placed on comprehensive asset assessment, including physical verification, particularly in cases involving large and complex corporate debtors. Coordinated valuation exercises, involving multiple valuers where required, should be structured to ensure consistency and avoid contradictory outcomes. Physical verification and detailed asset mapping would improve the accuracy of valuations, strengthen the reliability of inputs, and support informed decision-making by the Committee of Creditors.

Systematic Integration of ESG Considerations in Valuation: Given the growing regulatory and market emphasis on ESG compliance, valuation frameworks should progressively integrate ESG-related risks, opportunities, and sustainability factors. Professional bodies may develop guidance or illustrative frameworks for assessing ESG impact on enterprise value, particularly for sectors where ESG considerations materially affect long-term viability. Valuers should exercise heightened professional scepticism to address risks of greenwashing and ensure that ESG claims are adequately substantiated.

Managing Regulatory and Litigation Exposure through Procedural Safeguards: Given heightened regulatory scrutiny, valuation professionals must strengthen compliance systems, documentation practices, and internal review processes. Clear articulation of scope, limitations, and professional judgment in valuation reports can serve as an important safeguard against litigation. Regulators and professional bodies may also consider issuing clarificatory guidance distinguishing bona fide professional judgement from negligence, thereby balancing accountability with functional independence.

Strengthening Institutional Support and Professional Development: Effective valuation outcomes depend not only on individual competence but also on institutional support. Adjudicating authorities, regulators, and professional bodies should continue investing in capacity building, technological enablement, and knowledge dissemination. Structured training programmes updated valuation curricula, and dissemination of regulatory and judicial learnings will be critical to ensuring that valuation professionals remain aligned with evolving expectations and market realities.

Reinforcing Valuation as a Decision-Support Function: Valuation should be positioned not merely as a compliance requirement but as a core decision-support tool under the

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

insolvency framework. Greater engagement between valuers, insolvency professionals, and Committees of Creditors should be encouraged to ensure that valuation insights are effectively utilised in resolution strategy, plan evaluation, and recovery optimisation, while preserving independence and objectivity.

E. Way Forward - Policy Note

As India's insolvency framework matures, independent valuation must be firmly embedded as a core pillar supporting creditor confidence, value maximisation, and institutional credibility. The growing complexity of enterprises, capital structures, and resolution strategies necessitates valuation practices that are consistent, transparent, and forward-looking.

A key priority is the progressive standardisation of valuation practices across insolvency processes. Uniform valuation standards, harmonised approaches for resolution and liquidation, and prescribed reporting formats will improve comparability, reduce disputes, and strengthen decision-making by creditors and adjudicating authorities. Until formal statutory prescription is achieved, continued regulatory guidance and professional standard-setting remain essential.

Capacity building within the valuation profession must keep pace with evolving expectations. Continuous professional education, sector-specific expertise, and heightened diligence, particularly in SME valuations, are critical to ensuring the reliability and credibility of valuation outputs.

The integration of intangible assets and ESG considerations represents an emerging dimension of insolvency valuation. As sustainability, governance, and long-term viability increasingly influence enterprise value, valuation methodologies must evolve to capture these factors while guarding against subjectivity and greenwashing risks.

Institutionally, coordinated valuation mechanisms in complex cases should be encouraged to minimise inconsistent outcomes and preserve stakeholder confidence. Valuation must be viewed not merely as a compliance requirement, but as a strategic input guiding resolution planning, bid evaluation, and recovery optimisation.

Finally, policy must strike a balance between professional accountability and functional independence. Clear benchmarks for valuation quality, coupled with protection for bona fide expert judgement, will enable valuers to discharge their responsibilities effectively and reinforce valuation as a trusted, value-enhancing component of India's insolvency ecosystem.

F. Issue-Recommendation Matrix

Issue-Recommendation Matrix Independent Valuations as a Pillar of Creditor Confidence	
Key Issue Identified	**Policy Recommendation**
Inconsistent quality and reliability of valuation reports, particularly in SMEs	Strengthen professional rigour through mandatory adherence to accepted valuation principles, deeper analytical work, and improved disclosures. Structured capacity-building programmes should be promoted to enhance the reliability and credibility of valuation outcomes.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue-Recommendation Matrix Independent Valuations as a Pillar of Creditor Confidence	
Key Issue Identified	**Policy Recommendation**
Absence of uniform valuation standards and reporting practices	Encourage adoption of standardised valuation formats, disclosures, and documentation across insolvency proceedings to improve transparency, comparability, and ease of review for creditors and adjudicating authorities.
Methodological and analytical deficiencies in valuation approaches	Reinforce alignment of valuation methodology with the nature of assets, business models, and sector realities. Valuers should clearly justify assumptions and departures from standard approaches, supported by continuous professional education on advanced techniques.
Limited consideration of ESG factors in valuation exercises	Develop structured guidance for integrating ESG risks, compliance levels, and sustainability drivers into valuation frameworks, particularly for sectors where ESG materially impacts long-term enterprise value.
Multiplicity of valuations leading to inconsistent or contradictory outcomes	Promote coordinated valuation exercises, including harmonisation of assumptions and methodologies, and structured collaboration among valuers to reduce unexplained divergence and delays in resolution.
Weak linkage between physical assets and valuation outcomes	Mandate comprehensive asset assessment and physical verification, supported by detailed asset mapping, to improve the accuracy and credibility of valuation inputs.
Heightened regulatory and litigation exposure for valuation professionals	Strengthen procedural safeguards through robust documentation, clear articulation of scope and limitations, and internal review mechanisms. Issue regulatory guidance distinguishing bona fide professional judgment from negligence to balance accountability with independence.
Fragmented development of valuation standards across regimes	Encourage collaborative formulation of uniform valuation standards applicable across insolvency and related markets, allowing sector-specific flexibility while ensuring conceptual consistency.
Limited institutional support for valuation capacity building	Invest in institutional training, updated valuation curricula, and dissemination of regulatory and judicial learnings to keep professionals aligned with evolving expectations and market realities.
Perception of valuation as a compliance exercise rather than a strategic tool	Reposition valuation as a core decision-support function by encouraging structured engagement between valuers, insolvency professionals, and Committees of Creditors, while preserving independence and objectivity.

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

PANEL DISCUSSION III: IBC AMENDMENT BILL, 2025 (IBC 2.0) - A MAJOR THRUST FORWARD

Opening Remarks:

CA. Arpit Jagdish Kabra, Central Council Member, ICAI

Moderator:

CA. Gyan Chandra Misra, Chairman, I & VSB, ICAI

Panelists:

1. CA. Subodh Agarwal, Past President, ICAI
2. CA. Ajanta Gupta, Consultant, Insolvency and Bankruptcy Board of India
3. CA. S. Badri Narayanan

Closing Remarks:

CA. Arpit Jagdish Kabra, Central Council Member, ICAI

A. Deliberations / Highlights of the Session

Context and Rationale for IBC 2.0: The session was positioned as a pivotal discussion in view of the Insolvency and Bankruptcy Code approaching a decade of implementation and the Insolvency and Bankruptcy Code (Amendment) Bill, 2025, being under active legislative consideration. While the Code has delivered significant recoveries, behavioural change, and credit discipline, accumulated jurisprudence and operational experience have exposed structural stress points, most notably prolonged timelines, rising litigation, and uncertainty arising from interpretational drift.

The Amendment Bill was contextualised not as incremental fine-tuning but as a deliberate recalibration of the insolvency framework to restore speed, predictability, and creditor confidence, while codifying key judicial principles that had evolved.

The Panel undertook an in-depth examination of the objectives, scope, and likely impact of the Insolvency and Bankruptcy Code (Amendment) Bill, 2025 (IBC 2.0), against the backdrop of nearly a decade of implementation of the Code. The discussion reflected a broad consensus that while the IBC has fundamentally transformed India's insolvency landscape, delivering behavioural change, improved credit discipline, and recoveries aggregating approximately ₹4 lakh crore through the resolution of over 1,300 corporate debtors, the system has increasingly been constrained by delays, litigation, and interpretational uncertainty.

The panel noted that a significantly larger quantum of stressed debt, covering nearly 30,000 cases involving defaults of approximately ₹14 lakh crore, has been resolved through pre-

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

admission settlements, underscoring the deterrent effect of the Code. At the same time, experience since 2021 has shown that frequent regulatory refinements and evolving judicial interpretations, including decisions such as *Vidarbha Industries* and *Rainbow Papers*, have introduced uncertainty in areas originally intended to be rule-based. IBC 2.0 was therefore viewed as a structural recalibration rather than incremental fine-tuning, aimed at restoring legislative intent, reinforcing speed and predictability, and codifying learnings from jurisprudence and practice.

Timeliness as the Core Determinant of Value Maximisation: A central theme of the deliberations was the primacy of time-bound resolution in preserving enterprise value. Drawing upon empirical evidence and implementation experience, the panel highlighted that insolvency cases resolved within one year yield significantly higher recoveries, up to 49% (including penalties and interest), compared to average recoveries of approximately 32%, or as low as 24% in cases extending beyond two to three years.

The Amendment Bill was seen as responding directly to this challenge by reinforcing mandatory admission upon establishment of debt and default, thereby reducing discretionary delays at the threshold stage. The panel emphasised that expeditious admission and disciplined process management are essential to preventing value erosion and aligning outcomes with the Code's objective of value maximisation rather than mere procedural completion.

Shift from Court-Centric to Creditor-Driven Insolvency: The deliberations highlighted a significant structural shift embedded in IBC 2.0, from a court-centric admission mechanism to a creditor-driven, process-oriented framework. This shift is most prominently reflected in the introduction of the Creditor-Initiated Insolvency Resolution Process (CIIRP).

The panel noted that CIIRP enables notified financial institutions, meeting prescribed voting thresholds, to initiate insolvency proceedings through the immediate appointment of an insolvency professional, thereby bypassing prolonged admission delays at the NCLT. The process envisages prompt public announcements, moratorium protections, and targeted resolution timelines of approximately one year.

A key feature discussed was the retention of management during CIIRP, subject to oversight by the insolvency professional and the Committee of Creditors, with the insolvency professional vested with veto powers. In cases of non-cooperation, the framework allows for seamless conversion into a full CIRP. This hybrid model was viewed as encouraging cooperation in cases of genuine business distress, while preserving creditor control and process discipline.

From Discretion-Based to Rule-Based Outcomes: The panel broadly agreed that one of the most significant contributions of the Amendment Bill lies in its attempt to move the insolvency regime from discretion-driven outcomes to rule-based outcomes. This approach was evident across multiple aspects of the Bill, including admission of applications, treatment of avoidance transactions, recognition of security interests, and distribution priorities.

While acknowledging the constructive role of judicial interpretation in filling legislative gaps during the formative years of the Code, the panel underscored the importance of codifying settled principles to reduce reliance on case-by-case adjudication. The Amendment Bill was

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

therefore viewed as an effort to institutionalise judicial learning within the statute, thereby enhancing consistency, predictability, and legal certainty.

Codification of the Clean Slate Principle and Post-Resolution Finality: The codification of the clean slate principle emerged as a pivotal reform aimed at conclusively addressing post-resolution litigation. The panel observed that, despite settled jurisprudence, resolution applicants have continued to face claims from government and statutory authorities even after plan approval.

By statutorily providing that upon approval of a resolution plan, the corporate debtor stands discharged from claims, liabilities, and encumbrances not provided for in the plan, the Amendment Bill seeks to ensure finality, predictability, and enforceability of resolution outcomes. This clarification was viewed as essential to enhancing investor confidence and encouraging wider participation by prospective resolution applicants.

Avoidance Transactions: Clarity, Continuity, and Accountability: The panel engaged in detailed deliberation on the Amendment Bill's treatment of avoidance transactions. The Bill clarifies that proceedings relating to preferential, undervalued, fraudulent, or extortionate transactions are independent of CIRP and liquidation timelines and may continue even after resolution, liquidation, or dissolution.

The expansion of the look-back period to include the application date was seen as strengthening the ability of insolvency professionals to examine pre-commencement transactions that may have eroded value. At the same time, the panel cautioned against mechanical or defensive filing of avoidance applications, emphasising that such actions must be grounded in rigorous factual and legal analysis to avoid unnecessary burden on adjudicating authorities.

Rationalisation of Security Interest and Priority of Claims: Addressing interpretational ambiguities that have affected creditor confidence, the panel discussed the Amendment Bill's clarification that statutory dues shall not be treated as secured claims merely by operation of law unless supported by a valid security interest.

The Bill further affirms recognition of contractual arrangements relating to first and second charges and clarifies that a creditor shall be treated as secured only to the extent of the realisable value of its security, with any balance treated as unsecured. These provisions were viewed as restoring certainty in the priority framework, aligning distributions with commercial understanding, and reinforcing the sanctity of secured lending.

Committee of Creditors' Supervision in Liquidation: The introduction of a supervisory role for the Committee of Creditors during liquidation was discussed as an extension of the principle of collective decision-making beyond the resolution phase. Given that liquidation outcomes consistently yield lower recoveries than resolution, CoC supervision was viewed as facilitating informed commercial decisions, distributing accountability, and providing institutional support to liquidators, rather than as an intrusive mechanism.

Addressing Strategic Behaviour and Strengthening Commercial Discipline: The panel deliberated on the issue of strategic dissent by financial creditors and its adverse impact on timelines and outcomes. The Amendment Bill's rationalisation of payouts to dissenting

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

creditors, entitling them to the lower of the liquidation value or plan value, was viewed as reinforcing the primacy of the commercial wisdom of the Committee of Creditors, discouraging opportunistic behaviour, and supporting timely and effective resolution.

Institutional Capacity and the Limits of Legislative Reform: While endorsing the substantive reforms introduced by IBC 2.0, the panel acknowledged that institutional and infrastructural constraints faced by the National Company Law Tribunal, such as capacity shortages and administrative limitations, continue to affect adherence to timelines. These constraints were recognised as falling within the administrative domain of the Ministry of Corporate Affairs and not directly addressable through statutory amendments.

The panel emphasised that while IBC 2.0 significantly strengthens the legal and procedural framework, complementary administrative reforms, capacity building, and technological enablement are essential to fully realise the intended outcomes of the insolvency regime.

Concluding Reflections: The deliberations concluded with a broad convergence that the Insolvency and Bankruptcy Code (Amendment) Bill, 2025, represents a decisive and forward-looking reform. By restoring legislative intent, codifying judicial principles, strengthening creditor primacy, and reinforcing time-bound resolution, IBC 2.0 was viewed as a major thrust forward in the evolution of India's insolvency framework. While challenges relating to institutional capacity and inter-statute conflicts remain, the Amendment Bill was widely regarded as laying a robust foundation for the next phase of insolvency reform.

B. Key Takeaways

- ✓ IBC 2.0 represents a structural recalibration, not incremental reform, aimed at restoring the original legislative intent of speed, predictability, and creditor primacy in insolvency resolution.
- ✓ Timeliness is reaffirmed as the central driver of value maximisation, with empirical evidence indicating materially higher recoveries in cases resolved within shorter timelines.
- ✓ Mandatory and expedited admission upon establishment of debt and default seeks to reduce threshold-stage delays and limit discretionary intervention.
- ✓ Creditor-Initiated Insolvency Resolution Process (CIIRP) is a transformative reform that shifts the framework towards early, creditor-driven intervention while retaining management under oversight to encourage cooperation.
- ✓ The Amendment Bill advances a shift from discretion-based to rule-based outcomes, reducing interpretational ambiguity and litigation through statutory clarity.
- ✓ Codification of the clean slate principle provides long-awaited finality to resolution plans, particularly addressing post-resolution claims by government and statutory authorities.
- ✓ Avoidance transaction provisions are strengthened by decoupling such proceedings from CIRP timelines, extending the look-back period, and ensuring continuity beyond resolution or liquidation.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ Security interest and priority of claims are rationalised, reaffirming contractual priorities and clarifying that statutory dues do not automatically enjoy secured status.
- ✓ Extension of the Committee of Creditors' supervision into liquidation promotes collective decision-making, transparency, and shared accountability in liquidation outcomes.
- ✓ Measures addressing strategic dissent by creditors reinforce the primacy of CoC commercial wisdom and discourage opportunistic behaviour that delays resolution.
- ✓ Judicial learning is systematically embedded into the statute, reducing reliance on ad hoc adjudication and enhancing legal certainty.
- ✓ Institutional capacity constraints of adjudicating authorities remain a critical implementation risk, requiring parallel administrative and infrastructural reforms beyond legislative amendments.
- ✓ Overall, IBC 2.0 is viewed as a decisive and forward-looking reform, strengthening creditor confidence, reducing litigation risk, and laying a robust foundation for the next phase of India's insolvency regime.

C. Issues & Challenges Identified

Persistent institutional and infrastructural constraints at adjudicating authorities: Despite statutory reinforcement of timelines, capacity limitations at the NCLT, including inadequate benches, staffing shortages, and administrative bottlenecks, continue to impede timely admission and resolution. These constraints lie outside the legislative domain and risk diluting the intended impact of IBC 2.0 unless addressed in parallel.

Implementation risk in creditor-initiated insolvency resolution (CIIRP): While CIIRP is designed to accelerate initiation and improve outcomes, its effectiveness will depend on clear thresholds, operational guidelines, and disciplined use by creditors. There is a risk of inconsistent application or strategic invocation if safeguards and oversight mechanisms are not clearly articulated.

Continued litigation risk despite codification of principles: Although the Bill codifies settled judicial doctrines such as the clean slate principle, residual ambiguity, particularly in relation to certain statutory authorities and inter-linkages with other laws, may continue to give rise to post-resolution disputes.

Complexity in operationalising avoidance transaction reforms: Separating avoidance proceedings from CIRP timelines enhances recoverability, but also introduces procedural complexity. Without clear prioritisation and disciplined prosecution, avoidance actions risk becoming prolonged, resource-intensive, and contentious.

Balancing rule-based certainty with case-specific flexibility: The shift from discretion-based to rule-based outcomes strengthens predictability but may limit flexibility in atypical or distressed fact situations. Striking the right balance between statutory certainty and contextual adaptability remains a challenge.

Risk of over-reliance on statutory amendments without behavioural change: Legislative clarity alone may not fully address delays if stakeholders, creditors, professionals, and

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

litigants, continue tactical or defensive behaviour. Effective outcomes require corresponding changes in stakeholder conduct and process discipline.

Coordination challenges across multiple stakeholders: Provisions relating to guarantors, group entities, avoidance actions, and liquidation supervision increase the need for coordinated decision-making among CoCs, insolvency professionals, and regulators. Weak coordination could undermine efficiency gains envisaged by the amendments.

Potential learning curve for professionals and institutions: The breadth of reforms under IBC 2.0 will require rapid upskilling and adaptation by insolvency professionals, creditors, and adjudicating authorities. Transitional uncertainty during the initial phase of implementation may affect the consistency of outcomes.

Dependence on subordinate legislation and regulatory clarity: Several reforms under the Amendment Bill will be operationalised through rules and regulations. Delays or lack of clarity in subordinate legislation could temporarily stall the benefits envisaged under the statutory amendments.

Managing expectations on recovery outcomes: While IBC 2.0 aims to improve recoveries through speed and certainty, market conditions, asset quality, and sectoral stress will continue to influence outcomes. Aligning stakeholder expectations with economic realities remains an ongoing challenge.

D. Suggestions & Recommendations

Parallel strengthening of adjudicatory infrastructure: To ensure that statutory timelines under IBC 2.0 translate into actual outcomes, urgent administrative measures should complement legislative reform. These include augmentation of NCLT bench strength, appointment of specialised members with insolvency expertise, improved case allocation, and enhanced digital infrastructure to reduce procedural delays.

Clear operational guidelines for Creditor-Initiated Insolvency Resolution Process (CIIRP): Detailed rules and regulatory guidance should be issued to define eligibility thresholds, voting requirements, safeguards against misuse, and transition triggers from CIIRP to full CIRP. This will ensure uniform application, prevent strategic invocation, and reinforce CIIRP as a credible early-intervention mechanism.

Comprehensive codification of clean-slate protection: To fully eliminate post-resolution disputes, the clean slate provisions should be supported by explicit and harmonised treatment of claims under other statutes. Clear inter-governmental coordination and binding instructions to statutory authorities would help ensure finality of resolution plans and reduce residual litigation.

Structured framework for avoidance transaction proceedings: Regulatory guidance should emphasise disciplined identification and prosecution of avoidance transactions, discouraging mechanical or defensive filings. Clear prioritisation, timelines, and evidentiary thresholds would help ensure that avoidance actions contribute meaningfully to recoveries without burdening the adjudicatory system.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Balanced implementation of rule-based outcomes: While reducing discretion enhances predictability, limited calibrated flexibility may be preserved through regulatory guidance or explanatory notes to address exceptional fact situations. This would allow the framework to remain responsive without reintroducing uncertainty.

Capacity-building and skilling of insolvency professionals and stakeholders: Focused training programmes should be undertaken to familiarise insolvency professionals, CoC members, and adjudicating authorities with the amended provisions. Early dissemination of interpretative guidance and case studies will help ensure consistent application during the transition phase.

Strengthening behavioural discipline among stakeholders: Regulatory emphasis should be placed on discouraging tactical litigation, strategic dissent, and non-cooperative conduct. Codes of conduct, accountability frameworks, and proportionate consequences for abuse of process would reinforce the spirit of speed and cooperation underlying IBC 2.0.

Enhanced coordination among regulators and institutions: Effective implementation of the amendments will require seamless coordination between IBBI, MCA, sectoral regulators, and adjudicating authorities. Institutional mechanisms for information-sharing and issue resolution should be strengthened to avoid jurisdictional overlaps and delays.

Timely issuance of subordinate legislation: Rules, regulations, and procedural frameworks necessary to operationalise the amendments should be notified expeditiously. Transitional guidance may be issued to manage the shift from the existing regime to IBC 2.0, minimising uncertainty during implementation.

Realistic communication of expected outcomes: Policymakers and regulators should manage stakeholder expectations by clearly communicating that improved speed and certainty enhance recoveries, but do not eliminate market and sectoral risks. Transparent communication will support informed decision-making and sustained confidence in the insolvency framework.

E. Way Forward-Policy Note

The Insolvency and Bankruptcy Code (Amendment) Bill, 2025, marks a decisive transition in India's insolvency framework from an experience-led regime to a learning-led, codified, and future-ready system. The Way Forward lies in ensuring that the structural clarity introduced by IBC 2.0 is translated into predictable, time-bound, and value-maximising outcomes on the ground.

At the policy level, the immediate priority must be synchronised implementation. Legislative reforms aimed at faster admission, creditor-led initiation, and rule-based outcomes will achieve their intended impact only if supported by parallel administrative action. Strengthening adjudicatory capacity, improving case management, and leveraging technology across NCLT benches are essential complements to statutory reform. Without this alignment, the gains of IBC 2.0 risk being diluted by infrastructural constraints.

A central policy thrust emerging from the session is the restoration of speed as the organising principle of insolvency resolution. Provisions such as the Creditor-Initiated Insolvency Resolution Process (CIIRP) and mandatory admission upon establishment of default reflect

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

a clear policy preference for early intervention. Going forward, regulatory frameworks must encourage creditors and debtors to engage with insolvency processes at the earliest signs of stress, thereby preserving enterprise value and improving recovery outcomes.

The codification of judicially settled principles, particularly the clean slate doctrine, treatment of avoidance transactions, and prioritisation of security interests, signals a move towards certainty and finality. The way forward requires consistent enforcement of these principles across all stakeholders, including government and statutory authorities, to prevent post-resolution disruption. Policy coherence across statutes and regulatory domains will be critical to sustaining investor confidence and encouraging serious resolution applicants.

Equally important is the shift from discretion-driven to rule-based outcomes. While judicial oversight remains indispensable, insolvency outcomes must increasingly be guided by clear statutory thresholds and objective criteria. This enhances transparency, reduces litigation incentives, and reinforces the primacy of commercial wisdom. Over time, this approach is expected to stabilise jurisprudence and lower systemic friction within the insolvency ecosystem.

The session also underscored the need for behavioural reform alongside legal reform. Strategic dissent, tactical litigation, and non-cooperative conduct undermine the objectives of the Code. The way forward, therefore, lies in strengthening codes of conduct, accountability mechanisms, and stakeholder discipline, ensuring that the insolvency process remains collaborative rather than adversarial.

Finally, IBC 2.0 should be viewed not as a terminal reform but as a platform for continuous improvement. Ongoing data analysis, stakeholder feedback, and periodic review of outcomes must inform future refinements. By institutionalising learning, reinforcing capacity, and aligning law with economic realities, India's insolvency framework can evolve into a globally credible, efficient, and growth-supportive system.

In sum, the Way Forward under IBC 2.0 is one of integration, of law with infrastructure, certainty with flexibility, and speed with fairness, positioning insolvency resolution as a central pillar of India's financial stability and economic development.

F. Issue-Recommendation Matrix

Issue-Recommendation Matrix IBC Amendment Bill, 2025 (IBC 2.0) - A Major Thrust Forward	
Key Issue Identified	**Policy Recommendation**
Institutional and infrastructural constraints at adjudicating authorities	Strengthen adjudicatory capacity in parallel with legislative reform through additional benches, specialised members, better case allocation, and enhanced digital infrastructure to ensure statutory timelines translate into practice.
Implementation risk in Creditor-Initiated Insolvency Resolution Process (CIIRP)	Issue clear operational rules defining eligibility thresholds, safeguards, voting requirements, and transition mechanisms to ensure uniform application and prevent strategic misuse of CIIRP.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue-Recommendation Matrix IBC Amendment Bill, 2025 (IBC 2.0) - A Major Thrust Forward	
Key Issue Identified	**Policy Recommendation**
Residual litigation risk despite codification of the clean-slate principle	Support statutory clean-slate provisions with harmonised treatment of claims under other laws and binding directions to statutory authorities to ensure finality of approved resolution plans.
Procedural complexity in operationalising avoidance transaction reforms	Establish a structured framework with clear prioritisation, evidentiary thresholds, and timelines for avoidance actions to ensure they enhance recoveries without overburdening the system.
Balancing rule-based certainty with contextual flexibility	Preserve limited, calibrated flexibility through regulatory guidance or explanatory notes to address exceptional fact situations without reintroducing discretion-driven uncertainty.
Risk of behavioural inertia despite statutory amendments	Reinforce behavioural discipline through codes of conduct, accountability frameworks, and proportionate consequences to discourage tactical litigation and non-cooperative conduct.
Coordination challenges across multiple stakeholders and regulators	Strengthen institutional coordination mechanisms among IBBI, MCA, sectoral regulators, CoCs, and insolvency professionals to ensure aligned and efficient implementation.
Learning curve for professionals and institutions under IBC 2.0	Undertake focused capacity-building and training programmes, supported by early interpretative guidance and case studies, to ensure consistent application during the transition phase.
Dependence on timely subordinate legislation	Notify rules and regulations expeditiously, supported by transitional guidance, to avoid implementation gaps and uncertainty during the shift to the amended regime.
Misaligned expectations regarding recovery outcomes	Communicate clearly that IBC 2.0 enhances speed and certainty but does not eliminate market or sectoral risks, thereby aligning stakeholder expectations with economic realities.

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

PANEL DISCUSSION IV: GEO-POLITICS AND INSOLVENCY UNDER THE IBC- SHAPING POLICY AMID GLOBAL TRADE SHIFTS AND CONFLICTS

Opening Remarks:

CA. Rajesh Sharma, Central Council Member, ICAI

Moderator:

CA. Piyush Chhajed, Central Council Member, ICAI

Panelists:

1. Shri Sumant Batra, President, Insolvency Law Academy
2. CA. Sanjeev Gemawat, Managing Director & Group General Counsel, Essar Group
3. Shri Debanshu Mukherjee, Co-Founder, Vidhi Centre for Legal Policy

Closing Remarks:

CA. Rajesh Sharma, Central Council Member, ICAI

A. Deliberations / Highlights of the Session

The panel discussion examined the Insolvency and Bankruptcy Code, 2016, through the prism of geopolitics, recognising that global trade is no longer shaped solely by market forces but by sanctions, strategic decoupling, wars, tariff regimes, and reconfigured supply chains**.** The session explored whether India's insolvency framework is sufficiently resilient, adaptive, and institutionally equipped to respond to stress arising from sanctions, trade wars, supply-chain realignments, armed conflicts, and strategic decoupling.

Insolvency as a Crisis-Responsive Legal Instrument: Opening the discussion, the panel reflected on the historical evolution of insolvency law as a reactive response to systemic crises rather than periods of stability. It was observed that major insolvency reforms globally have followed episodes of economic disruption, ranging from the Great Depression and the Asian Financial Crisis to the Global Financial Crisis, the COVID-19 pandemic, and the current phase of geopolitical fragmentation.

In this context, insolvency law was characterised as a living economic instrument, shaped by prevailing global realities. The panel noted that the present geopolitical environment has altered the foundational assumptions of cross-border insolvency, particularly the expectation of seamless international cooperation.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Geopolitical Tensions Influencing Cross-Border Insolvency under the IBC: The panel deliberated on how geopolitical tensions are reshaping cross-border insolvency norms. It was observed that the era of pure universalism, where jurisdictions willingly recognised and cooperated with foreign insolvency proceedings, is giving way to modified universalism**.** Nations now seek cooperation while simultaneously safeguarding domestic economic interests, sovereign priorities, and creditor protection.

This shift has direct implications for recognition of foreign proceedings, coordination between courts, asset recovery, and enforcement of insolvency outcomes across borders. India's cautious and incremental approach to cross-border insolvency was viewed as reflective of this global trend, where insolvency policy is increasingly intertwined with considerations of economic security and strategic autonomy.

Adequacy of the IBC in Addressing Geopolitically Induced Distress: A key question addressed was whether India's insolvency framework is evolving rapidly enough to respond to geopolitically driven stress. The panel noted that many insolvency reforms currently under consideration, particularly in relation to cross-border insolvency, had been discussed for several years, but gained urgency only as global instability intensified.

Attention was drawn to the disproportionate vulnerability of small businesses to tariff shocks, supply disruptions, and sanctions. While large corporate insolvencies dominate policy discourse, the panel observed that India lacks effective insolvency and restructuring tools for small enterprises affected by geopolitical spillovers. The limited scope of the existing pre-pack regime was highlighted as leaving a significant segment of distressed businesses without viable restructuring pathways.

Investor Confidence, External Shocks, and Risk Perception: From a corporate and investor perspective, the panel examined how geopolitical volatility affects investment decisions and risk assessment. It was noted that sanctions, trade embargoes, export controls, and energy disruptions can push otherwise viable enterprises into distress, independent of managerial competence or governance quality.

The panel expressed concern that the IBC currently does not distinguish between distress caused by external compulsion and distress arising from misconduct or mismanagement. This uniform treatment of fundamentally different failure scenarios was viewed as a potential deterrent to foreign investment, particularly in geopolitically sensitive sectors. Investor confidence, it was observed, depends not only on creditor protection but also on fair recognition of non-culpable business failure.

Re-examining the Creditor-in-Control Model in a Volatile Global Context: The continued suitability of the creditor-in-control model under conditions of geopolitical volatility was a central theme of discussion. While acknowledging that the model was an appropriate response to India's historical NPA crisis, the panel questioned whether its rigidity remains optimal when distress increasingly originates from exogenous shocks.

Section 29A emerged as a critical point of deliberation. While its role in preventing abuse was acknowledged, the panel observed that it may inadvertently exclude promoters whose businesses fail due to sanctions or global disruptions, despite the absence of wrongdoing.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

The panel suggested that calibrated relaxation, allowing such promoters to submit resolution plans subject to creditor approval, could preserve value without diluting creditor control.

Sanctions, Supply-Chain Disruptions, and Structural Gaps in the IBC: The panel further examined how sanctions and global conflicts expose structural gaps in the insolvency framework. It was observed that modern insolvency triggers often lie beyond managerial control, with operations being disrupted overnight due to regulatory embargoes or geopolitical events.

By not explicitly recognising such scenarios, the insolvency framework risks penalising genuine entrepreneurial risk-taking and discouraging participation in globally integrated value chains. This was viewed as particularly relevant as India seeks to position itself as a manufacturing and investment hub amid global supply-chain realignments.

Institutional Capacity and Adjudicatory Design: Institutional readiness was identified as a critical determinant of the IBC's ability to respond to geopolitically driven insolvencies. The panel emphasised that statutory timelines alone cannot ensure efficiency unless supported by adequate public investment in adjudicatory infrastructure, staffing, and technology.

Concerns were also raised regarding the suitability of the existing adjudicatory architecture. It was noted that the National Company Law Tribunal was not originally designed as a specialised insolvency forum and lacks structural insolvency-specific expertise. Given the macroeconomic consequences of insolvency outcomes, the panel suggested that India may need to re-imagine insolvency adjudication rather than continue retrofitting insolvency jurisdiction into legacy institutions.

Converging Policy Priorities: In concluding deliberations, the panel converged on the need for insolvency policy to evolve beyond a purely creditor-recovery lens. Priority reforms identified included statutory differentiation between misconduct and genuine business failure, expansion of simplified restructuring frameworks beyond MSMEs, calibrated relaxation of promoter ineligibility norms, and a broader shift in regulatory mindset from suspicion to trust.

Concluding Reflections: The panel concluded that geopolitics has become an inseparable variable in insolvency policy design. While the IBC has delivered a fundamental transformation in credit discipline and recovery, the next phase of reform must focus on resilience, differentiation, and institutional capacity.

As India navigates a fractured global economy, insolvency law was viewed not merely as a resolution mechanism but as a strategic economic instrument, balancing national interest, investor confidence, and global integration.

B. Key Takeaways

- ✓ Insolvency law is inherently crisis-responsive and has historically evolved in response to systemic economic disruptions rather than periods of stability; the current phase of geopolitical fragmentation is reshaping insolvency policy globally.
- ✓ Geopolitical factors such as sanctions, trade wars, supply-chain disruptions, and strategic decoupling are increasingly triggering corporate distress, requiring insolvency frameworks to account for exogenous, non-culpable causes of failure.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ The traditional model of cross-border insolvency universalism is giving way to modified universalism, where jurisdictions balance international cooperation with protection of domestic economic and sovereign interests.
- ✓ India's cautious and incremental approach to cross-border insolvency must be viewed in the context of economic security and strategic autonomy, rather than purely procedural efficiency.
- ✓ The Insolvency and Bankruptcy Code does not currently differentiate between distress caused by external geopolitical shocks and distress arising from mismanagement or misconduct, which may undermine investor confidence in geopolitically sensitive sectors.
- ✓ The creditor-in-control model, while effective in addressing India's NPA crisis, may require calibrated flexibility to respond to insolvency situations driven by external and systemic shocks.
- ✓ Section 29A emerged as a key pressure point, with concerns that its rigid application may exclude promoters affected by sanctions or global disruptions despite the absence of wrongdoing.
- ✓ Small businesses are disproportionately vulnerable to geopolitical shocks, yet India lacks dedicated insolvency and restructuring frameworks for this segment beyond a limited pre-pack regime.
- ✓ Efficient insolvency outcomes depend not only on statutory design but also on institutional capacity, including adequate funding, staffing, and technological enablement of adjudicatory bodies.
- ✓ Insolvency adjudication carries macro-economic consequences, suggesting the need to re-examine whether existing institutional structures are fit for the growing economic complexity of insolvency disputes.
- ✓ Going forward, insolvency law must function as a strategic economic tool, balancing creditor protection, entrepreneurship, investor confidence, and national economic priorities in an increasingly fragmented global order.

C. Issues & Challenges Identified

Inadequate recognition of geopolitically driven distress: The current insolvency framework does not distinguish between distress arising from external geopolitical shocks, such as sanctions, trade embargoes, tariff regimes, or supply-chain disruptions, and distress caused by mismanagement or misconduct. This lack of differentiation risks penalising otherwise viable enterprises affected by forces beyond managerial control.

Limitations of the creditor-in-control model in systemic crises: While the creditor-in-control model has been effective in addressing India's NPA crisis, its rigidity poses challenges in situations where insolvency is triggered by exogenous geopolitical events. The framework offers limited flexibility to accommodate temporary or externally induced disruptions.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Rigid application of Section 29A: Section 29A, though critical for preventing abuse of the insolvency process, may operate harshly in cases where promoters are disqualified despite the absence of wrongdoing. In geopolitically sensitive sectors, this rigidity may exclude the most informed stakeholders from participating in resolution, potentially undermining value maximisation.

Absence of tailored insolvency solutions for small businesses: Small and medium enterprises are particularly vulnerable to geopolitical shocks, yet the existing insolvency framework provides limited restructuring options for this segment. The narrow applicability of pre-pack regimes leaves a large population of small businesses without effective distress-resolution mechanisms.

Cross-border insolvency uncertainties in a fragmented global order: The shift from universalism to modified universalism has increased uncertainty in recognition, cooperation, and enforcement of cross-border insolvency proceedings. Geopolitical considerations may override comity, affecting asset recovery and coordinated resolutions.

Impact on investor confidence and capital flows: Heightened geopolitical risk, combined with insolvency frameworks that do not adequately account for external shocks, increases downside risk for foreign investors. This may deter investment in sectors exposed to global trade and geopolitical volatility.

Institutional and adjudicatory capacity constraints: Statutory timelines and procedural reforms cannot achieve intended outcomes without adequate institutional capacity. Limited resources, staffing constraints, and infrastructural limitations at adjudicatory bodies impede the timely resolution of complex insolvency cases.

Structural limitations of existing adjudicatory mechanisms: The National Company Law Tribunal was not originally designed as a specialised insolvency adjudicator. Its legacy structure may be ill-suited to handle economically complex, cross-border, and geopolitically sensitive insolvency disputes.

Lack of coordinated policy response to systemic shocks: Insolvency law operates in silos, with limited coordination with trade policy, sanctions regimes, and industrial policy. This fragmented approach constrains the ability of the insolvency framework to respond holistically to systemic geopolitical disruptions.

Balancing national interest with global integration: Policymakers face the challenge of aligning insolvency reforms with strategic economic security objectives while maintaining predictability, fairness, and openness necessary for global integration and investor confidence.

D. Suggestions & Recommendations

Differentiate geopolitically induced distress from culpable default: Introduce statutory recognition of distress arising from external geopolitical shocks, such as sanctions, trade embargoes, tariff disruptions, and supply-chain realignments, distinct from defaults caused by mismanagement or misconduct. This differentiation would allow insolvency processes to respond proportionately and preserve value in otherwise viable enterprises.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Introduce calibrated flexibility in the creditor-in-control model: Retain the creditor-in-control framework as the default model, while permitting limited flexibility in cases of systemic or geopolitically induced distress. Such flexibility could include temporary management retention or enhanced consultation with existing promoters, subject to creditor oversight.

Revisit Section 29A in limited, well-defined circumstances: Consider a calibrated relaxation of Section 29A to allow promoters affected by external geopolitical events, and not by fraud or wilful default, to submit resolution plans. Final approval should continue to rest with the Committee of Creditors, preserving creditor primacy while expanding the resolution universe.

Expand and deepen pre-packaged and simplified insolvency frameworks: Extend pre-pack and simplified insolvency mechanisms beyond the current MSME scope to cover small and medium enterprises vulnerable to geopolitical shocks. Sector-neutral, low-cost, and time-bound restructuring tools would enable continuity of operations and employment preservation.

Strengthen cross-border insolvency preparedness: Accelerate the development and implementation of a robust cross-border insolvency framework aligned with modified universalism. Clear rules on recognition, cooperation, and coordination should be designed to balance international comity with protection of domestic economic interests.

Incorporate regulatory and geopolitical risk assessment into insolvency processes: Resolution planning should explicitly factor in geopolitical and regulatory risks, particularly for businesses operating in sensitive sectors. Early identification of such risks can improve feasibility assessments and prevent post-approval failures.

Enhance institutional capacity and resourcing: Complement legislative reforms with sustained investment in adjudicatory infrastructure, including specialised benches, domain expertise, staffing, and technology. Effective implementation of insolvency reforms requires commensurate institutional capacity.

Re-evaluate adjudicatory design for insolvency: Initiate a policy review to assess whether India requires a more specialised insolvency adjudication framework, distinct from general corporate law tribunals, to address the growing economic, cross-border, and geopolitical complexity of insolvency cases.

Improve policy coordination across economic domains: Establish structured coordination between insolvency policy, trade policy, sanctions regimes, and industrial policy. A cohesive approach would enable faster and more coherent responses to systemic shocks affecting corporate distress.

Promote a trust-based and resilience-oriented insolvency mindset: Shift regulatory and policy orientation from suspicion-driven controls to trust-based facilitation, particularly in cases of genuine business failure. Encouraging entrepreneurship, risk-taking, and timely restructuring will strengthen India's resilience in a geopolitically fragmented global economy.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

E. Way Forward-Policy Note

As geopolitical volatility increasingly shapes global trade, capital flows, and supply chains, insolvency law must evolve from a firm-centric recovery tool into a resilience-oriented economic instrument. The Insolvency and Bankruptcy Code has delivered discipline and credibility, but its next phase must focus on adaptability to systemic and exogenous shocks.

Going forward, insolvency policy should explicitly recognise geopolitical risk as a legitimate trigger of corporate distress and embed proportional responses within the framework. Retaining creditor primacy while allowing calibrated flexibility in exceptional cases will help preserve viable enterprises without diluting market discipline. Simplified and pre-packaged restructuring mechanisms must be expanded to protect smaller businesses that are disproportionately exposed to global disruptions.

Equally critical is the strengthening of institutional capacity. Legislative reform must be complemented by investment in specialised adjudication, domain expertise, and technological infrastructure to ensure timely and consistent outcomes. Finally, closer alignment between insolvency policy, trade strategy, and industrial policy will be essential as India positions itself as a reliable global partner in an increasingly fragmented world.

A forward-looking insolvency framework, anchored in trust, differentiation, and institutional strength, will enable India not only to manage failure but to absorb global shocks, protect enterprise value, and sustain long-term economic growth.

F. Issue-Recommendation Matrix

Issue-Recommendation Matrix Geo-Politics and Insolvency under the IBC	
Key Issue Identified	**Policy Recommendation**
Inadequate recognition of geopolitically driven distress	Introduce statutory recognition of distress arising from external geopolitical shocks (sanctions, trade embargoes, tariff disruptions, supply-chain realignments), distinct from defaults caused by mismanagement or misconduct, enabling proportionate and value-preserving responses.
Limitations of the creditor-in-control model during systemic crises	Retain creditor-in-control as the default framework, while allowing calibrated flexibility in cases of systemic or geopolitically induced distress, including limited management continuity or structured promoter consultation under creditor oversight.
Rigid application of Section 29A in non-culpable cases	Provide a narrowly tailored relaxation of Section 29A in well-defined circumstances where promoters are affected by external shocks without fraud or wilful default, with final approval remaining with the CoC to preserve creditor primacy.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue-Recommendation Matrix Geo-Politics and Insolvency under the IBC	
Key Issue Identified	**Policy Recommendation**
Absence of tailored insolvency solutions for small businesses	Expand pre-packaged and simplified insolvency frameworks beyond the current MSME scope to include small and medium enterprises exposed to geopolitical shocks, ensuring low-cost, time-bound restructuring options.
Cross-border insolvency uncertainty in a fragmented global order	Accelerate development of a robust cross-border insolvency framework aligned with modified universalism, with clear rules on recognition, cooperation, and enforcement that balance comity with domestic economic interests.
Adverse impact on investor confidence and capital flows	Enhance predictability by explicitly factoring geopolitical risk into insolvency policy and resolution planning, thereby improving investor confidence in sectors exposed to global trade volatility.
Institutional and adjudicatory capacity constraints	Complement legislative reform with sustained investment in adjudicatory infrastructure, including specialised benches, enhanced staffing, domain expertise, and technology enablement.
Structural limitations of existing adjudicatory mechanisms	Undertake a policy review to assess the need for a more specialised insolvency adjudication framework distinct from general corporate law tribunals, suited to complex, cross-border, and geopolitically sensitive cases.
Lack of coordinated policy response to systemic shocks	Establish structured coordination among insolvency policy, trade policy, sanctions regimes, and industrial policy to enable coherent and timely responses to geopolitically driven corporate distress.
Balancing national interest with global integration	Promote a trust-based, resilience-oriented insolvency approach that safeguards national economic interests while maintaining predictability, fairness, and openness necessary for global integration and capital inflows.

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

PANEL DISCUSSION V: NAVIGATING INSOLVENCY VALUATION - FAIR VALUE, LIQUIDATION VALUE, AND VALUE MAXIMIZATION

Moderator:

CA. Pankaj Shah, Central Council Member, ICAI

Panelists:

1. CA. Drushti R. Desai, Registered Valuer
2. CA. Paras Savla, Registered Valuer
3. CA. Snehal Pawar

A. Deliberations/ Highlights of the Session

This panel discussion was convened against the recognition that valuation sits at the very heart of insolvency outcomes under the Insolvency and Bankruptcy Code, 2016. As resolution decisions increasingly turn on the determination of fair value and liquidation value, the session sought to examine valuation not as a procedural formality, but as a substantive commercial exercise that shapes creditor recoveries, resolution feasibility, and the critical choice between revival and liquidation. The deliberations sought to explore conceptual clarity, methodological rigor, and practical challenges in insolvency valuation, while anchoring the discussion firmly to the IBC's core objective of value maximisation through resolution, with liquidation as a last resort.

Valuation as the Foundation of Insolvency Outcomes: The Panel focused on the central role of valuation in insolvency resolution, particularly the determination and application of Fair Value and Liquidation Value under the Insolvency and Bankruptcy Code, 2016 (IBC). The discussion examined how valuation outcomes influence creditor recoveries, resolution strategies, and the choice between resolution and liquidation, while highlighting practical challenges faced by valuers, Resolution Professionals (RPs), and Committees of Creditors (CoCs).

The deliberations opened with clear recognition that valuation is the foundation of the insolvency resolution process, as it directly impacts creditor recoveries, feasibility of resolution plans, and the ultimate decision between resolution and liquidation. The panel unanimously emphasised that valuation in insolvency is not a routine compliance exercise but it's a high-stakes professional responsibility, involving public money and systemic financial stability.

Conceptual Distinction between Fair Value and Liquidation Value: The discussion drew a clear conceptual and practical distinction between fair value and liquidation value

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

under the Code. Fair value was deliberated as a going-concern construct, requiring assessment of sustainable cash flows, optimal utilisation of assets, and revival potential. In contrast, liquidation value was recognised as a distress-based realisation metric, reflecting constrained timelines, reduced bargaining power, and realisation costs. The Panel clarified that fair value in insolvency cannot be equated with theoretical market value in a non-distressed scenario, as stress factors inevitably influence assumptions and outcomes.

Valuation Methodology in Stressed Insolvency Scenarios: The Panel acknowledged that assets under CIRP often suffer from operational disruption, underutilisation, and distorted historical financials, making reliance on past performance unreliable. In this context, the income approach, particularly the Discounted Cash Flow (DCF) method, was identified as the most appropriate anchor for determining fair value. However, its robustness depends on careful calibration of assumptions relating to sustainable earnings, discount rates, risk premiums, and achievable operating performance.

Market-based valuation approaches, including comparable company and transaction multiples, were considered to have limited applicability in most IBC cases due to the distortion caused by stressed earnings and the absence of truly comparable distressed benchmarks.

Calibration of Discount Rates and Risk Premiums: A recurring emphasis of the discussion was the critical importance of calibrating discount rates and risk premiums in insolvency valuations. The Panel noted that valuation credibility hinges on transparent and defensible assumptions reflecting insolvency-specific uncertainty. Reference to stressed-asset benchmarks, publicly available rates, and contextual risk adjustments was encouraged to enhance robustness and withstand scrutiny.

Treatment of Intangibles and Brand Value in Insolvency: The valuation of intangibles emerged as a key area of deliberation. Divergent perspectives were discussed, while one view cautioned that distress significantly erodes brand value and earning potential, another emphasised that strong brands often retain residual value due to the cost, time, and effort involved in brand creation. The Panel concurred that intangibles cannot be ignored merely due to complexity. In a going-concern valuation, both tangible and intangible assets are inherently captured through their contribution to future cash flows, without necessitating a separate stand-alone valuation in every case.

Procedural Challenges and Valuation Disparities: The Panel examined practical challenges such as wide disparities between valuations prepared by two registered valuers, repeated valuation requests by Committees of Creditors, and consequent delays impacting CIRP timelines. The emerging practice of appointing a third or coordinating valuer was discussed, with concerns raised regarding inconsistent quality and the absence of uniform benchmarks. It was emphasised that valuation under the IBC requires structured reconciliation of assumptions, methodologies, and data points to arrive at a credible and usable consensus.

Role of the Resolution Professional in Valuation Alignment: The Resolution Professional was recognised as playing a pivotal coordinating role in the valuation process. Beyond appointing valuers, the RP is expected to ensure data integrity, consistency of assumptions,

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

timely resolution of differences, and structured reconciliation of valuation outputs, thereby enabling the CoC to exercise informed commercial judgment.

Valuation in Complex Group and Multi-Business Structures: In cases involving corporate groups or multiple business divisions, the Panel favoured a consolidated and sum-of-the-parts (SOTP) valuation approach over siloed, entity-wise assessments. Such an approach was considered more reflective of economic reality, capturing interlinkages and synergies across entities. Judicial precedent supporting holistic and commercial assessment by the CoC and IRP was noted.

The Panel also highlighted the importance of comparing going-concern value and liquidation value at the group or business-segment level. Identifying value-accretive and loss-making segments enables selective preservation, restructuring, or liquidation of business units, rather than blanket liquidation thereby maximising overall recoveries.

Valuation as a Substantive Commercial Exercise: Valuation under the IBC was positioned as a substantive commercial exercise rather than a mechanical application of techniques. The quality of inputs, assumptions, documentation, and reconciliation was considered as important as the valuation methodology itself. Given the statutory requirement of appointing multiple valuers, disciplined alignment and reconciliation were identified as essential to ensure valuation outputs meaningfully support resolution decision-making.

Alignment with the Core Objective of the IBC: The Panel concluded that all valuation principles discussed during the session are anchored to the core objective of the IBC, maximisation of value through resolution, with liquidation as a measure of last resort. Fair value and liquidation value must therefore be applied not in isolation, but as complementary tools guiding commercially sound, value-maximising outcomes within the insolvency framework.

B. Key Takeaways

- ✓ Valuation is a cornerstone of insolvency outcomes, directly influencing creditor recoveries, resolution feasibility, and the choice between resolution and liquidation, and is therefore a substantive, not procedural, exercise.
- ✓ Fair Value and Liquidation Value serve distinct but complementary purposes under the IBC: fair value reflects going-concern potential under stress conditions, while liquidation value represents distress-driven realisation under constrained timelines.
- ✓ Income-based valuation approaches, particularly DCF, are most relevant in insolvency, provided assumptions relating to sustainable cash flows, discount rates, and risk premiums are carefully calibrated.
- ✓ Market-based valuation methods have limited applicability in most IBC cases due to distorted earnings and a lack of comparable distressed benchmarks.
- ✓ Accurate calibration of discount rates and insolvency-specific risk premiums is critical to ensuring credibility, transparency, and defensibility of valuation outcomes.
- ✓ Intangible assets and brand value cannot be ignored in insolvency, as they may retain residual value and are inherently reflected in going-concern cash flow assessments.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ Wide valuation disparities and repeated valuation requests undermine process efficiency, highlighting the need for structured reconciliation and coordinated valuation practices.
- ✓ Resolution Professionals play a central role in valuation alignment, ensuring consistency of data, assumptions, and timely resolution of differences between valuers.
- ✓ Consolidated and sum-of-the-parts valuation is preferable for group and multi-business cases, enabling identification of value-accretive and loss-making segments and supporting selective restructuring.
- ✓ Valuation must remain anchored to the IBC's core objective of value maximisation, with resolution preferred over liquidation and valuation outputs used as decision-support tools for informed commercial judgment.

C. Issues & Challenges Identified

Subjectivity and divergence in valuation outcomes: Significant differences between valuations prepared by multiple registered valuers create uncertainty, complicate CoC decision-making, and increase the risk of disputes and litigation.

Inconsistent application of valuation methodologies: Variations in assumptions, discount rates, risk premiums, and treatment of stressed cash flows undermine comparability and credibility of valuation outputs.

Limited reliability of historical financial data: Stressed operations, capacity underutilisation, and disrupted business models often render historical performance an unreliable basis for valuation.

Challenges in valuing intangibles under distress: Assessing the residual value of brands, goodwill, licences, and customer relationships remains complex, leading to inconsistent treatment across cases.

Over-reliance on market-based approaches in inappropriate contexts: Use of comparable multiples in distressed scenarios can distort valuation outcomes due to a lack of truly comparable benchmarks.

Procedural delays linked to valuation disputes: Repeated valuation requests, third-valuer appointments, and prolonged reconciliation processes can delay CIRP timelines and erode value.

Lack of structured reconciliation mechanisms: Absence of a standardised framework for reconciling differences between valuers places undue burden on the Resolution Professional and CoC.

Capacity and coordination constraints in complex group cases: Entity-wise valuation in multi-entity or multi-business structures may fail to capture economic interlinkages and true enterprise value.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Heightened accountability and litigation exposure for valuers: Increased scrutiny by adjudicating authorities raises professional risk where documentation, assumptions, or methodologies are inadequately substantiated.

Balancing commercial judgment with valuation standards: Valuers and insolvency professionals face ongoing tension between strict technical compliance and practical commercial realities of stressed assets.

D. Suggestions & Recommendations

Strengthen standardisation of valuation practices: Uniform guidance on key assumptions discount rates, risk premiums, cash-flow projections, and treatment of stress factors should be issued to reduce divergence and improve comparability of valuation outcomes.

Introduce structured reconciliation protocols: A formal reconciliation framework should be prescribed for cases involving multiple valuers, requiring documented alignment of assumptions, methodologies, and key value drivers before final values are placed before the CoC.

Clarify methodology selection in distressed scenarios: Regulatory guidance should reinforce the primacy of income-based approaches, particularly DCF, in insolvency cases, while limiting the use of market-based multiples to exceptional and well-justified circumstances.

Develop clearer guidance on valuation of intangibles: Standardised principles should be evolved for assessing the residual value of brands, licences, customer relationships, and other intangibles under distress, recognising their contribution to future cash flows.

Promote consolidated valuation in group and complex structures: In multi-entity and multi-business cases, consolidated or sum-of-the-parts valuation approaches should be encouraged to reflect economic realities and maximise enterprise value.

Enhance the coordinating role of Resolution Professionals: Resolution Professionals should be empowered and guided to actively oversee valuation processes, ensure data integrity, align assumptions, and facilitate the timely resolution of valuation differences.

Limit repetitive valuation requests: Clear thresholds should be prescribed for seeking additional or third valuations, to prevent strategic delays and protect CIRP timelines.

Strengthen documentation and defensibility: Valuation reports should mandatorily include detailed disclosures on assumptions, sensitivity analysis, and reconciliation logic to reduce litigation risk and enhance stakeholder confidence.

Capacity building and continuous upskilling: Targeted training programmes should be introduced for valuers, insolvency professionals, and CoC members on insolvency-specific valuation challenges and best practices.

Align valuation outcomes with value-maximisation objectives: Valuation should consistently be used as a decision-support tool to compare resolution versus liquidation, identify value-accretive segments, and enable selective restructuring in line with the IBC's core objective.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

E. Way Forward- Policy Note

Valuation will increasingly define the credibility and effectiveness of India's insolvency framework. As insolvency cases become larger, more complex, and more interconnected, valuation must evolve from a procedural requirement into a robust decision-support instrument that actively enables value maximisation.

Going forward, policy emphasis should focus on strengthening standardisation, reconciliation, and professional accountability in valuation practices, while preserving the necessary space for professional judgment in distressed scenarios. Clearer regulatory guidance on methodology selection, treatment of intangibles, and group-level valuation will enhance consistency and reduce avoidable disputes.

Resolution Professionals and Committees of Creditors must be institutionally supported to use valuation outputs strategically comparing resolution and liquidation outcomes, identifying viable business segments, and enabling selective restructuring rather than value-destructive liquidation. At the same time, litigation risk must be minimised through better documentation, transparency, and defensible assumptions.

Capacity building will remain critical. Continuous upskilling of valuers, insolvency professionals, and CoC members, coupled with coordinated valuation processes and timely decision-making, will strengthen creditor confidence and market trust.

Ultimately, a mature insolvency regime requires valuation frameworks that are transparent, forward-looking, and commercially grounded ensuring that valuation consistently serves the IBC's foundational objective of resolution-led value maximisation and systemic financial stability.

F. Issue-Recommendation Matrix

Issue-Recommendation Matrix **Navigating Insolvency Valuation - Fair Value, Liquidation Value, and Value Maximisation**	
Key Issue Identified	**Policy Recommendation**
Subjectivity and divergence in valuation outcomes between multiple valuers	Issue uniform regulatory guidance on core assumptions and introduce mandatory structured reconciliation to reduce unexplained divergence
Inconsistent application of valuation methodologies	Prescribe clearer methodological hierarchies for insolvency valuation, with defined expectations on assumptions, stress factors, and risk adjustments
Limited reliability of historical financial data in distressed entities	Shift emphasis towards forward-looking, sustainability-based cash-flow assessment, supported by rigorous verification and triangulation of data
Challenges in valuing intangibles under distress	Develop standard principles for assessing the residual value of intangibles, recognising their contribution to future cash flows in going-concern scenarios

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue-Recommendation Matrix Navigating Insolvency Valuation - Fair Value, Liquidation Value, and Value Maximisation	
Key Issue Identified	**Policy Recommendation**
Over-reliance on market-based approaches in inappropriate contexts	Restrict use of comparable multiples in distressed cases to exceptional situations, supported by clear justification and disclosures
Procedural delays arising from valuation disputes	Prescribe thresholds and conditions for seeking additional or third valuations to prevent strategic delays and protect CIRP timelines
Absence of structured reconciliation mechanisms between valuers	Introduce a formal reconciliation protocol requiring alignment of assumptions, methodologies, and key value drivers before submission to the CoC
Inadequate capture of enterprise value in group or complex structures	Encourage consolidated or sum-of-the-parts valuation approaches to reflect economic interlinkages and maximise enterprise value
Heightened accountability and litigation exposure for valuers	Mandate enhanced documentation, sensitivity analysis, and assumption disclosures to strengthen defensibility and reduce litigation risk
Tension between technical standards and commercial realities	Reinforce valuation as a decision-support tool, allowing calibrated professional judgment aligned with value-maximisation objectives under the IBC

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

PANEL DISCUSSION VI: DIGITAL DARWINISM - WHEN AI MAKES YESTERDAY'S BUSINESS MODEL EXTINCT OVERNIGHT

Moderator:

CA. Parag Kulkarni, Registered Valuer

Panelists:

1. CA. P. N. Anklesaria, Lead Partner, Sorab S. Engineer & Co.
2. Shri Subramhanya Hathwar
3. Shri Vishal Mhaiskar, Managing Partner, Motilal Oswal

A. Deliberations/ Highlights of the Session

The panel discussion examined the transformative impact of Artificial Intelligence (AI) on business sustainability, insolvency outcomes, and institutional processes under the Insolvency and Bankruptcy Code (IBC). Anchored in the theme "*Digital Darwinism*", the session explored how rapid technological disruption is reshaping enterprise value, accelerating business obsolescence, and redefining the assumptions underpinning going-concern assessments, valuation, creditor decision-making, and insolvency resolution. The panel deliberated on whether existing insolvency frameworks, professional practices, and adjudicatory mechanisms are adequately equipped to respond to AI-driven structural change, rather than incremental business stress.

AI-Driven Disruption and Going-Concern Assessment: The deliberations opened with a discussion on how AI is fundamentally altering business viability analysis in insolvency cases. The panel observed that traditional going-concern assessments, largely anchored in historical performance and incremental growth assumptions, are increasingly unreliable in AI-disrupted sectors. Products, services, and entire business models may be rendered obsolete within short timeframes, even before conventional financial distress indicators become visible.

From a creditor and resolution perspective, the panel emphasised the need to assess whether a business can realistically pivot or integrate AI into its operations, or whether disruption is structural and irreversible. Where disruption is permanent, early exits and acceptance of higher haircuts may be commercially prudent. Conversely, where viable pivots exist, supported by assets such as data, customer relationships, or adaptable platforms, continued resolution efforts may still be justified.

Changing Nature of Enterprise Value in the AI Era: A recurring theme was the shift in the composition of enterprise value. The panel noted that value is increasingly embedded

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

in non-traditional assets such as proprietary datasets, trained AI models, algorithms, and deep workflow integration, rather than physical assets or conventional software. Businesses lacking defensible data advantages were observed to face rapid commoditisation, as AI models without exclusive datasets are easily replicable.

This shift raises fundamental challenges for insolvency valuation, impairment testing, and recovery strategies, as traditional asset-centric approaches struggle to capture the economic reality of AI-driven enterprises.

Compression of Business Viability Timelines: The panel deliberated on how AI-led disruption compresses business lifecycles. Unlike traditional industries, where distress unfolds gradually, AI-affected businesses may collapse swiftly once technological relevance is lost. This creates significant challenges for creditors, valuers, auditors, and insolvency professionals in distinguishing between recoverable financial stress and irreversible business failure.

The discussion underscored the need for earlier intervention, faster decision-making, and greater reliance on forward-looking indicators rather than retrospective financial metrics.

AI in Detection of Fund Diversion and Avoidance Transactions: The panel examined the growing role of AI in analysing preferential, undervalued, fraudulent, and extortionate transactions. It was observed that AI tools using anomaly detection, graph-based network analysis, and large language models to analyse unstructured data such as emails and communications can significantly enhance the Resolution Professional's ability to identify suspect transactions and trace complex fund flows across related parties.

However, the panel repeatedly cautioned that AI effectiveness is constrained by data quality, completeness, and accessibility. Clean, reliable datasets were identified as the primary bottleneck, alongside concerns relating to data privacy, regulatory permissions, and inter-agency data sharing.

Data Governance, Privacy, and Explainability Concerns: Significant discussion focused on risks associated with AI hallucination, bias, and lack of understandability. From an investor, creditor, and adjudicatory standpoint, blind reliance on AI outputs was viewed as unacceptable. The panel discussed safeguards such as model validation metrics, golden datasets, and explainability tools (including SHAP and LIME) to ensure that AI-driven insights are auditable, interpretable, and defensible.

The possibility of using anonymised or masked datasets, drawing parallels with Aadhaar masking, was discussed as a means to balance analytical capability with privacy and confidentiality obligations.

Technology and the Limits of AI in Adjudication: The panel then turned to the role of technology in adjudicatory efficiency, particularly within the NCLT framework. While acknowledging the potential of technology to improve case management, pleadings, and access to information, the panel strongly cautioned against over-reliance on AI for judicial reasoning.

Instances of AI-generated pleadings and citations containing non-existent case law were cited as serious risks. The consensus was that AI must remain a decision-support tool

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

rather than a substitute for judicial application of mind, with accountability firmly resting on human decision-makers.

Procedural Delays, Behavioural Issues, and Institutional Reform: The deliberations identified systemic delays in insolvency proceedings as a continuing concern, arising from admission-stage bottlenecks, repeated adjournments, incomplete pleadings, and strategic stakeholder behaviour. Suggestions included greater delegation to Registrars, specialised benches, standardised procedures, and stricter procedural discipline.

It was emphasised that while technology can assist process efficiency, procedural reform and behavioural discipline are equally critical to reducing value erosion caused by delays.

Role and Challenges of Resolution Professionals in a Tech-Driven Ecosystem: The panel acknowledged that Resolution Professionals operate under intense scrutiny from multiple stakeholders, often facing delayed fee payments, conflicting expectations, and regulatory pressure. The need for clearer role demarcation between the Committee of Creditors and the RP, regulatory restraint in initiating proceedings for minor complaints, and stronger institutional backing for RPs was emphasised.

The panel observed that RPs are central to the success of the insolvency framework and must be supported, rather than second-guessed, if timely and value-maximising outcomes are to be achieved.

AI as a Structural, Not Incremental, Force: In conclusion, the panel reaffirmed that AI represents a structural shift rather than a marginal efficiency gain. It is reshaping business models, asset composition, valuation paradigms, and insolvency outcomes. While automation may replace repetitive and hazardous tasks, high-judgement professional roles in insolvency, valuation, and adjudication are unlikely to be fully automated in the foreseeable future, particularly in the Indian context.

The session concluded that insolvency frameworks, professional standards, and institutional capacities must evolve rapidly to remain relevant in an AI-driven economy, with technology serving as an enabler, not a substitute, for sound commercial judgment and regulatory discipline.

B. Key Takeaways

- ✓ AI is a structural disruptor of business viability, not a marginal efficiency tool. Insolvency assessments must move beyond static, historical indicators to account for rapid technology-led obsolescence and compressed business lifecycles.
- ✓ Traditional going-concern assumptions are increasingly unreliable in AI-affected sectors. Early differentiation between irreversible disruption and viable pivot opportunities is essential for value-maximising insolvency outcomes.
- ✓ Enterprise value is shifting from physical assets to data and intangibles, including proprietary datasets, trained models, algorithms, and workflow integration, requiring a fundamental rethink of valuation and recovery strategies.
- ✓ AI-enabled analytics can significantly strengthen avoidance transaction detection, fund-flow tracing, and early warning systems, provided access to clean, complete, and lawful datasets is ensured.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ Data quality, privacy, and understandability are critical constraints on AI adoption in insolvency. AI outputs must be auditable, interpretable, and defensible to retain stakeholder and adjudicatory confidence.
- ✓ AI must remain a decision-support tool, not a substitute for judgment, particularly in adjudication. Human accountability is indispensable to preventing errors, bias, and misuse.
- ✓ Systemic delays continue to erode insolvency value, driven by procedural bottlenecks and stakeholder behaviour. Technology alone cannot resolve these issues without parallel procedural reform and discipline.
- ✓ Resolution Professionals are central to the effectiveness of the IBC, operating under heightened scrutiny and pressure. Stronger institutional support and clearer role demarcation are essential to sustain their independence and credibility.
- ✓ AI enhances early detection of financial stress, but timely intervention depends equally on governance, regulatory coordination, and behavioural change across stakeholders.
- ✓ Insolvency frameworks must evolve in step with technological change, positioning AI as an enabler of faster, smarter decision-making while preserving the primacy of professional judgment and statutory discipline.

C. Issues & Challenges Identified

Compression of business viability timelines: AI-driven disruption can dismantle business models far faster than conventional financial indicators can signal distress. This significantly narrows the window for early intervention and challenges insolvency frameworks that rely on lagging, historical data.

Mismatch between AI-era businesses and traditional insolvency tools: Existing going-concern assessments, audit methodologies, and valuation frameworks are grounded in assumptions of asset stability and predictable cash flows. These assumptions are increasingly unreliable for AI-intensive or data-driven businesses marked by rapid obsolescence and platform dependency.

Data access, privacy, and sharing constraints: Effective AI use in insolvency depends on granular, cross-institutional data. Confidentiality obligations, data localisation rules, consent requirements, and the absence of structured data-sharing frameworks restrict access, weakening early-warning signals, fraud detection, and systemic risk analysis.

Model risk and lack of explainability: Advanced AI models introduce risks of hallucination, embedded bias, and non-deterministic outputs. Limited explainability undermines auditability, legal defensibility, and accountability, particularly problematic in regulated insolvency and adjudicatory settings.

Absence of clear regulatory guardrails for AI deployment: There is no defined framework specifying permissible AI use, validation standards, evidentiary weight, or accountability in insolvency processes. This uncertainty exposes professionals and institutions to regulatory and litigation risk.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Risk of over-automation in adjudication: While AI can enhance case management and analysis, its misuse in judicial reasoning poses serious risks, including factual inaccuracies and reliance on non-existent legal authorities. Human judgment remains indispensable.

Persistence of procedural and behavioural delays: Admission-stage delays, repeated adjournments, incomplete pleadings, and strategic gaming of timelines continue to erode value. Technology cannot compensate for weak procedural discipline and stakeholder conduct.

Disproportionate exposure of Resolution Professionals: RPs face heightened scrutiny, delayed remuneration, and conflicting stakeholder expectations. AI-enabled tools may raise performance expectations without corresponding clarity on role demarcation, liability protection, or institutional support.

Uncertainty around insolvency recovery of AI assets: Insolvency proceedings raise unresolved questions on the transferability of AI models, continuity of data rights, enforceability of licences, and existence of a liquid market for fine-tuned or domain-specific systems.

Valuation and impairment challenges for AI-driven intangibles: AI assets depreciate rapidly due to technological churn, regulatory shifts, and competitive replication. Traditional intangible asset frameworks struggle to capture impairment risk and economic fragility.

Compute infrastructure and geopolitical exposure: Dependence on imported GPUs, foreign cloud platforms, and global supply chains limits scalability, increases cost volatility, and creates strategic vulnerability, particularly for sovereign or regulator-grade applications.

Reluctance to share proprietary data: Organisations are hesitant to contribute datasets to shared AI systems due to fears of value leakage and competitive disadvantage, slowing ecosystem-level AI development, and reducing model robustness.

Economic limits of automation in India: Labour-abundant conditions extend the ROI horizon for automation and humanoids, confining adoption to niche use cases and limiting near-term insolvency-related productivity gains.

Capability and skill gaps: Uneven AI literacy among professionals and institutions increases the risk of misuse, over-reliance, or misinterpretation of AI outputs, constraining responsible adoption.

D. Suggestions & Recommendations

Reframe insolvency tools for AI-era businesses: Insolvency assessment, going-concern evaluation, and valuation frameworks should be recalibrated to account for rapid technological obsolescence, platform dependence, and compressed business life cycles. Regulatory guidance may clarify how AI-driven disruption and data-centric business models should be factored into insolvency decision-making.

Develop structured data-sharing and privacy-safe frameworks: Policymakers should facilitate secure, consent-based data-sharing mechanisms, such as anonymisation, masking, and trusted data utilities, to enable AI-enabled early warning systems, transaction analysis, and fraud detection while safeguarding confidentiality and privacy.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Introduce regulatory guardrails for AI use in insolvency: Clear principles should be prescribed on permissible AI applications, validation standards, documentation requirements, and accountability. AI outputs should be treated as decision-support tools rather than determinative evidence, with responsibility remaining firmly with human professionals.

Mandate explainability and auditability of AI systems: Any AI tools used by insolvency professionals or institutions should meet minimum standards of explainability, traceability, and model validation. Use of explainable AI techniques and maintenance of audit trails should be encouraged to ensure defensibility before regulators and adjudicating authorities.

Strengthening safeguards against over-automation in adjudication: Technology adoption in tribunals should focus on case management, data access, and process efficiency, while judicial reasoning and decision-making must remain human-led. Explicit cautionary guidance may help prevent reliance on opaque or unverified AI outputs.

Clarify protection and support for Resolution Professionals: The role of RPs should be clearly demarcated vis-à-vis the Committee of Creditors in AI-assisted processes. Safe-harbour protections for bona fide reliance on validated AI tools, along with timely fee protection and institutional backing, would reduce defensive behaviour and enhance effectiveness.

Provide guidance on insolvency treatment of AI assets: Regulatory clarification is needed on transferability of AI models, continuity of data and licence rights, treatment of proprietary datasets, and valuation of AI-driven intangibles in resolution and liquidation. This would reduce uncertainty for creditors and resolution applicants.

Upgrade valuation and audit methodologies: Valuation standards should evolve to address rapid impairment risk, dependency on external compute or platforms, and uncertainty of AI-based revenue streams. Greater emphasis should be placed on forward-looking viability and sensitivity analysis.

Invest in institutional and professional capacity building: Structured training programmes for insolvency professionals, valuers, adjudicators, and regulators on AI fundamentals, limitations, and responsible use should be institutionalised to bridge capability gaps.

Encourage domestic AI and compute infrastructure: Policy support for indigenous compute capacity and sovereign-grade AI infrastructure would reduce geopolitical exposure and enable secure deployment of AI tools in sensitive insolvency and regulatory contexts.

Promote collaborative yet trust-based AI ecosystems: Frameworks that protect proprietary value while enabling controlled collaboration, such as federated learning or sandbox environments, should be explored to overcome reluctance in data contribution.

Align AI adoption with the time-value-of-money principle: All AI-enabled interventions should be evaluated against their ability to accelerate resolution, reduce delays, and preserve value, reinforcing the core economic objective of the IBC.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

E. Way Forward- Policy Note

As artificial intelligence increasingly reshapes business models, asset composition, and the pace of disruption, insolvency policy must evolve from a static, backward-looking framework to a forward-looking and adaptive regime. The Insolvency and Bankruptcy Code must be interpreted and implemented with an appreciation that financial distress may now arise from rapid technological obsolescence and exogenous disruption rather than managerial failure alone.

Going forward, policy emphasis should be placed on early detection of distress, faster decision-making, and value preservation, with AI deployed as an enabling tool rather than a substitute for professional or judicial judgment. The use of AI in insolvency should be guided by principles of explainability, accountability, and proportionality, ensuring that technological adoption enhances confidence rather than introduces new forms of opacity and risk.

Institutional readiness will be critical. Investments in adjudicatory capacity, professional upskilling, and secure data infrastructure must accompany legislative and regulatory intent. Clear regulatory guidance on AI-enabled processes, protection for bona fide professional judgment, and clarity on treatment of AI-driven assets will help reduce uncertainty for creditors, investors, and resolution applicants.

Ultimately, the future insolvency framework must balance innovation with trust, embracing digital tools to improve efficiency and outcomes, while firmly anchoring responsibility with human decision-makers. By aligning technology adoption with the core objectives of timeliness, value maximisation, and fairness, India's insolvency ecosystem can remain resilient and relevant in an era of accelerated technological change.

F. Issue-Recommendation Matrix

Issue-Recommendation Matrix Digital Darwinism - When AI Makes Yesterday's Business Model Extinct Overnight	
Key Issue Identified	**Policy Recommendation**
Compression of business viability timelines due to AI-driven disruption	Recalibrate insolvency assessment and going-concern frameworks to recognise rapid obsolescence and shorter business life cycles in AI-era enterprises
Mismatch between AI-era business models and traditional insolvency tools	Update valuation, audit, and insolvency methodologies to factor platform dependence, data-centric value, and non-linear disruption risks
Data access, privacy, and sharing constraints	Develop secure, consent-based data-sharing mechanisms using anonymisation, masking, and trusted data utilities to enable AI-led early warning and analysis
Model risk, hallucination, and lack of explainability	Mandate explainability, validation, and audit trails for AI tools used in insolvency, ensuring accountability and legal defensibility
Absence of regulatory guardrails for AI deployment	Prescribe clear regulatory principles defining permissible AI use, documentation standards, and responsibility, treating AI strictly as decision-support

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue-Recommendation Matrix Digital Darwinism - When AI Makes Yesterday's Business Model Extinct Overnight	
Key Issue Identified	**Policy Recommendation**
Risk of over-automation in adjudication	Restrict AI use in tribunals to case management and analytics, while ensuring judicial reasoning and application of mind remain human-led
Persistence of procedural and behavioural delays	Reinforce procedural discipline and stakeholder accountability, recognising that technology cannot substitute behavioural reform
Disproportionate exposure and pressure on Resolution Professionals	Clarify RP-CoC role demarcation in AI-assisted processes and introduce safe-harbour protections for bona fide reliance on validated AI tools
Uncertainty around the insolvency recovery of AI assets	Issue regulatory guidance on transferability of AI models, continuity of data and licence rights, and treatment of proprietary datasets
Valuation and impairment challenges for AI-driven intangibles	Evolve valuation standards to address rapid impairment, replication risk, and uncertainty in AI-based revenue streams
Dependence on foreign computing infrastructure and geopolitical exposure	Encourage the development of domestic, sovereign-grade AI and compute infrastructure to reduce strategic vulnerability
Reluctance to share proprietary data	Promote trust-based collaboration models such as federated learning and controlled sandbox environments
Economic limits of automation in labour-abundant markets	Calibrate expectations from automation, focusing on high-impact insolvency use cases rather than blanket substitution
Capability and skill gaps across the ecosystem	Institutionalise structured AI literacy and responsible-use training for insolvency professionals, valuers, regulators, and adjudicators
Risk that AI adoption may not improve resolution speed	Align AI deployment with the time-value-of-money principle, prioritising tools that demonstrably accelerate resolution and preserve value

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

PANEL DISCUSSION VII: BRIDGING STAKEHOLDER EXPECTATIONS: JUDICIARY - REGULATOR - PRACTITIONER - COC - RESOLUTION APPLICANT COLLABORATION FOR FASTER OUTCOMES

Moderator:

CA. Durgesh Kumar Kabra, Central Council Member, ICAI

Panelists:

1. Shri Venkata Ramakrishna Badarinath Nandula, Former Hon'ble Judicial Member, National Company Law Tribunal, Hyderabad
2. Shri Sanjeev Pandey, Ex-DGM, National Company Law Tribunal, State Bank of India and CEO, Association of Insolvency Professional Entities
3. CA. Atul Rajwadkar, Partner, NuOm AIF
4. Shri NPS Chawla, Co-Founder & Joint Managing Partner, Aekom Legal

A. Deliberations / Highlights of the Session

The panel discussion was anchored in the recognition that, notwithstanding the Insolvency and Bankruptcy Code having evolved into a mature and jurisprudentially robust framework, delays continue to undermine its core objective of time-bound value maximisation. The discussion, therefore, moved beyond legislative design to examine the operational realities of insolvency practice, focusing on how coordination and alignment among key stakeholders, judiciary, regulators, insolvency professionals, creditors, and resolution applicants can meaningfully contribute to faster and more effective outcomes.

The panel was structured around identifying friction points within the insolvency ecosystem and exploring how institutional collaboration, procedural redesign, and behavioural shifts could address these challenges without diluting principles of fairness and due process.

Delays in Insolvency Proceedings: Systemic and Institutional Constraints: A central theme that emerged was that delays under the IBC are not a reflection of statutory inadequacy, but rather of institutional and systemic constraints in its administration. From the judicial perspective, it was emphasised that while the Code clearly prioritises speed and revival, the machinery entrusted with its implementation continues to struggle with infrastructure gaps, mounting caseloads, and capacity limitations.

The panel observed that tribunals, including the National Company Law Tribunal, were not originally designed to shoulder the volume and intensity of insolvency litigation that

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

has emerged post-IBC. The absence of an independent tribunal governance framework, delays in appointments, and uneven availability of technical expertise were cited as factors that directly impact timelines. These constraints, it was noted, inevitably affect stakeholder confidence and the credibility of the insolvency process.

Economic Character of the IBC and the Nature of Adjudication: The discussion then turned to the economic and commercial character of the IBC and whether the existing adjudicatory approach fully reflects this reality. It was highlighted that several stages of the insolvency process, particularly admission of applications, replacement of resolution professionals, and approval of resolution plans, are largely compliance-driven and involve objective verification rather than substantive adjudication.

The panel deliberated whether excessive judicial intervention at early stages inadvertently contributes to delay and value erosion. It was argued that insolvency, being an economic law, demands swift, predictable outcomes and that procedural formalism should not overshadow commercial pragmatism. At the same time, the panel acknowledged that adjudication cannot be entirely dispensed with, especially in matters involving disputed claims, limitation, fraud, or abuse of process.

The consensus that emerged was that adjudication must be proportionate and targeted, ensuring that judicial time is preserved for genuine disputes rather than routine procedural matters.

Reconciling Speed with Natural Justice: An important counterpoint raised during the discussion was the need to balance speed with principles of natural justice. The panel recognised that insolvency proceedings, though summary in nature, have significant civil and economic consequences. Therefore, parties must be afforded a fair opportunity to be heard, particularly where factual disputes or allegations of wrongdoing are involved.

However, it was noted that natural justice should not be invoked as a tactical tool to delay proceedings. The panel observed that repeated adjournments, procedural challenges, and fragmented hearings often stem from strategic behaviour rather than genuine legal necessity. Addressing this, the discussion underscored the need for a cultural shift among stakeholders towards respecting the spirit of time-bound resolution envisaged under the Code.

Procedural Streamlining and Institutional Design: The panel devoted significant attention to procedural reforms that could reduce delays without compromising fairness. It was observed that a substantial portion of tribunal time is consumed by procedural hearings relating to pleadings, filings, and compliance verification. Delegating such functions to registrar-level mechanisms, with adjudicatory members focusing on substantive issues, was discussed as a practical solution.

The experience of specialised admission benches in high-volume jurisdictions was cited as an example of how targeted institutional design can improve efficiency. The panel emphasised that procedural streamlining must be supported by administrative empowerment and clarity in role allocation, rather than ad hoc measures.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Technology as an Enabler, Not a Substitute: Technology was widely recognised as a critical enabler for improving efficiency, particularly in areas such as claim verification, data collation, conflict checks, and reporting. The panel acknowledged the increasing role of digital tools and artificial intelligence in insolvency practice globally, especially in assisting resolution professionals.

At the same time, caution was expressed against uncritical reliance on automated outputs in adjudicatory or decision-making functions. The panel noted instances where overdependence on AI-generated content led to inaccuracies and compromised judicial reasoning. It was therefore emphasised that technology must supplement professional judgment and be deployed within clearly defined ethical and procedural guardrails.

Role, Independence, and Pressures Faced by Resolution Professionals: A substantial part of the deliberations focused on the position of resolution professionals within the insolvency ecosystem. The panel recognised that RPs operate at the intersection of multiple, often conflicting, stakeholder expectations. They are required to balance the interests of creditors, manage interactions with suspended management, comply with regulatory oversight, and assist adjudicatory authorities, all while being accountable for timelines and outcomes.

It was acknowledged that insolvency professionals face significant financial and reputational risk, including delayed remuneration and exposure to complaints from multiple quarters. The perception that RPs disproportionately benefit from insolvency proceedings was described as misplaced and inconsistent with ground realities, particularly in smaller or distressed cases.

The panel stressed that RPs are independent fiduciaries and not agents of the Committee of Creditors or any other stakeholder. Effective resolution, it was noted, is contingent on respecting this independence.

Stakeholder Behaviour and Role Demarcation: The discussion highlighted that delays often arise when stakeholders step beyond their prescribed roles. Instances of CoCs interfering in operational decisions of RPs, frequent changes in creditor representatives, and reluctance to take timely commercial decisions were cited as common sources of friction.

From the judicial perspective, it was observed that tribunals are often aware of the true causes of delay, even when extension applications do not candidly attribute responsibility. The panel emphasised the need for transparency and forthrightness, noting that a culture of mutual trust and accountability is essential for the insolvency framework to function effectively.

Regulatory Oversight and Professional Confidence: The panel also examined the regulatory framework governing insolvency professionals, particularly the challenges arising from dual oversight by Insolvency Professional Agencies and the Insolvency and Bankruptcy Board of India. While accountability was recognised as essential for maintaining professional standards, it was argued that regulatory action should be proportionate, contextual, and mindful of the operational pressures faced by RPs.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

The discussion underscored the importance of viewing insolvency professionals as system enablers rather than risk points, and of fostering regulatory confidence that encourages professional independence rather than defensive compliance.

Resolution Applicant Conduct and Plan Implementation: Another key area of deliberation related to instances of resolution applicants withdrawing or failing to implement approved resolution plans. The panel observed that while regulatory safeguards such as performance guarantees exist, non-implementation often reflects inadequate assessment of the applicant's financial capacity and intent by the Committee of Creditors.

It was emphasised that evaluating the credibility of the resolution applicant is as critical as assessing the resolution plan itself. Judicial trends were noted to be increasingly strict against unjustified withdrawal, reinforcing the sanctity of approved plans.

Concluding Reflections: The panel concluded that achieving faster outcomes under the IBC requires more than statutory amendments. It demands procedural discipline, institutional capacity building, and behavioural alignment among stakeholders. The Code, it was reiterated, provides a strong foundation; the challenge lies in its execution.

The deliberations reinforced the view that insolvency resolution is a collective enterprise, and that sustained improvements in speed and quality of outcomes will depend on trust, collaboration, and shared responsibility across the ecosystem.

B. Key Takeaways

- ✓ Delays under the IBC are operational, not legislative: The Code is structurally sound; persistent delays stem from institutional capacity constraints, procedural overload, and stakeholder behaviour.
- ✓ IBC is an economic law requiring proportional adjudication: Early stages such as admission and plan approval should remain compliance-driven, with judicial intervention reserved for genuine disputes.
- ✓ Speed and natural justice must be balanced, not opposed: Fair hearing is essential, but cannot be used tactically to justify repeated adjournments or procedural obstruction.
- ✓ Tribunal capacity and design materially affect outcomes: Infrastructure gaps, vacancies, and non-specialised tribunal structures directly undermine time-bound resolution.
- ✓ Procedural streamlining is critical to value preservation: Delegation of routine compliance matters and use of specialised benches can significantly reduce delays.
- ✓ Technology is an enabler, not a decision-maker: Digital tools and AI can enhance efficiency, but must operate within ethical, procedural, and human-oversight guardrails.
- ✓ Resolution Professionals are system enablers, not agents: RP independence is central to effective resolution; disproportionate scrutiny, delayed fees, and regulatory pressure weaken outcomes.
- ✓ CoC conduct significantly influences timelines: Inconsistent representation, micromanagement, and delayed commercial decisions by creditors are major contributors to process slippage.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ Role clarity and stakeholder discipline are essential: Delays often arise when stakeholders overstep prescribed roles, highlighting the need for accountability and mutual trust.
- ✓ Credibility of resolution applicants is as important as plan design: Weak diligence on applicant capacity leads to plan failure and post-approval litigation.
- ✓ Faster outcomes require ecosystem alignment, not only reform: Sustainable improvement depends on coordinated behaviour, institutional strengthening, and shared responsibility across all stakeholders.

C. Issues & Challenges Identified

Persistent erosion of timeliness despite a time-bound statutory design: While the Insolvency and Bankruptcy Code is expressly structured as a time-sensitive economic legislation, delays continue to persist across multiple stages of the insolvency process. These delays are not attributable to deficiencies in the statutory framework but arise largely from institutional, procedural, and behavioural factors. The cumulative effect of such delays directly undermines the Code's central objective of value maximisation, as enterprise value deteriorates rapidly with the passage of time.

Admission-stage delays and excessive procedural scrutiny: One of the most significant challenges identified is the prolonged time taken at the admission stage, which was originally intended to be a summary, compliance-based exercise focused on objective verification of debt and default. In practice, admission proceedings are frequently subjected to extensive hearings, repeated adjournments, and detailed scrutiny, resulting in the delayed commencement of CIRP. This not only incentivises strategic resistance by defaulting parties but also accelerates value erosion before the resolution process formally begins.

Misalignment between the economic nature of the IBC and adjudicatory processes: The deliberations highlighted a structural mismatch between the commercial and economic character of insolvency resolution and the predominantly adjudicatory orientation of existing tribunal processes. While insolvency resolution requires swift, predictable, and commercially pragmatic outcomes, current practices often mirror conventional civil adjudication, with emphasis on procedural formality. This misalignment dilutes the speed and efficiency envisaged under the Code.

Institutional capacity constraints within adjudicatory forums: The National Company Law Tribunal continues to face chronic capacity constraints, including persistent vacancies, inadequate infrastructure, uneven availability of technical expertise, and a rapidly expanding caseload. These limitations significantly affect adherence to statutory timelines, regardless of the intent or diligence of adjudicating members. The absence of an independent tribunal governance mechanism further compounds challenges relating to appointments, training, and institutional continuity.

Strategic litigation and stakeholder-driven delays: The session underscored that delays are often exacerbated by the strategic behaviour of stakeholders, including repetitive filings, fragmented challenges across forums, and tactical invocation of principles of natural

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

justice. Such conduct, while formally lawful, undermines the spirit of time-bound resolution and places additional strain on adjudicatory capacity. Repeated adjournments and lack of preparedness by parties further prolong proceedings.

Pressures and vulnerabilities faced by Resolution Professionals: Resolution Professionals operate at the centre of the insolvency ecosystem, balancing the expectations of creditors, promoters, regulators, and adjudicating authorities. However, they face disproportionate operational, financial, and reputational risks, including delayed fee payments, frequent complaints, and overlapping regulatory scrutiny. These pressures affect professional independence and may encourage defensive conduct rather than decisive process management.

Role ambiguity and conduct of Committees of Creditors: The deliberations noted instances where Committees of Creditors have exceeded their commercial mandate by interfering in operational aspects of the insolvency process, resulting in the micromanagement of Resolution Professionals. Frequent changes in creditor representatives, delayed voting, and reluctance to take timely commercial decisions were identified as material contributors to procedural delays and uncertainty.

Limited procedural delegation and lack of standardization: A significant portion of tribunal time is consumed by procedural matters such as filing deficiencies, compliance verification, and routine extensions. The absence of effective delegation to registrar-level mechanisms and the lack of standardised procedural workflows result in inefficient use of adjudicatory resources and delay substantive decision-making.

Risks associated with unstructured adoption of technology and AI: While technology has the potential to significantly enhance efficiency in claims management, data collation, and monitoring, concerns were raised regarding uncritical reliance on artificial intelligence tools. Instances of inaccurate AI-generated legal content and a lack of explainability highlight the need for clear guardrails. Technology, if not carefully integrated, may introduce new risks rather than resolve existing inefficiencies.

Weak assessment of resolution applicants and post-approval execution risks: The session identified recurring issues relating to resolution applicants withdrawing or failing to implement approved resolution plans. Such outcomes often stem from inadequate assessment of financial capacity, intent, and execution capability by the Committee of Creditors. Post-approval failures erode stakeholder confidence and negate the value preserved during the resolution process, necessitating stronger scrutiny and accountability mechanisms.

D. Suggestions & Recommendations

Reinforce admission as a summary, rule-based gateway: Admission of insolvency applications should be strictly confined to objective verification of debt and default, in line with the original legislative intent of the Code. Clear procedural thresholds limited oral hearings, and restrained invocation of discretion at the admission stage are essential to prevent avoidable delays. Routine factual or commercial disputes should be deferred to later stages, ensuring that CIRP commencement is not stalled at inception.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Strengthen adjudicatory capacity through parallel administrative reforms: Legislative clarity must be complemented by targeted administrative action to address capacity constraints within adjudicatory forums. Timely appointments, reduction of vacancies, specialised insolvency benches, and improved infrastructure are necessary to align tribunal functioning with the time-sensitive nature of insolvency proceedings. Establishment of an independent tribunal governance mechanism, as repeatedly emphasised by judicial directions, should be prioritised.

Delegate procedural functions and standardise workflows: Procedural matters such as filing scrutiny, compliance verification, pleadings, and routine extensions should be delegated to registrar-level mechanisms supported by standard operating procedures. This would allow adjudicating members to focus on substantive issues, significantly improving throughput without compromising fairness or legal scrutiny.

Promote proportionate adjudication aligned with economic outcomes: Adjudicatory intervention should be calibrated to the nature of issues involved. While disputes involving fraud, limitation, or abuse of process warrant detailed adjudication, routine compliance matters should follow a streamlined approach. This proportionality will help reconcile speed with natural justice, preserving value while ensuring fairness.

Protect the independence and functioning of Resolution Professionals: Resolution Professionals must be institutionally supported as independent fiduciaries rather than treated as extensions of any stakeholder. Timely payment of fees, clarity in role demarcation between the RP and the CoC, and proportionate regulatory oversight are essential to preserve professional independence. Regulatory action should be contextual, focusing on systemic misconduct rather than isolated procedural lapses.

Strengthen accountability and decision-making discipline within CoCs: Committees of Creditors should confine themselves to commercial decision-making and avoid operational micromanagement of the insolvency process. Continuity in creditor representation, timely voting, and adherence to structured decision timelines should be encouraged through regulatory guidance and best-practice protocols. Greater discipline at the CoC level will directly translate into faster and more predictable outcomes.

Discourage strategic litigation and procedural gaming: Judicial and regulatory mechanisms should actively discourage tactical delays, repetitive filings, and fragmented challenges across forums. Greater emphasis on cost consequences, time-bound disposal of procedural applications, and transparency in extension requests can curb misuse of the process while preserving legitimate rights.

Adopt technology with defined guardrails and accountability: Technology and AI should be deployed as efficiency-enhancing tools for claims management, data analysis, and process monitoring, but not as substitutes for judicial or professional judgment. Clear guidelines on explainability, validation, audit trails, and human oversight are necessary to ensure responsible and defensible use of technology within insolvency processes.

Improve assessment of resolution applicants and execution certainty: Greater emphasis must be placed on evaluating the financial capacity, intent, and execution capability of resolution applicants, beyond the formal compliance of resolution plans. Strengthening

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

performance guarantee mechanisms, monitoring post-approval milestones, and enforcing consequences for unjustified withdrawal will reinforce the sanctity of approved plans and protect stakeholder confidence.

Foster a culture of collaboration and shared responsibility: Ultimately, faster and more effective insolvency outcomes depend on behavioural alignment across stakeholders. Judiciary, regulators, insolvency professionals, creditors, and resolution applicants must collectively internalise the time-value-of-money principle and view insolvency as a shared economic process rather than an adversarial contest. Building trust, transparency, and cooperation is critical to realising the full potential of the IBC framework.

E. Way Forward- Policy Note

The next phase of India's insolvency reform must pivot from legislative refinement to execution excellence. The Insolvency and Bankruptcy Code has matured into a robust economic framework; its effectiveness now depends on institutional capacity, procedural discipline, and stakeholder behaviour.

Priority action should focus on restoring speed at the admission gateway, decongesting adjudication through delegation and standardisation, and strengthening the independence and effectiveness of Resolution Professionals. Parallel administrative reforms, staffing, infrastructure, and governance are indispensable to realise statutory timelines.

Technology should be harnessed to enhance efficiency and transparency, not replace judgment. Equally, creditor and applicant conduct must be anchored in accountability, with stronger diligence and enforcement to protect the sanctity of approved plans.

Ultimately, faster and higher-quality outcomes will emerge only through coordinated stewardship, where judiciary, regulators, professionals, creditors, and applicants act in concert. By aligning incentives to value preservation and time-bound resolution, the insolvency ecosystem can deliver predictable outcomes, reinforce investor confidence, and support sustainable economic growth.

F. Issue Recommendations Matrix

Issue Recommendations Matrix **Judiciary-Regulator-Practitioner-COC-Resolution Applicant Collaboration for Faster Outcomes**	
Key Issues Identified	**Policy Recommendations**
Admission-stage delays undermine time-bound resolution	Reaffirm admission as a summary, rule-based gateway limited to verification of debt and default; restrict discretionary hearings at threshold stages.
Capacity and infrastructure constraints of adjudicatory forums	Undertake parallel administrative reforms: fill vacancies, create specialised insolvency benches, upgrade infrastructure, and operationalise independent tribunal governance.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue Recommendations Matrix Judiciary-Regulator-Practitioner-COC-Resolution Applicant Collaboration for Faster Outcomes	
Key Issues Identified	**Policy Recommendations**
Procedural overload consumes adjudicatory time	Delegate procedural scrutiny (filings, compliance, extensions) to registrar-level mechanisms with standard operating procedures.
Excessive adjudication in routine matters	Apply proportionate adjudication, reserve detailed hearings for genuine disputes (fraud, limitation), and streamline compliance matters.
Erosion of Resolution Professional (RP) independence and morale	Institutionally protect RPs through timely remuneration, clear role demarcation with CoCs, and contextual, proportionate regulatory oversight.
Inconsistent and delayed CoC decision-making	Strengthen CoC discipline: continuity of representation, defined voting timelines, and guidance against operational micromanagement.
Strategic litigation and procedural gaming	Discourage misuse of the process via cost consequences, time-bound disposal of procedural applications, and transparency in extension requests.
Unregulated or opaque use of technology and AI	Adopt technology with guardrails, mandate explainability, audit trails, validation, and human oversight; use AI as assistive, not determinative.
Post-approval plan failures and withdrawals	Enhance applicant diligence: rigorous capacity checks, enforce performance guarantees, monitor milestones, and deter unjustified withdrawals.
Fragmented stakeholder conduct and trust deficit	Foster a collaborative culture through shared accountability, transparency, and alignment with the time-value-of-money principle.

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

TECHNICAL SESSION III: UNTANGLING REAL ESTATE RESOLUTIONS AND CO-ORDINATION WITH RERA LAW

Opening Remarks:

CA. Purushottamlal Khandelwal, Central Council Member, ICAI

Speaker:

1. CA. Abhay N. Manudane, Director, Waterfall Insolvency Professionals Private Limited
2. CA. Jayesh Sanghrajka, Managing Partner, Incorp Restructuring Services LLP

Closing Remarks:

CA. Purushottamlal Khandelwal, Central Council Member, ICAI

A. Deliberations / Highlights of the Session

The session was framed against the backdrop of the real estate sector's unique position within India's insolvency framework. Real estate occupies a critical intersection between finance, infrastructure, urban development, and individual livelihood aspirations. Unlike most other sectors, distress in real estate affects not only financial institutions but also thousands of individual homebuyers whose investments represent life savings rather than commercial risk capital.

The introduction of the Real Estate (Regulation and Development) Act, 2016 (RERA) marked a decisive step towards transparency and consumer protection in the sector. However, when real estate projects enter insolvency under the Insolvency and Bankruptcy Code, 2016 (IBC), complex questions arise regarding priority, jurisdiction, timelines, and stakeholder coordination. This session sought to unpack these complexities and examine how resolution under the IBC can be harmonised with the regulatory objectives of RERA.

Distinctive Nature of Real Estate Insolvency: A foundational theme of the deliberations was the recognition that real estate insolvency is structurally different from insolvency in other sectors. Real estate projects are characterised by long gestation periods, fragmented ownership and development rights, multiple regulatory dependencies, and layered stakeholder interests.

Most significantly, homebuyers occupy a distinctive position. They are neither financial creditors in the conventional sense nor commercial investors seeking returns. Their engagement is driven by the fundamental need for housing. The panel emphasised that treating homebuyers on par with institutional lenders or speculative investors fails to capture this socio-economic reality. Resolution strategies and adjudicatory approaches, it

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

was noted, must reflect this distinction to preserve both social equity and public confidence in the insolvency framework.

Absence of an Effective Pre-IBC Resolution Architecture: The session traced the historical inadequacy of resolution mechanisms in the real estate sector prior to the IBC. Legacy frameworks such as BIFR were ill-suited for real estate failures, while state-level and municipal regulations operated in silos, often compounded by weak enforcement and informal practices.

When the IBC was introduced as a general insolvency framework, it did not fully anticipate the scale, complexity, and social consequences of real estate distress. Structural issues such as multiple projects housed within a single corporate entity, separation of land ownership from development rights, and inter-project fund diversion were not expressly addressed at inception. These gaps have since surfaced prominently in insolvency proceedings involving real estate developers.

Multiplicity of Projects and Group Structures: The panel underscored that real estate insolvency cannot be effectively resolved on a rigid, entity-by-entity basis. Large developers typically operate through complex group structures, including multiple subsidiaries, special purpose vehicles, and project-specific entities, often interlinked through guarantees, shared funding, and common management.

Two practical approaches were observed to be evolving in jurisprudence and practice:

- Group-based resolution, where interconnected entities are examined holistically to preserve enterprise value; and
- Project-wise or piecemeal resolution, recognising that projects within the same group may be at different stages of completion and viability.

The panel cautioned that strict adherence to entity-level insolvency can result in incomplete resolutions, stranded projects, and delayed delivery to homebuyers, thereby undermining value maximisation and social objectives.

Role of Insolvency Professionals in Real Estate Resolutions: The deliberations highlighted the heightened complexity of the insolvency professional's role in real estate cases. Resolution Professionals are required to balance the competing interests of homebuyers, financial creditors, landowners, contractors, regulators, and local authorities, often amid extensive litigation and regulatory overlap.

Successful resolution, it was observed, demands not only technical insolvency expertise but also sector-specific understanding, negotiation skills, and sustained coordination with multiple statutory authorities. The panel noted that despite formidable challenges, Indian practice has begun to demonstrate innovative and globally comparable solutions in complex real estate and infrastructure insolvencies.

IBC-RERA Interface and Jurisdictional Tensions: A significant segment of the discussion focused on the interaction between IBC and RERA. While both statutes were enacted in 2016, they pursue different objectives. RERA is a project-centric consumer protection and regulatory statute, whereas IBC is an entity-level insolvency and revival framework.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

The panel observed that RERA addresses individual grievances such as delayed possession and contractual non-compliance, while IBC examines overall financial viability and enables restructuring through resolution plans. In practice, although RERA proceedings may continue at the allottee level, the moratorium under IBC impacts enforcement actions and prioritises collective resolution.

It was noted that IBC has emerged as the dominant framework for resolving large-scale real estate distress, as it enables capital infusion, restructuring, and coordinated completion of projects, outcomes that RERA alone cannot achieve.

State-Wise Variations and the Need for Regulatory Coordination: The session highlighted the challenges arising from state-specific variations in RERA implementation. Differences in procedural rules, enforcement intensity, and administrative capacity across states complicate insolvency resolution, particularly for developers operating across multiple jurisdictions.

The absence of uniformity often results in conflicting directions, procedural delays, and uncertainty for insolvency professionals and stakeholders. The panel emphasised the need for stronger coordination among state RERA authorities, especially in cases where projects under insolvency span multiple states.

Treatment of Homebuyers: Genuine End-Users versus Speculative Investors: The panel discussed judicial developments distinguishing genuine homebuyers from speculative investors. Courts have clarified that insolvency law should prioritise the protection of those who invest for shelter rather than for short-term financial gain.

This distinction was viewed as critical to preserving the social intent of the insolvency framework in real estate cases. Granting speculative investors parity with genuine homebuyers, it was noted, could distort resolution outcomes and dilute the objective of project completion.

Escrow Discipline and Inter-Project Fund Diversion: A recurring concern identified was the diversion of funds from one project to another as a root cause of real estate distress. While RERA mandates escrow mechanisms at the project level, enforcement gaps and legacy practices have weakened financial discipline.

Insolvency proceedings frequently uncover extensive inter-project fund transfers, complicating resolution and delaying completion. Strengthening escrow discipline and aligning insolvency processes with project-level financial ring-fencing were identified as essential to preventing recurrence of such distress.

Comparative Assessment: IBC versus RERA as Resolution Forums: The panel concluded that while RERA plays a vital role in consumer protection and regulatory oversight, it is not designed to function as a comprehensive resolution mechanism for distressed developers. IBC, despite its limitations, provides a broader toolkit for revival, restructuring, and coordinated stakeholder settlement.

IBC was viewed as better suited to balancing competing interests, enabling capital restructuring, and facilitating completion of stalled projects under judicial supervision.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Concluding Observations: The session concluded with a consensus that real estate insolvency requires a sector-sensitive application of insolvency law, informed by social realities, regulatory coordination, and pragmatic resolution strategies. Harmonising IBC and RERA is not a question of statutory supremacy but of functional alignment, with each statute operating within its intended domain.

Resolving real estate distress, the panel emphasised, is not merely a financial exercise but a matter of public confidence, social stability, and economic continuity. Effective coordination among insolvency professionals, regulators, adjudicating authorities, lenders, and homebuyers remains central to achieving durable and equitable outcomes.

B. Key Takeaways

- ✓ Real estate insolvency is structurally and socially distinct from other corporate insolvencies, as it directly impacts homebuyers whose investments represent life savings rather than commercial risk capital.
- ✓ The Insolvency and Bankruptcy Code, while effective as a resolution framework, was not originally designed to address the scale, complexity, and project-centric nature of real estate distress.
- ✓ RERA and IBC serve complementary but different objectives- consumer protection and project regulation under RERA, and entity-level revival and restructuring under IBC, necessitating functional coordination rather than jurisdictional competition.
- ✓ Treating homebuyers at par with financial creditors or speculative investors fails to reflect their socio-economic position and may distort resolution outcomes.
- ✓ Entity-wise insolvency resolution is often inadequate in real estate cases; group-level or project-wise approaches are better suited to maximise value and enable project completion.
- ✓ Insolvency Professionals play a critical and complex role in real estate resolutions, requiring sectoral expertise, negotiation capability, and coordination with multiple regulators and authorities.
- ✓ State-wise variations in RERA implementation create uncertainty and delay, particularly for developers and projects spanning multiple jurisdictions.
- ✓ Inter-project fund diversion remains a primary cause of real estate distress, underscoring the importance of strict escrow discipline and financial ring-fencing.
- ✓ Judicial recognition of the distinction between genuine homebuyers and speculative allottees is essential to preserving the social intent of insolvency resolution in the sector.
- ✓ While RERA is vital for regulatory oversight and consumer grievance redressal, IBC provides the only viable framework for large-scale revival, restructuring, and coordinated completion of stalled real estate projects.

C. Issues & Challenges Identified

Mismatch between entity-level insolvency and project-level realities: The IBC operates on a corporate debtor-centric model, whereas real estate distress is inherently project-

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

driven. Multiple projects at different stages of completion within the same corporate entity make entity-wise resolution impractical and often value-destructive.

Jurisdictional overlap and coordination gaps between IBC and RERA: Parallel proceedings under IBC and RERA create uncertainty regarding priority, moratorium applicability, and enforceability of directions. Lack of structured coordination leads to conflicting orders, delays, and compliance ambiguity for resolution professionals.

Inadequate differentiation among homebuyers: Treating genuine homebuyers (end-users) and speculative allottees uniformly distorts creditor hierarchies and resolution priorities, undermining the social objective of housing delivery and project completion.

State-wise inconsistency in RERA implementation: Variations in RERA rules, enforcement practices, and administrative efficiency across states complicate insolvency resolution, particularly for pan-India developers and group insolvency cases.

Multiplicity of group entities and SPVs: Real estate developers typically operate through complex group structures, SPVs, and joint arrangements. Absence of a clear statutory framework for group or project-wise insolvency in real estate results in fragmented and prolonged resolutions.

Inter-project fund diversion and weak escrow enforcement: Despite RERA's escrow requirements, legacy practices and weak enforcement have enabled diversion of funds across projects. Insolvency proceedings frequently uncover such diversions, complicating resolution and delaying project completion.

Heightened operational burden on Insolvency Professionals: RPs in real estate cases face exceptional challenges, large numbers of stakeholders, continuous litigation, coordination with local authorities, and public scrutiny, without commensurate institutional support or sector-specific guidance.

Regulatory and approval dependencies: Project completion often depends on approvals from multiple authorities (local bodies, environmental regulators, planning authorities), which fall outside the direct control of insolvency forums and delay resolution timelines.

Limited suitability of liquidation as an outcome: Liquidation in real estate cases frequently leads to severe value destruction, stranded assets, and prolonged hardship for homebuyers, yet the framework offers limited tailored alternatives when resolution efforts fail.

Erosion of public confidence in stalled projects: Prolonged insolvency proceedings, regulatory overlap, and uncertain outcomes weaken homebuyer trust in both developers and the insolvency framework, with broader implications for housing markets and financial stability.

D. Suggestions & Recommendations

Adopt project-centric resolution models within the IBC: Enable structured project-wise resolution for real estate insolvencies, allowing viable projects to be completed independently of non-viable or unrelated projects within the same corporate group, thereby preserving value and accelerating delivery to homebuyers.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Institutional coordination between IBC and RERA authorities: Establish formal coordination protocols between NCLT and RERA authorities to clarify jurisdictional boundaries, align timelines, and avoid conflicting directions, while respecting the distinct objectives of both statutes.

Differentiated treatment of homebuyers: Statutorily recognise the distinction between genuine end-user homebuyers and speculative allottees, ensuring that resolution strategies prioritise project completion and protection of life savings over investment-driven claims.

Harmonisation of RERA practices across states: Promote greater uniformity in RERA implementation through model regulations or inter-state coordination mechanisms, particularly for projects under insolvency, to reduce uncertainty and procedural friction.

Strengthen escrow discipline and financial ring-fencing: Enforce strict project-level escrow controls during insolvency, restrict inter-project fund diversion, and integrate RERA escrow data into insolvency processes to improve transparency and accountability.

Enable group and hybrid insolvency solutions for real estate: Provide statutory flexibility for group insolvency or hybrid approaches combining entity-level and project-level resolution, reflecting the economic reality of real estate development structures.

Sector-specific guidance for Insolvency Professionals: Issue tailored guidance and best-practice frameworks for RPs handling real estate cases, including stakeholder management, regulatory coordination, and project completion strategies.

Facilitate regulatory approvals during insolvency: Create fast-track or consultative mechanisms for obtaining statutory approvals for stalled projects under insolvency, with defined timelines and inter-agency coordination.

Prefer resolution over liquidation in real estate cases: Reinforce, through policy guidance, that liquidation should be a last resort in real estate insolvency, given its disproportionate social and economic costs.

Enhance transparency and stakeholder communication: Mandate structured communication frameworks with homebuyers and other stakeholders during insolvency to rebuild confidence and manage expectations.

E. Way Forward- Policy Note

Real estate insolvency requires a sector-sensitive application of the Insolvency and Bankruptcy Code, informed by social realities, project economics, and regulatory interdependencies. Going forward, insolvency policy must evolve from a purely entity-centric framework to a more nuanced, project-oriented approach that prioritises completion, value preservation, and homebuyer protection.

Harmonising the operation of the IBC and RERA is essential, not through legal hierarchy, but through functional coordination. Clear role demarcation, institutional collaboration, and procedural alignment can significantly reduce delays and uncertainty.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

As urbanisation and housing demand continue to expand, the effectiveness of insolvency resolution in real estate will directly influence public confidence in the sector and the financial system. A calibrated framework that balances creditor interests with the social objective of housing delivery will be critical to ensuring durable, equitable, and economically sound outcomes.

F. Issues-Recommendation Matrix

Issues-Recommendations Matrix Real Estate Insolvency & IBC-RERA Coordination	
Key Issues Identified	**Policy Recommendations**
Entity-centric insolvency is ill-suited to project-based real estate structures	Introduce project-centric resolution models within the IBC, permitting independent resolution of viable projects while isolating non-viable ones to preserve value and expedite completion.
Jurisdictional overlap and conflicting directions between IBC and RERA	Establish formal coordination protocols between NCLT and RERA authorities, including information-sharing and aligned timelines, while respecting distinct statutory objectives.
Homebuyers treated uniformly despite differing intent (end-users vs investors)	Differentiate genuine homebuyers from speculative allottees through statutory or regulatory guidance to prioritise shelter and life savings in resolution outcomes.
State-wise divergence in RERA implementation is causing uncertainty	Promote harmonised RERA practices via model regulations or inter-state coordination mechanisms for projects under insolvency.
Inter-project fund diversion and weak escrow enforcement	Strengthen escrow discipline with strict project-level ring-fencing during insolvency and integrate RERA escrow data into IBC processes for transparency.
Complex group structures impede holistic resolution	Enable group and hybrid insolvency frameworks combining entity-level and project-level approaches tailored to real estate economics.
Limited sector-specific guidance for Insolvency Professionals	Issue real estate specific RP guidance covering stakeholder coordination, regulatory interfaces, and project completion strategies.
Delays in statutory approvals derail viable resolutions	Create fast-track/consultative approval mechanisms with defined timelines for insolvency-led project completion.
Liquidation produces severe social and economic costs	Reinforce resolution-first policy guidance for real estate; treat liquidation as a last resort given housing and livelihood implications.
Poor communication erodes homebuyer confidence	Mandate structured stakeholder communication frameworks during insolvency to ensure transparency, updates, and expectation management.

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

PANEL DISCUSSION VIII: EMPOWERING THE INSOLVENCY PROCESS - A STRATEGIC RE-LOOK AT COC-IP SYNERGY

Opening Remarks:

CA. Dayaniwas Sharma, Central Council Member, ICAI

Special Address by:

CA. Uttam Prakash Agarwal, Past President, ICAI

Moderator:

CA. Raghvendra Goel

Panelists:

1. Shri Dinesh Pant, Chief General Manager & Head- Stress Assets Management, Bank of Baroda
2. Shri Mahendra Dohare, Executive Director, Central Bank of India
3. Shri P. R. Rajagopal, Executive Director, Bank of India
4. CA. Avil Menzes, Insolvency Professional
5. Shri Arun Kumar Yadav, Chief General Manager, State Bank of India

Closing Remarks:

CA. Dayaniwas Sharma, Central Council Member, ICAI

A. Deliberations / Highlights of the Session

The panel discussion was anchored in the recognition that the effectiveness of the Insolvency and Bankruptcy Code, 2016 (IBC) is shaped not merely by statutory design or judicial interpretation, but decisively by the quality of interaction between its two central institutional pillars, the Committee of Creditors (CoC) and the Insolvency Professional (IP). While the Code clearly assigns commercial decision-making to the CoC and process stewardship to the IP, real-world outcomes depend on trust, transparency, ethical conduct, and coordinated execution between these stakeholders.

Against this backdrop, the session examined the evolution of CoC-IP engagement over nearly a decade of IBC implementation, identified recurring friction points, and explored practical pathways to strengthen collaboration for faster, fairer, and value-maximising insolvency outcomes.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

CoC-IP Synergy as the Backbone of the IBC Framework: The panel underscored that the IBC is fundamentally a relationship-driven framework. Its success lies not in adversarial positioning but in constructive collaboration between creditors and insolvency professionals. Empirical outcomes ranging from successful resolutions to interim revivals and even full recoveries, were cited to demonstrate that where CoCs and IPs work in tandem, resolution processes are faster, litigation is reduced, and value maximisation is more consistently achieved.

Panelists observed that the transformative impact of the IBC on India's credit ecosystem has been driven less by legislative amendments and more by the maturation of stakeholder behaviour, particularly the ability of CoCs to rely on the professional independence and execution capability of IPs.

Trust-Based Engagement as a Catalyst for Resolution Success: Trust emerged as a recurring and central theme throughout the deliberations. Several real-life resolution experiences were shared where early sharing of authentic information, transparent communication of risks, and candid discussions around commercial constraints enabled CoCs to take informed and commercially bold decisions.

In these cases, the ability of IPs to provide credible valuation inputs, transparent cost disclosures, and practical execution roadmaps played a decisive role in building creditor confidence. Trust-based engagement was identified as a critical enabler for approving interim finance, reviving closed or stalled assets, and preventing avoidable disputes that often derail timelines.

Independence and Ethical Conduct of Insolvency Professionals: The independence of insolvency professionals was recognised as central to maintaining credibility and balance within the insolvency process. Panelists emphasised that IPs are independent fiduciaries, not agents of the CoC or any individual creditor and that adherence to ethical standards, neutrality in stakeholder interactions, and meticulous documentation are essential safeguards against undue influence.

The discussion reinforced that consistent ethical conduct not only protects IPs from allegations of bias and post-facto litigation but also strengthens confidence among creditors and adjudicating authorities, thereby stabilising the process.

Managing Dominant Creditor Influence and Internal CoC Dynamics: The deliberations acknowledged that in several cases, CoCs comprise creditors with unequal voting strength, often resulting in dominance by large, secured lenders. While voting share reflects exposure, the panel cautioned that value maximisation under the IBC cannot be equated with maximising recovery for the largest creditor alone.

The role of the IP in managing such power asymmetries was highlighted as critical. Equitable dissemination of information, structured deliberation, transparent recording of views, and early identification of conflicts were identified as essential tools to prevent coercive decision-making and ensure that collective commercial wisdom is exercised fairly.

Valuation as a Strategic Decision-Making Tool: Valuation was discussed not merely as a statutory requirement, but as a strategic input that shapes resolution outcomes. Panelists

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

emphasised that valuation must capture enterprise value, future earning potential, and revival prospects, rather than relying solely on liquidation benchmarks.

A nuanced and forward-looking approach to valuation was viewed as essential for enabling realistic, implementable resolution plans and for empowering CoCs to make decisions aligned with long-term value rather than short-term recovery optics.

Interim Finance and the Shift from Value Preservation to Value Enhancement: A key policy-level discussion centred on the transition from value maximisation to value enhancement. The panel noted that the insolvency ecosystem is entering a more mature phase, where CoC-IP synergy must extend beyond preservation of existing value to proactive enhancement through interim finance, operational restructuring, and innovative resolution structures.

Interim finance was highlighted as a powerful instrument for preventing asset deterioration, restarting operations, and improving recovery outcomes. While CoC concerns around risk and accountability were acknowledged, panelists stressed that structured interim finance, supported by milestones, monitoring, and transparency, can yield significant long-term gains.

Transparency in CIRP Costs and Claims Management: Concerns relating to CIRP expenses, professional fees, and claims admission were addressed through an emphasis on transparency and discipline. Clear articulation of cost structures, timely reporting, proportionality, and well-documented claims verification processes were identified as essential for reducing friction, enhancing predictability, and building trust between IPs and creditors.

The panel observed that disputes around costs and claims often arise not from quantum alone, but from inadequate communication and lack of upfront clarity.

Governance Enablement through the CoC Code of Conduct: The recently introduced Code of Conduct for the Committee of Creditors was widely welcomed as a significant governance intervention. Panelists noted that the Code promotes confidentiality, objectivity, accountability, and behavioural discipline, thereby improving the quality of CoC deliberations and reinforcing mutual trust between creditors and insolvency professionals.

The Code was viewed as a structural enabler that institutionalises maturity within creditor decision-making without diluting commercial autonomy.

Innovation within the Existing IBC Framework: The session demonstrated that the IBC framework already provides sufficient flexibility to adopt innovative resolution strategies such as asset clustering, going-concern sales, interim distributions, and sector-specific solutions. Successful examples were attributed not to legal amendments, but to a collaborative mindset, commercial pragmatism, and strong CoC-IP alignment.

These experiences reinforced the view that many of the challenges faced in insolvency resolution are behavioural and institutional, rather than legal.

Concluding Observations: The panel concluded that the future effectiveness of the insolvency regime depends less on further legislative overhaul and more on behavioural

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

maturity within the ecosystem. CoCs and IPs must view themselves as interdependent participants working towards a shared objective, timely resolution, and sustainable value creation.

The deliberations reaffirmed that when trust, transparency, ethical conduct, and accountability guide CoC-IP engagement, the insolvency process becomes not only faster, but also fairer, more predictable, and more resilient.

B. Key Takeaways

- ✓ CoC-IP synergy is the decisive driver of insolvency outcomes, with trust-based collaboration directly influencing speed, recovery rates, and litigation outcomes.
- ✓ The effectiveness of the IBC depends more on behavioural maturity than statutory design, reflecting the evolution of stakeholder conduct over nearly a decade of implementation.
- ✓ Insolvency is a relationship-driven, not adversarial, process, requiring coordinated execution between commercial decision-makers (CoC) and independent process stewards (IPs).
- ✓ Trust and transparent communication enable commercially bold decisions, including approval of interim finance and revival strategies that materially enhance value.
- ✓ Independence and ethical conduct of Insolvency Professionals are central to process credibility, safeguarding fairness, reducing disputes, and strengthening judicial confidence.
- ✓ Dominant creditor influence within CoCs can distort value outcomes, making the IP's role in ensuring balanced deliberation and information symmetry critical.
- ✓ Valuation must function as a strategic decision-making tool, capturing enterprise potential and revival prospects rather than serving as a mere liquidation benchmark.
- ✓ Interim finance marks a shift from value preservation to value enhancement, reflecting the growing maturity of the insolvency ecosystem.
- ✓ Transparency in CIRP costs and claims management reduces friction, enhances predictability, and builds sustained creditor confidence.
- ✓ The Code of Conduct for the CoC strengthens governance and discipline, reinforcing confidentiality, objectivity, and constructive engagement with insolvency professionals.

C. Issues & Challenges Identified

Trust Deficit between CoCs and Insolvency Professionals: Despite clear statutory role demarcation, lingering mistrust persists in some cases, leading to over-supervision of IPs, micromanagement, and delayed decision-making, which undermines process efficiency.

Dominance of Majority Creditors within CoCs: Disproportionate influence of large secured creditors can marginalise minority lenders and skew commercial decisions toward individual recovery maximisation rather than collective value maximisation.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Ambiguity in Role Boundaries and Accountability: Overlapping expectations regarding operational control, valuation inputs, and strategic choices often blur the line between CoC's commercial wisdom and the IP's process autonomy, giving rise to friction and disputes.

Risk Aversion in Interim Finance Decisions: Concerns over accountability, post-facto scrutiny, and performance failures result in reluctance to approve interim finance, even where such funding could preserve or enhance going-concern value.

Valuation Disputes and Misaligned Expectations: Divergent interpretations of valuation outputs, over-reliance on liquidation benchmarks, and limited appreciation of enterprise potential contribute to stalled negotiations and avoidable litigation.

Opacity in CIRP Costs and Claims Admission: Perceived lack of transparency around insolvency costs, professional fees, and claims admission methodologies often triggers creditor dissatisfaction and post-approval challenges.

Conflict Management and Ethical Pressures on Ips: IPs face sustained pressure from dominant creditors, promoters, and other stakeholders, exposing them to reputational and regulatory risks without commensurate institutional support.

Under-utilisation of Innovative Resolution Tools: Despite flexibility under the IBC, innovative structures such as asset clustering, going-concern sales, and phased resolutions remain inconsistently adopted due to conservative mindsets.

D. Suggestions & Recommendations

Strengthen Trust-Based Engagement Frameworks: Encourage structured and regular communication between CoCs and IPs, supported by clear information protocols, to foster transparency and reduce adversarial interactions.

Reinforce IP Independence and Role Clarity: Regulatory and adjudicatory guidance should consistently reaffirm the IP's status as an independent fiduciary and process steward, discouraging undue CoC interference in operational matters.

Mitigate Dominant Creditor Influence: IPs should proactively ensure information symmetry, detailed recording of deliberations, and early flagging of conflicts to preserve fairness and collective value maximisation.

Promote Responsible Use of Interim Finance: Develop best-practice guidance for interim finance approvals, including milestone-based disbursements, enhanced monitoring, and risk-sharing structures to reduce CoC apprehension.

Elevate Valuation as a Strategic Input: Encourage adoption of forward-looking valuation approaches that capture enterprise potential, synergies, and revival prospects, supported by clearer explanatory notes and reconciliation mechanisms.

Enhance Transparency in Costs and Claims Management: Standardised disclosure formats for CIRP expenses, professional fees, and claims admission methodologies should be adopted to improve predictability and reduce disputes.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Institutional Support for Conflict Management: Capacity-building initiatives should equip IPs with negotiation and conflict-resolution skills, while regulators should adopt a proportionate and context-sensitive approach to oversight.

Encourage Innovation within the Existing Framework: CoCs and IPs should be encouraged to explore flexible resolution structures permitted under the IBC, with regulators and adjudicators providing supportive clarity rather than prescriptive constraints.

E. Way Forward-Policy Note

Going forward, the effectiveness of the insolvency framework will depend less on further legislative intervention and more on behavioural maturity, institutional trust, and execution discipline within the existing statutory architecture. The Insolvency and Bankruptcy Code already provide a robust foundation; the challenge lies in how its stakeholders engage with one another in practice.

A sustained shift towards collaborative, outcome-oriented engagement between Committees of Creditors and Insolvency Professionals is essential. CoCs must increasingly focus on strategic oversight and commercial outcomes, while allowing IPs the operational autonomy necessary to manage the process efficiently and independently. Clear role fidelity, supported by best-practice guidance and consistent regulatory messaging, will be critical in avoiding friction and delay.

The insolvency ecosystem must also embrace a value-enhancement mindset, moving beyond mere containment of loss. Thoughtful use of interim finance, realistic and forward-looking valuation, and innovative resolution structures should become mainstream tools rather than exceptions, enabled by trust in professional judgment and transparent execution.

At an institutional level, capacity building, procedural streamlining, and proportional regulatory oversight will remain central to sustaining momentum. Strengthening confidence in insolvency professionals, reinforcing ethical conduct through self-regulation, and encouraging responsible creditor behaviour will collectively reduce litigation and improve timelines.

Ultimately, faster and more effective insolvency outcomes will emerge when all stakeholders' judiciary, regulators, creditors, professionals, and resolution applicants internalise that insolvency resolution is a shared economic enterprise. Aligning incentives, expectations, and conduct around this principle will ensure that the IBC continues to deliver on its core promise of timely resolution and value maximisation.

F. Issue-Recommendation Matrix

Issue-Recommendation Matrix Strategic Re-look at CoC-IP Synergy	
Key Issues Identified	**Policy Recommendations**
Blurring of roles between CoC and Insolvency Professionals	Reinforce statutory demarcation between the CoC's commercial decision-making role and the IP's autonomy in process execution through regulatory guidance and best-practice frameworks.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue-Recommendation Matrix Strategic Re-look at CoC-IP Synergy	
Key Issues Identified	**Policy Recommendations**
Micromanagement and dominance by large creditors within the CoC	Promote disciplined CoC behaviour through the CoC Code of Conduct, ensuring outcome-oriented oversight, equitable participation, and protection of minority creditor interests.
Erosion of IP independence due to regulatory pressure, complaints, and delayed remuneration	Adopt proportionate, contextual regulatory oversight and ensure timely payment of fees to strengthen IP confidence, independence, and professional judgment.
Trust deficit between CoCs and IPs impacting commercial decisions	Encourage transparent, timely, and candid communication on valuation, costs, risks, and execution constraints to build trust and enable informed decision-making.
Over-emphasis on value preservation rather than value enhancement	Mainstream the use of interim finance, operational revival strategies, and innovative resolution structures to actively enhance enterprise value during CIRP.
Valuation disputes and lack of forward-looking assessment	Promote valuation approaches that capture enterprise potential, synergies, and revival prospects, supported by clear documentation and reconciliation of assumptions.
Friction over CIRP costs and claims admission	Standardise disclosures on costs and claims methodology, ensuring transparency, proportionality, and prior CoC approvals to reduce disputes.
Resolution applicant withdrawals and plan non-implementation	Strengthen upfront due diligence on resolution applicants' financial capacity and intent, supported by enforceable performance guarantees.
Underutilisation of flexibility within the existing IBC framework	Encourage collaborative and innovative use of existing legal tools, such as going-concern sales, asset clustering, and phased resolutions, without awaiting legislative change.
Behavioural immaturity and adversarial mindset among stakeholders	Foster a culture of shared responsibility, ethical conduct, and collaboration through continuous capacity building, guidance, and stakeholder engagement.

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

PANEL DISCUSSION IX: FROM ASSET RECONSTRUCTION TO TURNAROUND CAPITAL - HOW ARCS AND STRATEGIC SITUATIONS FUNDS SHAPE CORPORATE INSOLVENCY OUTCOMES

Opening Remarks:

CA. Gyan Chandra Misra, Chairman, I & VSB, ICAI

Moderator:

CA. Durgesh Kumar Kabra, Central Council Member, ICAI

Panelists:

1. Shri Pradeep Goel, Managing Director, Prudent ARC Limited
2. Shri Saransh Dey, President-Finance, Mantra Properties and Developers Private Limited
3. CA. Pratik Parekh, Director, Kotak Alternate Asset Managers Limited
4. CA. Sudhir Kumar Agarwal, Director, Association of National Exchanges Members of India

Closing Remarks:

CA. Gyan Chandra Misra, Chairman, I & VSB, ICAI

A. Deliberations / Highlights of the Session

This panel discussion addressed one of the most significant and rapidly evolving dimensions of India's insolvency framework, the transition from recovery-led insolvency outcomes to revival- and turnaround-oriented resolutions. As the Insolvency and Bankruptcy Code, 2016 (IBC) matures, Asset Reconstruction Companies (ARCs) and Strategic/Special Situation Funds (SSFs) have emerged as pivotal institutional actors capable of reshaping corporate insolvency outcomes beyond conventional debt recovery.

The session examined how these entities operate within the Corporate Insolvency Resolution Process (CIRP), how their roles differ yet complement each other, and what structural, regulatory, and implementation challenges must be addressed to fully unlock their potential in achieving the IBC's objectives of value maximisation, continuity of enterprises, employment preservation, and economic stability.

Role of Asset Reconstruction Companies (ARCs) in CIRP: The panel deliberated extensively on the critical role played by ARCs in the insolvency ecosystem. By acquiring

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

stressed debt and stepping into the shoes of lenders, ARCs bring commercial pragmatism, speed, and outcome-oriented decision-making to the Committee of Creditors (CoC). Their institutional expertise in distressed asset management, debt aggregation, enforcement under SARFAESI, and legal recoveries enables them to stabilise complex insolvency situations and facilitate informed CoC deliberations.

ARCs were recognised as particularly effective in addressing fragmented creditor positions and accelerating decision-making, given their ability to act without the multi-layered internal approvals typically required in traditional banking institutions. This agility often translates into faster commercial resolutions and clearer strategic direction within the CIRP.

At the same time, panelists acknowledged that ARCs face regulatory and operational constraints that limit their ability to drive full operational turnarounds. Restrictions on assuming management control, limitations on acting as resolution applicants (especially due to high net-owned fund thresholds), and regulatory disincentives for active business revival were identified as structural barriers preventing ARCs from realising their full turnaround potential.

Role of Strategic / Special Situation Funds (SSFs) as Turnaround Catalysts: Strategic Situation Funds were discussed as key drivers of corporate revival and value enhancement. Unlike ARCs, SSFs are not confined to debt recovery; they deploy capital with an explicit focus on turnaround, restructuring, and long-term value creation. Beyond financial infusion, SSFs contribute professional management, governance reforms, operational expertise, strategic repositioning, and sustainability initiatives.

The panel cited multiple practical examples where SSFs successfully transformed distressed assets through refurbishment, capital expenditure, ESG-driven upgrades, operational efficiencies, and professional leasing strategies. These interventions enabled assets to move from distressed or sub-investment-grade status to stable, financeable, and market-leading positions.

However, the finite tenure of SSFs typically structured with defined investment and exit horizons- was highlighted as a structural limitation. This reinforces the importance of predictable timelines, swift regulatory approvals, and efficient implementation under the IBC, without which such funds may be disincentivised from participating in insolvency-driven resolutions.

Complementary Nature of ARCs and SSFs within the Insolvency Ecosystem: A central theme of the deliberations was the complementary and symbiotic relationship between ARCs and SSFs. While ARCs provide creditor-side stability, continuity within the CoC, and commercial flexibility in structuring recoveries, SSFs bring upfront capital, execution capability, and operational focus necessary for revival.

The panel observed that coordinated involvement of ARCs and SSFs at appropriate stages of CIRP enables innovative and flexible resolution structures, particularly in complex and stakeholder-intensive sectors such as real estate, infrastructure, and manufacturing. In such cases, ARCs often help anchor creditor consensus, while SSFs enable immediate execution by funding construction, refurbishment, or operational restart.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

This alignment was viewed as critical for shifting insolvency outcomes from liquidation or asset stripping towards sustainable business revival.

Entrepreneurial and Sectoral Perspectives, Especially Real Estate: The entrepreneurial perspective added important practical insights, particularly from asset-heavy and consumer-facing sectors such as real estate. The panel noted that real estate insolvencies involve multiple stakeholders, including homebuyers, lenders, regulators, and local authorities, making resolution execution especially challenging.

It was observed that the combined participation of ARCs and SSFs has played a decisive role in completing stalled projects, delivering homes to allottees, protecting homebuyer interests, and restoring confidence in the insolvency framework. Strategic funds, in particular, were credited with understanding execution risk and regulatory complexity, and with designing innovative funding structures to support resolution applicants during the most capital-intensive phases.

Valuation Mismatches and Commercial Frictions: The panel identified valuation mismatch as a recurring systemic challenge. Banks, as sellers of stressed assets, often anchor expectations to book value or notional realisable value, whereas ARCs deploy costly private capital and bear enforcement and timing risks. This divergence in valuation expectations was seen as a major constraint on deal volume and resolution velocity.

The panel stressed that unless pricing frameworks better reflect risk, timelines, and capital costs borne by ARCs and SSFs, the market for stressed asset resolution will remain constrained, particularly for mid-sized and MSME assets.

Information Asymmetry and the "Chinese Wall" Between CoC and Resolution Applicants: A major deliberation centred on the rigid "Chinese wall" between the CoC and Resolution Applicants (RAs). While competitive bidding and procedural fairness are essential, panelists observed that excessive opacity often limits value maximisation and results in sub-optimal or difficult-to-implement resolution plans.

The panel cautioned against over-reliance on Swiss Challenge mechanisms without constructive engagement. It was suggested that transparent communication of CoC concerns, expectations, and commercial sensitivities, within permissible legal boundaries, would allow RAs to design more realistic, implementable, and value-accretive plans.

Funding Challenges in Complex Resolutions and Need for Early-Stage Capital: The deliberations highlighted funding gaps in complex resolutions, particularly in real estate and infrastructure. Once a resolution plan is approved, resolution applicants often face delays in accessing capital due to procedural bottlenecks, regulatory approvals, and a lack of authorised control.

The panel agreed on the need for specialised early-stage funding mechanisms that activate immediately upon plan approval, enabling execution to commence without erosion of asset value or stakeholder confidence.

Post-Approval and Implementation Challenges: A Critical Blind Spot: One of the most significant and strongly articulated deliberations concerned post-approval implementation challenges, an area often neglected in policy discussions. Panelists shared first-hand

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

experiences of severe delays and operational roadblocks following NCLT approval, including delays in uploading orders on the MCA portal, delayed recognition of new directors and management, inability of Monitoring Committees to function effectively, and absence of authorised signatories impacting payment timelines.

It was emphasised that while the IBC envisages time-bound resolution, the post-approval phase remains fragmented, under-regulated, and prone to value destruction.

Conduct of Government Authorities Post Resolution: The panel expressed serious concern over the conduct of statutory authorities such as GST, Income Tax, EPFO/ESI, and other departments post-resolution. Despite the binding effect of approved resolution plans under Section 31 of the IBC, departments were reported to continue attachment proceedings for pre-CIRP dues, insist on fresh litigation, claim ignorance of NCLT orders, and, in some cases, create personal liability for incoming directors.

Such actions were viewed as fundamentally undermining the certainty, finality, and credibility of the resolution framework, discouraging genuine resolution applicants and long-term capital providers.

Timelines, Delays, and the Case for Pre-Pack and Hybrid Framework: Repeated emphasis was placed on systemic delays across all stages of insolvency, from admission and approval to order reservation and post-approval execution. While isolated cases may benefit from favourable market cycles, the panel broadly agreed that delays overwhelmingly erode value, shut down operations, and deter credible participation.

In this context, the panel strongly endorsed the introduction of pre-packaged insolvency mechanisms or hybrid resolution frameworks to address timeline inefficiencies and preserve enterprise value.

Concluding Observations: The deliberations underscored that the future of India's insolvency regime lies in effectively integrating recovery capital with turnaround capital. ARCs and Strategic Situation Funds, when enabled through regulatory flexibility, trust-based frameworks, and coordinated post-approval mechanisms, can transform insolvency from a tool of asset disposal into a platform for sustainable corporate revival.

Strengthening post-approval implementation, improving inter-departmental coordination, reducing information asymmetry, and formally recognising the operational turnaround role of ARCs and SSFs were identified as essential to achieving the IBC's core objectives of value maximisation, employment preservation, and long-term economic growth.

B. Key Takeaways

- ✓ Shift from recovery to revival: The insolvency ecosystem is moving beyond debt recovery towards turnaround-oriented resolutions, with ARCs and Strategic/Special Situation Funds (SSFs) playing central roles in enterprise revival and value enhancement.
- ✓ ARCs as stabilisers of the CoC: By acquiring stressed debt and consolidating creditor positions, ARCs bring speed, commercial pragmatism, and decisiveness to CoC functioning, reducing fragmentation and enabling faster strategic decisions.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ Structural limits on ARC-led turnarounds: Regulatory constraints on management control, resolution applicant eligibility, and net-owned fund thresholds limit ARCs' ability to drive full operational turnarounds despite their distressed-asset expertise.
- ✓ SSFs as execution and turnaround catalysts: SSFs contribute not only capital but also professional management, governance reforms, operational expertise, and ESG-driven interventions, enabling distressed assets to transition into sustainable, financeable enterprises.
- ✓ Complementarity between ARCs and SSFs: Optimal insolvency outcomes emerge when ARCs anchor creditor consensus and SSFs provide execution capital and turnaround capability, especially in complex sectors such as real estate and infrastructure.
- ✓ Valuation mismatch as a systemic constraint: Divergent valuation expectations between banks, ARCs, and SSFs driven by differing risk, cost of capital, and timeline assumptions continue to constrain deal flow and resolution velocity.
- ✓ Information asymmetry impedes value maximisation: Excessively rigid "Chinese walls" between CoCs and resolution applicants often result in sub-optimal plans; calibrated transparency within legal bounds can improve plan feasibility and execution.
- ✓ Post-approval implementation is a critical weak link: Delays after NCLT approval, such as MCA order uploads, recognition of management, and operational authorisations, cause significant value erosion and undermine resolution credibility.
- ✓ Regulatory overhang post-resolution remains unresolved: Continued actions by tax and statutory authorities despite approved resolution plans erode certainty, deter long-term capital, and weaken confidence in the binding nature of IBC outcomes.
- ✓ Urgent need for faster and hybrid frameworks: Persistent delays across insolvency stages strengthen the case for pre-packaged or hybrid resolution models to preserve value, attract turnaround capital, and align insolvency outcomes with economic revival objectives.

C. Issues & Challenges Identified

Regulatory and operational constraints on ARCs: While ARCs play a critical role in stabilising stressed situations and consolidating creditor positions, their ability to drive full-fledged turnarounds remains constrained. Restrictions on assuming management control, limitations on acting as resolution applicants, and high net-owned fund thresholds inhibit ARCs from transitioning beyond recovery-oriented strategies into active business revival.

Finite investment horizons of Strategic/Special Situation Funds: SSFs typically operate with defined fund tenures and exit timelines. Delays in admission, approval, or implementation under the IBC materially undermine their investment thesis, discouraging participation in insolvency-driven resolutions that lack predictability and time certainty.

Valuation mismatches and pricing frictions: A persistent divergence exists between bank expectations anchored to book value or notional recoveries and ARC/SSF pricing models that factor in enforcement risk, capital costs, execution uncertainty, and timelines. This valuation gap constrains deal flow, particularly in mid-sized and MSME assets.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Information asymmetry between CoC and resolution applicants: The rigid separation between the CoC and resolution applicants, though intended to ensure fairness, often results in inadequate commercial signalling. Limited clarity on creditor expectations, execution risks, and plan sensitivities can lead to sub-optimal or difficult-to-implement resolution plans.

Funding gaps during critical execution phases: Even after resolution plan approval, applicants frequently face challenges in mobilising capital due to procedural delays, regulatory approvals, and a lack of operational control. Absence of structured early-stage or bridge funding mechanisms leads to value erosion during the transition period.

Weaknesses in post-approval implementation: The post-NCLT approval phase remains fragmented and under-regulated. Delays in uploading orders, recognising new management, enabling monitoring committees, and authorising signatories often stall execution and erode stakeholder confidence.

Non-alignment of government and statutory authorities: Continued attachment actions and recovery proceedings by tax and statutory authorities for pre-CIRP dues, despite approved resolution plans, undermine finality and certainty. Such conduct deters credible resolution applicants and long-term turnaround capital.

Sector-specific execution complexity, especially in real estate and infrastructure: Asset-heavy and regulated sectors involve multiple stakeholders, approvals, and execution risks. Without coordinated participation of ARCs and SSFs, insolvency outcomes in these sectors risk devolving into prolonged litigation or liquidation.

Absence of formal recognition of turnaround capital within the IBC framework: The IBC remains largely structured around debt recovery and resolution approval, with limited explicit policy recognition of the distinct role played by turnaround and special situation capital in operational revival.

Systemic delays across the insolvency lifecycle: Delays at admission, plan approval, order pronouncement, and post-approval stages collectively erode enterprise value, discourage participation by sophisticated investors, and weaken the IBC's ability to function as a revival-oriented economic framework.

D. Suggestions & Recommendations

Enable ARCs to play a deeper turnaround role: There is a need to revisit the regulatory framework governing ARCs to allow greater operational flexibility in genuine turnaround cases. Calibrated relaxations on management control, participation as resolution applicants, and net-owned fund requirements, subject to safeguards, would enable ARCs to move beyond recovery and actively support business revival.

Improve timeline certainty to attract Strategic/Special Situation Funds: Given the finite tenure and exit horizons of SSFs, insolvency timelines must be made more predictable. Strict adherence to statutory timelines, faster adjudication, and disciplined post-approval execution are essential to sustain participation of long-term turnaround capital.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Adopt risk-reflective valuation and pricing frameworks: Valuation expectations in stressed asset transactions should better reflect enforcement risk, capital costs, execution uncertainty, and time value. Market-aligned pricing frameworks and greater acceptance of discounted risk-adjusted valuations will improve deal flow and resolution velocity, particularly for MSMEs.

Reduce information asymmetry within permissible legal boundaries: Without compromising procedural fairness, structured and transparent communication of CoC expectations, key commercial concerns, and execution constraints should be encouraged. This would enable resolution applicants to submit more realistic, implementable, and value-accretive plans.

Create early-stage and post-approval funding mechanisms: Dedicated bridge or execution-stage funding frameworks should be developed to activate immediately upon plan approval. Such mechanisms would allow resolution applicants to commence execution without delay, preventing value erosion during the transition period.

Strengthen post-approval implementation architecture: Clear procedural protocols should be prescribed for the post-approval phase, including timelines for order uploading, recognition of new management, activation of monitoring committees, and operational control handover. This will reduce uncertainty and execution delays.

Ensure binding compliance by government and statutory authorities: Stronger statutory and administrative enforcement is required to ensure that government departments and statutory authorities honour approved resolution plans. Clear accountability mechanisms should be instituted to prevent post-resolution attachment actions and parallel recovery proceedings.

Encourage coordinated ARC-SSF participation in complex sectors: Policy and regulatory frameworks should facilitate structured collaboration between ARCs and SSFs, particularly in sectors such as real estate, infrastructure, and manufacturing, where creditor consensus and execution capital must operate in tandem.

Formally recognise turnaround capital within insolvency policy: The insolvency framework should explicitly acknowledge the role of turnaround and special situation capital as a distinct enabler of value maximisation and enterprise continuity. This recognition would support tailored regulatory treatment and policy alignment.

Promote pre-pack and hybrid resolution frameworks: Wider adoption of pre-packaged or hybrid insolvency mechanisms should be pursued to preserve value, reduce litigation, and provide speed and certainty, key prerequisites for recovery and turnaround-oriented investors.

E. Way Forward- Policy Note

India's insolvency framework is entering a phase where recovery-oriented mechanisms must decisively give way to revival- and turnaround-led outcomes. The growing participation of Asset Reconstruction Companies (ARCs) and Strategic/Special Situation Funds (SSFs) signals a structural shift in how distress is addressed, from balance sheet clean-up to enterprise rehabilitation.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Going forward, policy focus must move beyond admission and plan approval to the entire resolution lifecycle, especially post-approval execution. Regulatory frameworks should explicitly recognise turnaround capital as a critical enabler of value maximisation and employment preservation. This requires calibrated flexibility for ARCs, timeline certainty for SSFs, and robust post-approval coordination among tribunals, regulators, and government authorities.

Equally important is reducing information asymmetry, aligning valuation expectations with commercial risk, and strengthening early-stage and execution-stage funding channels. Without these reforms, credible long-term capital will remain hesitant, and insolvency outcomes will continue to tilt towards liquidation rather than revival.

A mature IBC ecosystem must therefore integrate recovery capital, turnaround capital, and execution certainty into a cohesive policy architecture, transforming insolvency into a platform for sustainable corporate renewal rather than asset disposal.

F. Issue-Recommendation Matrix

Issues-Recommendation Matrix ARCs & Strategic Situation Funds Shaping CIPR Outcomes	
Key Issues Identified	**Policy Recommendations**
Limited ability of ARCs to drive operational turnarounds due to regulatory constraints	Revisit ARC regulations to allow calibrated management control, participation as resolution applicants, and flexible net-owned fund norms in genuine turnaround cases
Finite tenure and exit pressure faced by Strategic/Special Situation Funds	Ensure strict adherence to IBC timelines and faster adjudication to provide predictability and execution certainty for turnaround capital
Valuation mismatch between banks, ARCs, and SSFs	Promote risk-adjusted, market-aligned valuation frameworks that reflect enforcement risk, capital cost, and time value
High information asymmetry between CoC and Resolution Applicants	Enable structured, transparent communication of CoC expectations within legal boundaries to improve plan feasibility and execution
Funding gaps during post-approval and early execution stages	Create dedicated bridge and execution-stage funding mechanisms that activate immediately upon plan approval
Severe delays and fragmentation in post-approval implementation	Prescribe standardised post-approval protocols covering order uploads, management recognition, monitoring committees, and operational handover
Non-compliance by government and statutory authorities post-resolution	Strengthen statutory and administrative enforcement to ensure binding compliance with approved resolution plans
Lack of formal recognition of turnaround capital in insolvency policy	Explicitly recognise ARCs and SSFs as turnaround enablers within insolvency policy and regulatory design
Weak coordination between recovery capital and execution capital	Encourage structured ARC-SSF collaboration, especially in complex sectors like real estate and infrastructure
Value erosion due to prolonged timelines and litigation-heavy processes	Expand pre-packaged and hybrid insolvency frameworks to preserve value, reduce disputes, and enhance speed

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

PANEL DISCUSSION X: DRIVING EFFECTIVE PUFE AVOIDANCE ACTIONS: HOW FORENSIC INVESTIGATIONS ENABLE DETECTION AND VALUE MAXIMISATION

Opening Remarks:

CA. (Dr.) Anuj Goyal, Central Council Member, ICAI

Moderator:

CA. Pankaj Tyagee, Member, Appellate Authority

Panelists:

1. CA. Anuj Jain, Insolvency Professional
2. CA. Sunit Shah, Insolvency Professional
3. CA. (Dr.) Durgesh Pandey

Closing Remarks:

CA. (Dr.) Anuj Goyal, Central Council Member, ICAI

A. Deliberations / Highlights of the Session

This panel discussion examined one of the most technically demanding and jurisprudentially significant components of the Insolvency and Bankruptcy Code, 2016 (IBC), the identification, prosecution, and monetisation of Preferential, Undervalued, Fraudulent and Extortionate (PUFE) transactions. As India's insolvency framework matures, avoidance actions are increasingly recognised not merely as ancillary proceedings but as a central mechanism for restoring value lost through pre-insolvency misconduct and reinforcing market discipline.

The panel underscored that PUFE actions strike at the heart of insolvency integrity. Preferential payments, undervalued transfers, fraudulent siphoning, and extortionate credit structures often distort the true financial position of stressed companies and materially depress creditor recoveries. Without timely and rigorous forensic intervention, the insolvency process risks resolving only the visible balance sheet, while leaving concealed value permanently outside the resolution framework.

Scale and Value Potential of PUFE Avoidance Actions: The panel highlighted empirical evidence demonstrating the growing relevance of PUFE actions within the IBC ecosystem. Data placed before the House indicated that, as of March 2024, over 1,200 avoidance applications had been filed before the NCLT, with more than 250 applications already

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

disposed of. These applications collectively involved transaction values exceeding ₹3.5 lakh crore.

While recoveries achieved to date represent only a fraction of the amounts under challenge, the panel emphasised that even partial recovery from such transactions materially enhances creditor outcomes. PUFE actions were therefore characterised as a latent value reservoir within CIRP, one that demands greater institutional focus, forensic rigour, and procedural efficiency.

Forensic Investigations as the Foundation of PUFE Detection: A recurring and emphatic theme was that forensic investigations and transaction analysis form the backbone of effective PUFE avoidance. Panelists described valuation and forensics as the two indispensable pillars of a successful insolvency process. Without a sound forensic foundation, CIRP outcomes risk being economically incomplete and legally fragile.

Forensic audits were described as critical tools that enable insolvency professionals to move beyond surface-level financial statements and identify transaction patterns that indicate preference, undervaluation, or fraud. However, the panel cautioned that forensic analysis is not an end in itself; it is a diagnostic instrument that must be actively interpreted, pursued, and converted into legally sustainable avoidance actions.

Limitations of Outsourced Transaction Review Reports: The panel expressed concern over the prevalent practice of treating transaction reviews as a compliance formality. In many CIRPs, the appointment of a Transaction Review Auditor (TRA) is followed by minimal engagement by the IRP/RP, with the resulting report annexed mechanically to avoidance applications.

Panelists stressed that transaction review reports, by themselves, rarely meet the evidentiary threshold required for favourable judicial orders. While such reports can identify suspect transactions and risk areas, they cannot substitute detailed evidence, corroboration, and legal reasoning. The statutory obligation to identify and pursue PUFE transactions rests squarely with the insolvency professional, not with outsourced advisors.

Active Ownership and Investment by Insolvency Professionals: A strong and consistent message emerging from the deliberations was the need for active ownership by insolvency professionals. Successful PUFE recoveries were shown to correlate directly with the degree of personal and professional investment by the IRP/RP in the investigative process.

Forensic professionals can only be as effective as the mandate, direction, and persistence provided by the insolvency professional. Where RPs actively engage, by framing hypotheses, insisting on deeper analysis, seeking corroborative evidence, and coordinating legal strategy, PUFE actions are more likely to translate into tangible recoveries.

Practical Challenges in Conducting Forensic Investigations: The panel discussed, in detail, the operational challenges faced in forensic and transaction audits. These include persistent non-cooperation by suspended management, deliberate data withholding, inconsistent or manipulated financial records, and resistance from third parties citing confidentiality or privacy constraints.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Data unavailability was identified as the single largest constraint. In many cases, forensic professionals begin investigations with little or no reliable data. Even where information is provided, it is often incomplete or internally inconsistent, requiring extensive triangulation using GST records, MCA filings, income-tax data, open-source intelligence, and digital footprints.

Despite these constraints, panelists noted that disciplined forensic methodology, combining financial analysis with corroborative evidence and transaction flow reconstruction, can still yield actionable insights when pursued rigorously.

Evidentiary Standards, Chain of Custody, and Judicial Sustainability: A critical aspect of the discussion focused on evidentiary discipline. Courts require more than analytical suspicion; they require legally admissible, properly preserved, and well-documented evidence. Panelists emphasised the importance of chain-of-custody protocols, data integrity safeguards, timestamping, audit trails, and adherence to principles of natural justice.

Forensic investigations must not be selective or one-sided. Transactions must be examined in full context, as partial analysis can lead to misclassification and judicial rejection. The panel stressed that forensic reports must be capable of withstanding cross-examination and appellate scrutiny if they are to serve as effective instruments of value recovery.

Need for Codification and Standardisation of Forensic Processes: The panel observed that the IBC does not expressly recognise transaction audits or forensic investigations as statutory constructs. These practices have evolved through market usage rather than legislative design, leading to inconsistent methodologies, reporting formats, and evidentiary quality.

There was strong consensus on the need to codify forensic and transaction review processes within the IBC or its regulations, similar to valuation standards. Standardised reporting formats, covering transaction profile, financial impact, legal qualification under relevant IBC provisions, and supporting evidentiary documentation, were recommended to enhance consistency, judicial confidence, and enforceability.

Role of Forensic Accounting and Investigation Standards (FAIS): The panel acknowledged the important role played by professional standards, particularly the Forensic Accounting and Investigation Standards (FAIS) issued by ICAI. These standards provide a framework for consistency, transparency, and professional accountability in forensic engagements.

However, it was emphasised that standards alone are insufficient without ecosystem-wide awareness and enforcement. Proper training, declaration of compliance, and scrutiny of deviations are essential if forensic standards are to meaningfully improve PUFE outcomes.

Judicial Constraints and Limits on Recovery: The panel also addressed judicial limitations under existing PUFE provisions, particularly in relation to recovery from third parties. Certain judicial precedents were cited to illustrate that avoidance findings do not always translate into executable recovery orders, especially where assets have moved beyond the immediate control of the corporate debtor.

This raised broader questions about whether the current statutory framework provides adequate teeth to PUFE provisions. Panelists suggested that legislative refinement may be

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

required to strengthen recovery mechanisms and align avoidance findings with enforceable economic outcomes.

Treatment of PUFE Actions in Resolution Plans: Another key deliberation concerned the treatment of PUFE actions within resolution plans. Resolution applicants generally discount or ignore pending avoidance proceedings due to the uncertainty of outcome and timelines. As a result, the potential value of PUFE recoveries often remains outside the commercial architecture of resolution plans.

The panel noted that this reluctance undermines value maximisation and weakens incentives to pursue avoidance actions vigorously. Greater clarity on timelines, enforceability, and recovery pathways could encourage more realistic valuation of PUFE claims within resolution economics.

Early Detection through Financial Analysis and Hypothesis-Driven Investigation: The panel emphasised that early detection of PUFE transactions does not necessarily require complex tools. Systematic review of historical financial statements, cash flow movements, related-party disclosures, tax filings, and benchmarking against industry norms can often reveal early warning signals.

Once preliminary hypotheses are formed, targeted forensic investigation can narrow the scope and prioritise high-impact transactions. This disciplined, hypothesis-driven approach was identified as a best practice for timely and cost-effective PUFE detection.

Capacity Building and Ecosystem Alignment: A recurring recommendation was the need for joint capacity building across the insolvency ecosystem. Insolvency professionals, forensic experts, CoC members, and adjudicating authorities must develop a shared understanding of PUFE concepts, evidentiary thresholds, and legal interpretation.

Panelists stressed that avoidance actions succeed not merely on technical merit but on institutional alignment and appreciation of forensic value by all stakeholders involved in CIRP.

Concluding Observations: The panel concluded that PUFE avoidance actions represent one of the most under-utilised yet high-impact levers within the IBC framework. Forensic investigations are not ancillary compliance exercises but strategic instruments for value maximisation, accountability, and systemic integrity.

To realise their full potential, the insolvency ecosystem must move from form-driven compliance to substance-driven investigation. Codification of forensic processes, standardisation of reporting, stronger data access mechanisms, enhanced recovery powers, and active ownership by insolvency professionals were identified as essential reforms.

As the IBC continues to evolve, strengthening PUFE detection and enforcement will be central to ensuring that insolvency resolution in India delivers not only economic efficiency but also fairness, deterrence, and long-term confidence in the rule of law.

B. Key Takeaways

- ✓ PUFE avoidance actions are a core value-maximisation lever under the IBC, not merely ancillary proceedings. Effective identification and recovery of preferential, undervalued,

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

and fraudulent transactions can materially enhance creditor recoveries and restore value lost prior to insolvency.

- ✓ Forensic investigations are foundational to successful PUFE enforcement. Without rigorous forensic and transaction analysis, CIRP risks addressing only surface-level balance sheet stress while leaving concealed value permanently outside the resolution framework.
- ✓ Outsourced transaction review reports, by themselves, are insufficient for judicial success. While they help identify suspect transactions, favourable avoidance orders require deeper evidence, corroboration, and legal framing driven by the insolvency professional.
- ✓ Active ownership by insolvency professionals is critical. PUFE recoveries are directly correlated with the degree of involvement, persistence, and professional investment of the IRP/RP in guiding forensic investigations and pursuing avoidance actions.
- ✓ Data unavailability and non-cooperation by promoters remain the most significant operational bottlenecks. Despite these constraints, disciplined triangulation using GST, MCA, income-tax data, and open-source intelligence can reconstruct transaction trails when pursued systematically.
- ✓ Evidentiary robustness determines success in avoidance litigation. Proper chain-of-custody, data integrity protocols, timestamping, audit trails, and adherence to principles of natural justice are essential for forensic findings to withstand judicial scrutiny.
- ✓ Lack of statutory codification for forensic and transaction audits under the IBC creates inconsistency. Absence of standardised legal recognition, reporting formats, and evidentiary weight weakens the enforceability of PUFE actions.
- ✓ Professional standards such as ICAI's FAIS provide a critical foundation, but their effectiveness depends on uniform adoption, disclosure of deviations, and ecosystem-wide capacity building.
- ✓ Judicial constraints, particularly on recovery from third parties, limit economic outcomes of PUFE actions. Certain precedents highlight the need to re-examine whether existing provisions provide adequate recovery teeth beyond declaratory avoidance.
- ✓ Resolution applicants typically discount pending PUFE actions in resolution plans, due to uncertainty of timelines and recovery. This undermines full value realisation and weakens incentives to pursue avoidance actions vigorously.
- ✓ Early detection of PUFE transactions is achievable through structured financial analysis. Review of historical financials, cash flows, related-party dealings, and benchmarking can generate early hypotheses, enabling targeted and cost-effective forensic investigation.
- ✓ Capacity building across the insolvency ecosystem is essential. Joint training of insolvency professionals, CoC members, forensic experts, and adjudicating authorities is necessary to develop a shared understanding of PUFE concepts, evidentiary standards, and enforcement expectations.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ Standardisation of forensic reporting formats is urgently required. Adoption of structured formats covering transaction profile, financial impact, legal qualification, and evidentiary documentation would significantly improve judicial acceptance and enforcement.
- ✓ Strengthening PUFE enforcement is central to the credibility of the IBC. Robust avoidance actions enhance not only recoveries but also market discipline, deterrence against misconduct, and long-term confidence in India's insolvency framework.

C. Issues & Challenges Identified

Limited Legal Codification of Forensic and Transaction Audits: The Insolvency and Bankruptcy Code does not expressly codify transaction audits or forensic investigations, resulting in inconsistent practices, varying methodologies, and uncertain evidentiary value of forensic reports in avoidance proceedings.

Over-Reliance on Outsourced Transaction Review Reports: In many CIRPs, transaction reviews are treated as a procedural formality rather than a substantive investigative exercise. Reports are often filed without sufficient corroborative evidence, weakening the prospects of successful adjudication.

Passive Ownership of PUFE Actions by Insolvency Professionals: Avoidance proceedings frequently suffer from limited personal involvement of IRPs/RPs, with investigative responsibility fully delegated to external agencies, leading to fragmented evidence development and diluted enforcement.

Severe Data Gaps and Non-Cooperation by Promoters and Management: Insolvency professionals and forensic auditors routinely face denial of records, incomplete data sets, manipulated accounts, and a lack of cooperation from suspended management, significantly impairing timely and accurate identification of PUFE transactions.

Absence of Standardised Forensic Reporting Formats: There is no uniform structure for forensic or transaction audit reports, resulting in inconsistent classification of transactions under Sections 43, 45, 50, and 66 of the IBC and reduced judicial confidence in investigative findings.

Weak Evidentiary Preparedness for Judicial Scrutiny: Inadequate adherence to data integrity protocols, chain-of-custody requirements, and documentation standards often undermines the admissibility and credibility of forensic evidence during cross-examination.

Judicial Constraints on Recovery from Third Parties: Certain judicial interpretations have restricted the scope of recovery under PUFE provisions, particularly in relation to third-party beneficiaries, thereby limiting the economic effectiveness of avoidance actions.

Delayed Adjudication of Avoidance Applications: PUFE proceedings typically conclude well after approval of resolution plans, reducing their practical relevance and weakening incentives for stakeholders to pursue avoidance actions vigorously.

Uncertain Treatment of PUFE Recoveries in Resolution Plans: Resolution applicants generally discount or exclude potential PUFE recoveries due to legal uncertainty, extended timelines, and unclear entitlement structures, leading to sub-optimal value maximisation.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Capacity Constraints Across the Insolvency Ecosystem: Limited specialised training for insolvency professionals, CoC members, forensic experts, and adjudicators contributes to inconsistent understanding and application of PUFE concepts and investigative standards.

Inadequate Regulatory Enablement for Forensic Professionals: Forensic investigators lack explicit statutory authority to access information from financial institutions, regulators, and third parties, often facing privacy and confidentiality barriers during investigations.

High Threshold for Establishing Fraud under Section 66: The evidentiary burden for proving fraudulent trading is onerous, discouraging its invocation even in cases involving significant asset diversion or value erosion.

Lack of Early-Warning Mechanisms for PUFE Detection: PUFE identification is largely reactive, initiated post-CIRP commencement, with limited use of pre-admission financial analysis or early risk indicators to flag suspect transactions.

Fragmented Accountability for PUFE Outcomes: The absence of clearly defined accountability for failure to pursue or conclude PUFE actions results in uneven enforcement and missed recovery opportunities.

D. Suggestions & Recommendations

Statutory Recognition of Forensic and Transaction Audits: The Insolvency and Bankruptcy Code should explicitly recognise forensic and transaction audits as integral to PUFE avoidance actions. Although insolvency professionals are mandated to identify avoidable transactions, the absence of express statutory recognition has led to inconsistent practices and uneven judicial treatment. Formal recognition would enhance certainty, credibility, and enforceability of avoidance proceedings.

Standardised Forensic Reporting Framework: The absence of uniform forensic reporting standards has weakened the evidentiary value of PUFE actions. A regulator-endorsed standard format, linking transaction profiling, financial impact, legal classification, and supporting evidence, would improve judicial sustainability, reduce disputes, and align insolvency practice with global norms.

Mandatory Compliance with Professional Standards: Forensic investigations supporting PUFE actions should mandatorily comply with ICAI's Forensic Accounting and Investigation Standards, with clear disclosure of deviations, if any. This would strengthen the reliability of findings, enhance professional accountability, and assist adjudicating authorities in evaluating investigative robustness.

Reinforcing Accountability of Insolvency Professionals: PUFE avoidance actions must be treated as core fiduciary responsibilities of insolvency professionals rather than outsourced compliance exercises. Active ownership over investigative scope, evidence development, and litigation strategy is essential to ensure timely filing and meaningful recoveries. Regulatory guidance clarifying this responsibility would improve outcomes.

Strengthening Information Access and Cooperation: Data unavailability and promoter non-cooperation significantly undermine PUFE enforcement. Insolvency professionals

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

should be supported by clearer statutory powers to access information from promoters, banks, regulators, and related parties, subject to due process safeguards. Enhanced information access would materially improve early detection and evidence quality.

Early Forensic Risk Identification: Structured preliminary reviews of historical financials, cash flows, and related-party transactions at the commencement of CIRP should be encouraged. Early hypothesis-driven forensic triggers enable focused investigations, conserve resources, and improve recovery prospects.

Time-Bound Adjudication of Avoidance Applications: Prolonged adjudication of PUFE applications dilutes deterrence and erodes value. Introducing indicative timelines or fast-track mechanisms for avoidance proceedings would align enforcement with the time-bound objectives of the IBC and improve commercial certainty.

Clear Treatment of PUFE Recoveries in Resolution Plans: Regulatory clarity is required on disclosure and treatment of pending PUFE actions in resolution plans. Guidance on factoring contingent recoveries and post-resolution distribution would enable more realistic bid pricing and enhance value maximisation.

Re-examining Scope of Section 66: Judicial limitations on third-party recovery under Section 66 have constrained the effectiveness of fraudulent and wrongful trading provisions. A re-examination of the statutory framework is warranted to preserve the deterrent and recovery intent of PUFE provisions.

Capacity Building Across the Ecosystem: Joint capacity-building initiatives involving insolvency professionals, CoC members, forensic experts, and adjudicators are essential to develop a shared understanding of PUFE concepts, evidentiary standards, and enforcement expectations, thereby improving consistency and confidence in outcomes.

Strengthening Post-Resolution Enforcement: PUFE actions must be supported by effective post-resolution enforcement mechanisms. Ensuring the execution of avoidance orders and recognising the investigative role of insolvency professionals will reinforce governance standards and discourage pre-insolvency value stripping.

E. Way Forward- Policy Note

India's insolvency regime is entering a phase where value maximisation must extend beyond plan approval and bid outcomes to systematically address value erosion that occurs before insolvency. Effective PUFE avoidance actions, supported by timely and well-structured forensic investigations, are essential to restoring economic value, ensuring equitable treatment of stakeholders, and reinforcing confidence in the insolvency framework.

Going forward, forensic reviews must be repositioned from a procedural requirement to a strategic component of the resolution process, with earlier initiation, stronger ownership by insolvency professionals, and clearer integration with resolution planning and post-approval execution. Strengthening legal certainty, evidentiary robustness, and institutional capacity will be critical to ensure that avoidance findings translate into enforceable recoveries rather than remaining contingent claims.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

A mature IBC ecosystem must therefore embed forensic-led PUFE actions within its core architecture, supported by standardised practices, coordinated institutional response and regulatory clarity, enabling insolvency proceedings to deliver not only resolution, but also fairness, deterrence and sustainable value preservation.

F. Issue-Recommendation Matrix

Issue-Recommendation Matrix PUFE Avoidance Actions and Forensic Investigations	
Key Issue Identified	**Policy Recommendation**
PUFE avoidance actions are often treated as procedural compliance rather than a value-maximisation tool	Reposition PUFE actions as a strategic pillar of CIRP, with early initiation of forensic investigations and clear linkage to resolution strategy and value recovery
Forensic investigations are frequently outsourced with limited active ownership by Insolvency Professionals	Strengthen accountability of Insolvency Professionals to actively supervise, guide, and integrate forensic findings into avoidance litigation and resolution planning
Lack of standardisation in forensic and transaction audit reports	Introduce standardised forensic reporting structures covering transaction profiling, financial impact, legal qualification, and evidentiary documentation to improve judicial reliability
Limited legal sanctity and evidentiary weight of forensic reports	Provide regulatory recognition and codification of forensic and transaction investigations under the IBC framework to enhance admissibility and enforcement
Acute data gaps and non-cooperation by suspended management	Strengthen statutory obligations and enforcement mechanisms for timely and complete data handover, including consequences for non-compliance
Difficulty in recovering assets diverted to related or third parties	Review and strengthen PUFE provisions, particularly Sections 43, 45, 50, and 66, to address judicial constraints on third-party recoveries and enhance deterrence
Prolonged timelines for adjudication of avoidance applications	Encourage early filing of PUFE applications and prioritised adjudication to ensure recoveries are realised within the economic life of the resolution
Reluctance of resolution applicants to ascribe value to pending PUFE actions	Develop clearer guidance on the treatment of contingent PUFE recoveries within resolution plans to enable more informed commercial bidding
Weak integration of PUFE outcomes with post-approval execution	Establish clearer post-approval monitoring and enforcement mechanisms to ensure avoidance recoveries are effectively realised and distributed
Limited capacity and uneven understanding across ecosystem stakeholders	Promote joint capacity building and training programmes for Insolvency Professionals, CoC members, forensic experts, and adjudicating authorities
Fragmented coordination with statutory and enforcement authorities	Improve inter-agency coordination to support attachment, recovery, and enforcement of assets identified through PUFE actions
Under-utilisation of technology and data analytics	Encourage the use of data intelligence, regulatory databases, and forensic technology tools to enable early detection and targeted investigations

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

PANEL DISCUSSION XI: STRENGTHENING INDIA'S INSOLVENCY ECOSYSTEM - PERSPECTIVE ON ADR INTEGRATION AND GLOBAL FRAMEWORK

Opening Remarks:

CA. Satish Kumar Gupta, Central Council Member, ICAI

Moderator:

Shri Anoop Rawat

Panelists:

1. Shri Venkata Ramakrishna Badarinath Nandula, Former Hon'ble Judicial Member, National Company Law Tribunal, Hyderabad
2. Adv. Karan Pratap Singh
3. CA. Pratik Tripathi

Closing Remarks:

CA. Satish Kumar Gupta, Central Council Member, ICAI

A. Deliberations / Highlights of the Session

The panel discussion was anchored in the growing recognition that India's insolvency ecosystem, while structurally robust, continues to face systemic pressure from prolonged litigation, mounting caseloads before adjudicating authorities, and disputes that are peripheral to core insolvency questions. Against this backdrop, the session examined the role of Alternative Dispute Resolution (ADR), particularly mediation, as a strategic enabler to strengthen insolvency outcomes under the Insolvency and Bankruptcy Code, 2016 (IBC).

The discussion was premised on the understanding that ADR is not a substitute for the IBC, nor a parallel dispute resolution regime, but a complementary mechanism capable of supporting the Code's objectives of speed, value preservation, and certainty. Drawing from global insolvency frameworks and recent domestic legislative developments, the panel explored how mediation could be selectively and institutionally integrated into India's insolvency architecture without diluting creditor control or statutory discipline.

ADR as a Complementary Pillar to the IBC Framework: The panel emphasised that insolvency is fundamentally a collective, public-interest process, and therefore not all disputes arising within CIRP are suitable for ADR. However, a significant proportion of matters currently consuming judicial time, such as claim quantification disputes, inter-

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

creditor disagreements, service and supply disputes, and regulatory coordination issues, are essentially commercial in nature.

Mediation was identified as uniquely compatible with insolvency objectives, unlike arbitration or conciliation, which rely on bilateral consent and contractual autonomy. Mediation, being facilitative rather than adjudicatory, allows parties to arrive at commercially pragmatic outcomes while preserving confidentiality and relationships, thereby easing the burden on NCLT benches without undermining statutory safeguards.

Structural Constraints of Insolvency and the Trust Deficit: A recurring theme in the deliberations was the inherent trust deficit embedded in the insolvency framework. The creditor-in-control model and the *in rem* nature of CIRP proceedings often position corporate debtors and creditors in adversarial roles from inception. This structural reality limits the feasibility of mediation once insolvency is admitted, particularly on issues that impact collective stakeholder rights.

Nevertheless, the panel acknowledged that disputes arising during the insolvency process, especially those not involving commercial wisdom of the Committee of Creditors (CoC), can be more efficiently resolved through mediation, provided the scope is clearly ring-fenced and judicial oversight remains intact.

Legislative Gaps and the Need for Statutory Enablement: The panel noted that the IBC, in its current form, does not provide an explicit statutory framework for mediation. While courts have occasionally encouraged consensual settlements, the absence of enabling provisions creates uncertainty regarding jurisdiction, enforceability, and procedural legitimacy.

Reference was made to recommendations of expert committees and ongoing policy deliberations advocating structured mediation, particularly for operational creditor disputes. At the same time, concerns were raised regarding the interface between the Mediation Act, 2023, and insolvency proceedings, specifically on rule-making authority, regulatory oversight, and institutional ownership of insolvency mediation. The panel underscored the need for legislative clarity to avoid fragmented practices and appellate challenges.

Pre-Institution and Pre-Admission Mediation as Value Preservers: Strong emphasis was placed on pre-institution and pre-admission mediation as the most effective and least disruptive entry points for ADR within the insolvency framework. It was observed that creditors rarely approach the NCLT immediately upon default, often engaging in prolonged informal negotiations.

Institutionalising mediation at this stage could channel such negotiations into a structured, confidential, and time-bound process. Pre-admission mediation was seen as particularly effective in resolving inflated claims, reconciling accounts, quantifying actual debt, and preventing avoidable insolvency admissions. The mandatory pre-institution mediation regime under the Commercial Courts Act was cited as a viable precedent that could inform similar reforms under the IBC.

Selective Use of Mediation Post-Admission: While acknowledging that post-admission insolvency proceedings involve public interest and collective rights, the panel agreed that limited categories of disputes may still be suitable for mediation. These include claim

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

reconciliation, inter-creditor ranking disputes, continuation of critical contracts, and certain regulatory or licensing issues.

However, the panel unanimously stressed that mediation must not interfere with statutory timelines, moratorium objectives, or the commercial wisdom of the CoC. Any post-admission mediation must therefore be strictly time-bound, optional, and subject to clear judicial oversight.

ADR and Avoidance Transactions: Drawing Clear Boundaries: The deliberations drew a clear distinction between categories of avoidance transactions. Fraudulent transactions, involving investigation, deterrence, and public accountability, were unanimously held to be non-mediable.

However, the panel recognised that certain preferential or undervalued transactions where fraud is not alleged- may be amenable to negotiated settlement, particularly if mediation can enhance recoveries and reduce litigation. Judicial experience was shared to highlight that, in the absence of explicit legislative empowerment, such mediation efforts risk uncertainty and appellate reversal, reinforcing the need for statutory clarity.

Global Practices and the Indian Design Imperative: International experiences from jurisdictions such as Singapore, the UK, the US, and Australia were discussed, where insolvency frameworks incorporate mediation windows, out-of-court restructurings, and early warning mechanisms. However, the panel cautioned against direct transplantation of these models.

India's creditor-in-control structure, scale of cases, and diverse stakeholder base necessitate a calibrated, India-specific framework. It was suggested that any ADR integration should be designed by the insolvency regulator in consultation with mediation institutions, ensuring alignment with domestic jurisprudence and operational realities.

Building Capacity: Insolvency Mediation as a Specialised Discipline: The panel identified a significant institutional opportunity in developing a cadre of specialised insolvency mediators. Such mediators would require expertise not only in mediation techniques but also in corporate finance, valuation principles, insolvency law, and stakeholder management.

Professionalising insolvency mediation was viewed as essential for credibility, consistency, and acceptance by creditors and insolvency professionals. This, in turn, could foster a parallel ecosystem that supports the IBC without diluting its core architecture.

Concluding Observations: The panel concluded that ADR, particularly mediation, represents a strategic lever to enhance efficiency, reduce friction, and preserve value within India's insolvency ecosystem. However, its success depends on careful legislative design, stage-specific deployment, and institutional discipline.

Rather than wholesale integration, a calibrated, rule-based, and regulator-led framework was advocated, one that strengthens the IBC by resolving peripheral disputes efficiently, while preserving the primacy of creditor control, statutory timelines, and judicial oversight. In doing so, ADR can evolve from an ad hoc practice into a trusted institutional support for India's next phase of insolvency reform.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

B. Key Takeaways

- ✓ ADR as a support, not a substitute: Alternative Dispute Resolution, particularly mediation, should function as a complementary mechanism to IBC, strengthening efficiency and value preservation without undermining creditor control or statutory safeguards.
- ✓ Mediation is uniquely suited to insolvency: Among ADR tools, mediation aligns best with the collective, non-contractual nature of insolvency proceedings, unlike arbitration or conciliation, which depend on bilateral consent.
- ✓ Pre-institution and pre-admission mediation offer maximum impact: The greatest value of ADR lies before insolvency admission, where mediation can resolve claim quantum disputes, reconcile accounts, and prevent avoidable CIRP initiation.
- ✓ Post-admission mediation must be narrowly scoped: Select disputes such as claim reconciliation, inter-creditor issues, and regulatory coordination may be mediated post-admission, provided statutory timelines and CoC commercial wisdom remain unaffected.
- ✓ IBC currently lacks statutory mediation enablement: The absence of explicit mediation provisions in the IBC creates uncertainty on enforceability, jurisdiction, and consistency, highlighting the need for legislative clarity.
- ✓ Clear boundaries are essential for avoidance matters: Fraudulent transactions are non-negotiable, while certain non-fraudulent preferential or undervalued transactions may be suitable for mediated settlement if supported by statutory safeguards.
- ✓ Judicial burden can be meaningfully reduced: ADR can significantly ease pressure on NCLT benches by resolving non-core commercial disputes outside formal adjudication.
- ✓ Global practices offer guidance, not templates: International insolvency systems integrate mediation through calibrated "mediation windows," but India requires a bespoke framework aligned with its creditor-in-control model.
- ✓ Trust deficit limits late-stage mediation: The inherently adversarial structure of admitted insolvency proceedings constrains mediation effectiveness, reinforcing the importance of early-stage intervention.
- ✓ Need for specialised insolvency mediators: Developing a trained cadre of insolvency-specific mediators with financial, legal, and valuation expertise is critical for credible and effective ADR integration.

C. Issues & Challenges Identified

Absence of statutory backing under the IBC: The Insolvency and Bankruptcy Code does not presently provide an explicit legal framework for mediation. This creates uncertainty regarding when and how ADR can be invoked, the enforceability of mediated outcomes, and the authority of adjudicating bodies to refer matters to mediation, leading to inconsistent practices across tribunals.

Jurisdictional overlap with the Mediation Act, 2023: The introduction of the Mediation Act has created ambiguity regarding institutional ownership and rule-making authority for

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

insolvency-related mediation. The lack of clarity on whether mediation under insolvency should be governed by the IBC, the Mediation Act, or a hybrid framework risks regulatory confusion and fragmented implementation.

Inherent mistrust in creditor-in-control proceedings: Insolvency proceedings under the IBC are in rem and creditor-driven, which structurally limits trust between corporate debtors and creditors once CIRP is initiated. This adversarial dynamic significantly reduces the effectiveness of mediation at advanced stages of insolvency.

Risk of ADR being misused to delay CIRP timelines: Without strict statutory guardrails, mediation may be invoked tactically to defer admission, stall resolution, or extend timelines, thereby undermining the IBC's core objective of time-bound outcomes.

Unclear suitability of ADR across insolvency stages: There is no structured guidance distinguishing disputes that are appropriate for mediation at the pre-institution, pre-admission, or post-admission stages. This lack of stage-specific clarity creates uncertainty for insolvency professionals and adjudicating authorities.

Limited applicability in avoidance and fraud-related matters: While mediation may be suitable for certain non-fraudulent preferential or undervalued transactions, there is a lack of clear statutory demarcation between mediable and non-mediable avoidance actions, particularly where investigation and public interest considerations are involved.

Capacity and expertise constraints in mediation: India currently lacks a specialised pool of mediators with domain expertise in insolvency, finance, valuation, and creditor negotiations. Generalist mediators may be ill-equipped to handle the complexity and financial implications of insolvency-related disputes.

Enforceability and finality concerns: In the absence of clear statutory recognition, mediated settlements risk being challenged during CIRP or at appellate stages, undermining certainty and discouraging stakeholders from engaging meaningfully in ADR.

Behavioural resistance among stakeholders: Creditors, particularly institutional lenders, often prefer formal adjudication due to accountability concerns and audit scrutiny, resulting in reluctance to adopt mediation despite its potential efficiency benefits.

Lack of awareness and structured processes: Mediation in insolvency remains under-utilised due to limited awareness, absence of standard operating procedures, and lack of institutional incentives for early dispute resolution within the insolvency ecosystem.

D. Suggestions & Recommendations

Provide explicit statutory recognition to mediation under the IBC: The Insolvency and Bankruptcy Code should be amended to expressly recognise mediation as a permissible and structured adjunct to insolvency proceedings. Clear enabling provisions should define the scope, stages, and legal effect of mediated outcomes to ensure certainty, uniform application, and enforceability.

Harmonise the IBC with the Mediation Act, 2023: A coordinated framework should be developed, clarifying the respective roles of the Insolvency and Bankruptcy Board of India (IBBI) and mediation institutions under the Mediation Act. IBBI may be empowered to frame

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

insolvency-specific mediation rules, while institutional mediation infrastructure may be leveraged under the Mediation Act.

Adopt a stage-specific mediation framework: Mediation should be formally categorised based on insolvency stages:

- Pre-institution and pre-admission mediation for claim reconciliation and settlement, and
- limited post-admission mediation for inter-creditor disputes, claim verification, and regulatory coordination without interfering with CoC commercial wisdom or CIRP timelines.

Introduce strict timelines and safeguards for mediation: Any mediation undertaken in insolvency must be strictly time-bound, with statutory outer limits and automatic termination triggers to prevent abuse or delay of the CIRP. Referral to mediation should not suspend statutory timelines unless expressly provided.

Clearly demarcate non-mediable matters: The law should expressly exclude fraudulent transactions, willful misconduct, and matters involving public interest or investigation from mediation. For non-fraudulent preferential or undervalued transactions, mediation may be permitted subject to CoC approval and judicial oversight.

Create a specialised cadre of insolvency mediators: A dedicated panel of insolvency mediators should be developed, comprising professionals with expertise in insolvency law, finance, valuation, and commercial negotiations. Accreditation, training, and continuous education standards should be prescribed by IBBI.

Empower adjudicating authorities with structured referral discretion: NCLTs should be statutorily empowered to refer suitable disputes to mediation based on defined criteria, supported by reasoned orders. Mediation reports may be placed on record to narrow issues without prejudicing substantive rights.

Encourage pre-admission mediation through institutional incentives: Similar to the Commercial Courts Act, structured pre-institution mediation mechanisms may be introduced for Sections 9 and selective Section 7 filings, encouraging early resolution and reducing avoidable insolvency admissions.

Build stakeholder confidence through awareness and guidance: Regulatory guidance, model mediation clauses, standard operating procedures, and case studies should be issued to familiarise creditors, insolvency professionals, and debtors with the benefits and boundaries of mediation in insolvency.

Position ADR as a system-efficiency tool, not a substitute for insolvency: Mediation should be positioned as a complementary mechanism that reduces friction, cost, and litigation burden, while preserving the primacy of the IBC's creditor-in-control model and time-bound resolution mandate.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

E. Way Forward- Policy Note

Going forward, the integration of Alternative Dispute Resolution, particularly mediation, into India's insolvency framework should be pursued as a calibrated and institutionally supported reform, rather than as an ad hoc judicial experiment. The objective must be to strengthen the efficiency of the Insolvency and Bankruptcy Code without diluting its creditor-in-control architecture or time-bound discipline.

A phased approach is advisable. In the immediate term, structured pre-institution and pre-admission mediation may be introduced for clearly defined categories of disputes, especially operational creditor claims and debt quantification issues. This would reduce avoidable insolvency admissions, conserve judicial capacity, and preserve enterprise value at an early stage. Simultaneously, limited post-admission mediation windows may be piloted for non-core disputes, such as claim reconciliation and inter-creditor issues, subject to strict timelines and CoC oversight.

In the medium term, statutory amendments should provide explicit legal recognition to mediation under the IBC, harmonised with the Mediation Act, 2023. Clear rule-making authority, preferably vested in the IBBI, would ensure uniform standards, enforceability of outcomes, and procedural certainty across jurisdictions.

Over the longer term, building institutional capacity will be critical. This includes developing a trained cadre of insolvency mediators, issuing detailed regulatory guidance, and sensitising creditors, insolvency professionals, and adjudicating authorities to the appropriate and disciplined use of mediation. With these safeguards in place, ADR can evolve into a trusted support mechanism, reducing friction, accelerating outcomes, and reinforcing India's insolvency ecosystem as efficient, predictable, and globally aligned.

F. Issue-Recommendation Matrix

Issue-Recommendation Matrix ADR Integration within the Insolvency Framework	
Key Issue Identified	**Policy Recommendation**
ADR, particularly mediation, is not statutorily embedded within the IBC framework	Introduce explicit enabling provisions under the IBC recognising mediation as a supplementary mechanism, aligned with the Mediation Act, 2023, with a clearly defined scope and safeguards
Insolvency proceedings are burdened with non-core commercial disputes	Institutionalise stage-specific mediation to divert claim quantification disputes, inter-creditor disagreements, and contractual issues away from NCLT benches
Absence of a structured pre-institution and pre-admission mediation mechanism	Mandate or strongly encourage pre-institution and pre-admission mediation, especially for Section 9 and suitable Section 7 applications, to prevent avoidable CIRP initiation
Creditor-in-control model limits consensual resolution after admission	Permit calibrated post-admission mediation for narrowly defined dispute categories without diluting CoC commercial wisdom or statutory timelines

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue-Recommendation Matrix ADR Integration within the Insolvency Framework	
Key Issue Identified	**Policy Recommendation**
Jurisdictional ambiguity between the IBC and the Mediation Act, 2023	Clearly allocate insolvency-related mediation oversight and rule-making authority to IBBI, in coordination with the Mediation Council of India
Risk of mediation being misused as a delay tactic	Prescribe strict timelines, limited referral windows, and automatic reversion to CIRP on mediation failure to protect time-bound resolution
Inapplicability of ADR to fraud and PUFE matters is not clearly articulated	Explicitly exclude fraudulent and wilful misconduct cases from mediation, while permitting negotiated settlement of non-fraudulent preferential or undervaluation disputes
Lack of specialised insolvency mediators with commercial expertise	Create a dedicated cadre of insolvency mediators trained in finance, valuation, restructuring, and stakeholder negotiation
Limited acceptance of mediation among lenders and professionals	Undertake targeted sensitisation and capacity-building programmes for CoC members, Insolvency Professionals, and regulators
Absence of standardised mediation procedures and outcomes	Issue model mediation frameworks, reporting formats, and settlement templates to ensure consistency, enforceability, and judicial confidence
Judicial uncertainty in relying on mediated outcomes	Provide statutory clarity on the binding nature and admissibility of mediated settlements within insolvency proceedings
Under-utilisation of ADR as a systemic efficiency tool	Position ADR as a policy instrument for backlog reduction, value preservation, and relationship management, rather than as an alternative to insolvency

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

PANEL DISCUSSION XII: STRENGTHENING INSOLVENCY AND VALUATION ECOSYSTEM

Opening Remarks:

CA. Arpit Jagdish Kabra, Central Council Member, ICAI

Moderator:

CA. Rahul Madan, Managing Director, Indian Institute of Insolvency Professionals of ICAI

Panelists:

1. Mr. Yadwinder Singh, Manager, Insolvency and Bankruptcy Board of India
2. CA. Pravin R. Navandar, Insolvency Professional
3. CA. Manoj Kumar Anand, Insolvency Professional

Closing Remarks:

CA. Arpit Jagdish Kabra, Central Council Member, ICAI

A. Deliberations / Highlights of the Session

The concluding panel of RESOLVE brought together regulators, insolvency professionals, and valuation experts to reflect on the structural strengths and persistent gaps within India's insolvency and valuation ecosystem. The discussion was situated against a backdrop of nearly a decade of IBC implementation, proposed amendments to the Code, heightened reliance on valuation for creditor decision-making, and increasing operational complexity faced by professionals on the ground. The session sought to examine how valuation and insolvency practice must evolve in tandem to support value maximisation, certainty, and confidence within the insolvency framework.

Valuation under IBC: A Distinct and High-Stakes Exercise: The panel emphasised that valuation in insolvency is fundamentally different from conventional commercial valuation. Corporate debtors under CIRP often present incomplete records, disrupted operations, deteriorated assets, and significant information asymmetry. In such conditions, valuation ceases to be a routine compliance activity and becomes a critical determinant of creditor recoveries, resolution feasibility, and distribution outcomes. Panelists observed that valuers in insolvency must operate not merely as technical specialists, but as investigative professionals, capable of independently verifying information, conducting physical inspections, and identifying latent sources of value.

Impact of Proposed IBC Amendments on Valuation Significance: A key deliberation centred on the proposed amendments to the IBC, particularly the clarification that secured creditors are secured only to the extent of the realisable value of their security, with any residual exposure treated as unsecured. The panel noted that this marks a structural shift

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

with far-reaching implications. Accurate and defensible valuation will now directly influence creditor classification, voting dynamics within the Committee of Creditors (CoC), and commercial outcomes of resolution plans. As a result, valuation quality assumes heightened importance not only for creditors and resolution applicants, but also for adjudicatory scrutiny.

Data Asymmetry, Delays, and Value Erosion: The panel discussed systemic challenges that undermine valuation reliability, including prolonged delays at the admission stage, non-cooperation by promoters, incomplete handover of records, and ambiguous stay orders by appellate forums. These factors often result in technological obsolescence, employee attrition, customer erosion, and deterioration of assets even before CIRP formally begins. The panel observed that such delays defeat the time-bound philosophy of the IBC and significantly depress valuation outcomes, thereby impairing prospects of meaningful resolution.

Critical Role of IP-Valuer Coordination: Strong emphasis was placed on the interdependence between Insolvency Professionals (IPs) and valuers. Valuation under IBC cannot be conducted in isolation and require continuous coordination with IPs for access to statutory filings, banking data, operational records, asset locations, and key stakeholders. IPs were recognised as facilitators who enable physical verification, third-party confirmations, and reconciliation of data from multiple independent sources. Without such coordination, valuation risks are assumed to be assumption-driven rather than evidence-based, weakening their credibility before the CoC and adjudicating authorities.

Investigative Rigor and Identification of Intangible Value The panel highlighted the need for valuers to adopt an investigative and forensic mindset. Beyond verifying tangible assets, valuers must actively assess intangible value drivers such as licences, contractual rights, receivables, brand equity, intellectual property, and business synergies. In distressed entities, such intangibles are often obscured by operational disruption but may hold the key to enterprise revival. A realistic determination of fair value, the panel noted, is possible only when such hidden value elements are consciously identified and evaluated.

Methodological Debates: Asset-Based versus Enterprise Valuation: The discussion examined prevailing valuation methodologies under the IBC, noting that asset-based approaches continue to dominate insolvency valuations. While recognising their relevance in distress scenarios, panelists cautioned that excessive reliance on asset values may ignore enterprise potential, synergies, and future cash flows. At the same time, concerns were expressed against over-standardisation and the mechanical application of methods such as DCF without adequate grounding in operational realities. Valuation, it was reiterated, is both a science and an art, requiring professional judgment calibrated to ground conditions.

Regulatory Initiatives and Move towards Standardisation: The panel acknowledged and broadly welcomed regulatory initiatives undertaken by IBBI, including discussion papers on standardising valuation report formats, enhanced disclosure of assumptions, rationalisation of the number of valuers for MSMEs, introduction of the coordinator valuer concept, and increasing emphasis on enterprise value. These measures were viewed as necessary steps to reduce arbitrariness, improve comparability, and strengthen stakeholder confidence, while still preserving the space for professional judgment.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Divergent Valuation Outcomes and the Coordinator Valuer Concept: A recurring concern discussed was the significant divergence often observed between valuation reports submitted by multiple valuers. Such disparities create uncertainty for the CoC and frequently become focal points of dispute. The proposed introduction of a Coordinator Valuer was examined as a mechanism to harmonise assumptions, reconcile methodologies, and provide coherence to valuation outcomes. The panel clarified that the intent is not to override individual opinions, but to reduce unexplained variance and enhance the usability of valuation inputs.

Practical Insights from Ground Experience: Practitioners shared practical approaches for improving valuation accuracy, including engagement with local market participants, reference to scrap markets for distressed plant and machinery, use of circle rates as guidance for land valuation, and adoption of market-aligned assumptions rather than inflated book values. These insights underscored the importance of realism and contextual understanding in insolvency valuations.

Concluding Reflections: The panel concluded that strengthening India's insolvency and valuation ecosystem requires a combination of regulatory clarity, professional discipline, investigative rigor, and institutional coordination. Valuation has emerged as a central pillar of the insolvency framework, directly influencing creditor confidence and resolution outcomes. Aligning valuation practices with the commercial objectives of the IBC, while addressing systemic delays and information gaps, was identified as essential for achieving consistent, credible, and value-maximising insolvency resolutions.

B. Key Takeaways

- ✓ Valuation is no longer a compliance formality - under the IBC, it has become a decisive factor influencing creditor recoveries, resolution feasibility, and classification of claims.
- ✓ Insolvency valuation is structurally different from conventional valuation, as distressed entities often lack reliable data, operational continuity, and complete asset visibility.
- ✓ Proposed IBC amendments significantly elevate the importance of accurate valuation, especially where secured claims are recognised only to the extent of realisable security value.
- ✓ Delays in admission and promoter non-cooperation materially erode value, undermining both going-concern potential and credibility of valuation outcomes.
- ✓ Strong coordination between Insolvency Professionals and valuers is essential, as valuation in insolvency cannot be performed in isolation or on management representations alone.
- ✓ Valuers must adopt an investigative and forensic mindset, including physical verification of assets and independent corroboration of data.
- ✓ Identification of intangible and latent value drivers is critical, as licences, contracts, brand equity, and receivables often hold revival potential in distressed entities.
- ✓ Excessive reliance on asset-based valuation risks undervaluing enterprise potential, while over-standardisation may suppress necessary professional judgment.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

- ✓ Divergent valuation outcomes weaken stakeholder confidence, making reconciliation mechanisms such as the coordinator valuer concept increasingly relevant.
- ✓ Regulatory initiatives toward standardisation and enterprise-value orientation are timely, but must balance consistency with flexibility to reflect ground realities.

C. Issues & Challenges Identified

Data asymmetry and unreliable information environment: Insolvency valuations are frequently conducted in the absence of complete, accurate, or contemporaneous financial and operational data. Non-cooperation by promoters, missing records, outdated asset registers, and lack of system access significantly impair the ability of valuers to form reliable assumptions, leading to defensibility risks and depressed valuation outcomes.

Delays in admission and commencement of CIRP: Prolonged admission timelines before NCLT result in asset deterioration, loss of employees, customer attrition, and technological obsolescence even before the formal insolvency process begins. These delays structurally bias valuations downward and defeat the objective of time-bound value preservation.

Inconsistent valuation methodologies and outcomes: Significant divergence between valuations submitted by multiple valuers creates uncertainty for the Committee of Creditors, increases litigation risk, and weakens confidence in the valuation process. The absence of harmonised assumptions and benchmarks often results in unexplained disparities rather than reasoned professional differences.

Over-reliance on asset-based valuation in distressed cases: Despite the IBC's objective of resolution and revival, valuation exercises continue to disproportionately focus on asset-based approaches, overlooking enterprise value, business synergies, tax attributes, and revival potential. This skews decision-making towards liquidation rather than resolution.

Difficulty in valuing intangibles and contingent value drivers: Assets such as licences, contracts, brand value, receivables, and embedded synergies are often inadequately assessed due to a lack of documentation, uncertainty of transferability, or methodological complexity. This results in systematic undervaluation of viable businesses.

Limited coordination between Insolvency Professionals and valuers: In practice, valuation exercises are sometimes treated as parallel or outsourced functions rather than integrated components of the resolution process. Inadequate facilitation of site access, third-party confirmations, and data triangulation undermines valuation robustness.

Professional risk and regulatory exposure for valuers: Heightened regulatory scrutiny and judicial review, coupled with unclear standards in distressed scenarios, expose valuers to disproportionate professional risk. This may encourage conservative assumptions, further depressing value estimates.

Tension between standardisation and professional judgment: While standardised templates and formats improve consistency, excessive rigidity risks converting valuation into a mechanical exercise. Insolvency valuation requires context-specific judgment, and over-standardisation may fail to capture economic reality.

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Impact of stay orders and procedural uncertainty: Ambiguous or blanket stay orders during appellate proceedings often paralyse operations without clarity on permissible actions. This uncertainty accelerates value erosion and complicates valuation assumptions regarding going-concern status.

Limited stakeholder understanding of valuation limitations: Creditors and other stakeholders often expect precision from valuations despite the inherent uncertainty of distressed environments. This expectation gap contributes to disputes, repeated valuation requests, and erosion of trust in professional outputs.

D. Suggestions and Recommendations

Strengthen information access and promote cooperation mechanisms: There is a pressing need to reinforce statutory obligations for the timely and complete handover of records, systems access, and asset information by promoters and management. Clear consequences for non-cooperation should be operationalised to ensure that valuation and resolution are based on verifiable data rather than assumptions.

Expedite admission to preserve valuation integrity: Admission-stage delays must be minimised through procedural streamlining and capacity augmentation at NCLT. Faster admission will reduce pre-CIRP value erosion and enable valuations to reflect realistic going-concern potential rather than distressed liquidation bias.

Promote harmonised valuation frameworks with calibrated flexibility: Standardised valuation report formats, common disclosure requirements, and baseline assumptions should be implemented to improve consistency, while explicitly preserving space for professional judgment in sector-specific and distressed contexts.

Institutionalise the coordinator valuer mechanism: The coordinator valuer concept should be formally adopted to reconcile methodologies, assumptions, and data sources between multiple valuers. This will reduce unexplained valuation divergence and enhance the usability of valuation outputs for CoCs.

Shift emphasis towards enterprise value and revival potential: Valuation guidance under the IBC should explicitly encourage assessment of enterprise value, synergies, tax attributes, and business continuity prospects, rather than defaulting to asset-only or scrap-based approaches.

Mandate closer IP-valuer collaboration: Clear best-practice protocols should be issued requiring Insolvency Professionals to actively facilitate valuation through site access, third-party confirmations, record reconciliation, and operational insights. Valuation should be treated as an integrated element of the resolution process.

Develop guidance for valuation of intangibles in insolvency: Sector-specific guidance notes should be issued for identifying and valuing intangibles such as licences, contracts, brands, receivables, and embedded synergies, ensuring these elements are not routinely discounted due to complexity.

Provide regulatory safe-harbours for good-faith valuation judgments: To mitigate defensive valuation practices, regulators should clarify that well-documented, good-faith

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

professional judgments made in distressed environments will be assessed contextually, reducing undue fear of retrospective scrutiny.

Ensure clarity in stay orders and procedural directions: Appellate and adjudicating authorities should provide precise directions when granting stays, clarifying permissible operational and valuation activities to prevent unnecessary paralysis and value destruction.

Enhance stakeholder literacy on insolvency valuation: Structured orientation programmes for CoC members and stakeholders should be introduced to build realistic expectations regarding valuation uncertainty, assumptions, and limitations in distressed scenarios, thereby reducing disputes and repeated valuation requests.

E. Way Forward-Policy Note

Going forward, strengthening India's insolvency and valuation ecosystem requires a shift from fragmented, compliance-driven practices to an integrated, outcome-oriented framework aligned with the core objective of value maximisation under the Insolvency and Bankruptcy Code. Valuation must be recognised not merely as a statutory input, but as a strategic enabler of resolution quality, creditor confidence, and revival outcomes.

Priority should be accorded to early-stage stabilisation of the insolvency process, particularly through faster admissions, improved promoter cooperation, and seamless access to information. Preserving enterprise value before and during CIRP is critical to ensuring that valuation reflects revival potential rather than post-facto distress.

Regulatory efforts should focus on harmonising valuation standards and practices while safeguarding professional judgment. Standardisation must reduce arbitrariness and litigation without diluting the flexibility needed to address sector-specific realities and distressed business models. The formal adoption of mechanisms such as the coordinator valuer can play a pivotal role in achieving this balance.

A collaborative IP-valuer framework should be institutionalised, positioning valuation as a joint exercise grounded in verified data, physical assessment, and commercial insight. This collaboration is essential to uncover hidden value in intangibles and enterprise synergies that are often overlooked in distressed situations.

Finally, the ecosystem must move towards predictability, trust, and capability building. Clear regulatory guidance, proportionate oversight, and continuous stakeholder education will reduce defensive behaviour, improve confidence in valuation outcomes, and support timely, value-accretive resolutions. With these measures, valuation can evolve into a credible pillar supporting insolvency reform, economic stability, and sustainable enterprise revival.

F. Issue-Recommendation Matrix

Issue- Recommendation Matrix: Strengthening Valuation as a Pillar of Effective Insolvency Resolution	
Key Issue Identified	**Policy Recommendation**
Valuation under IBC is treated as a procedural compliance rather than a strategic input	Reposition valuation as a core pillar of value maximisation, explicitly linking valuation outputs to resolution strategy, plan evaluation, and commercial decision-making by the CoC

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Issue- Recommendation Matrix: Strengthening Valuation as a Pillar of Effective Insolvency Resolution	
Key Issue Identified	**Policy Recommendation**
Severe information asymmetry and non-cooperation by promoters	Strengthen statutory enforcement for the timely handover of records and assets, supported by early intervention powers for Insolvency Professionals and deterrent consequences for non-cooperation
Delays in NCLT admission leading to value erosion before CIRP	Introduce stricter admission-stage discipline and minimum information thresholds at filing to stabilise enterprises early and preserve valuation integrity
Lack of uniformity and comparability in valuation reports	Implement standardised valuation report formats with mandatory disclosure of assumptions, methodologies, sensitivities, and limitations
Wide divergence between multiple valuer outcomes	Operationalise the Coordinator Valuer framework to harmonise assumptions and methodologies while preserving independent professional judgment
Over-reliance on asset-based valuation, ignoring enterprise value	Encourage balanced use of enterprise valuation approaches, including DCF and synergy-based assessments, especially in going-concern resolutions
Inadequate assessment of intangible assets in distressed companies	Mandate structured evaluation of intangibles such as licences, contracts, brands, receivables, and operational synergies within valuation exercises
Weak coordination between Insolvency Professionals and valuers	Institutionalise a collaborative IP-valuer interface covering data access, site verification, reconciliation, and documentation standards
Regulatory uncertainty around evolving valuation expectations	Provide consolidated regulatory guidance aligning IBBI initiatives, valuation standards, and judicial principles to reduce interpretational risk
Valuation outcomes are vulnerable to litigation and post-facto challenge	Improve defensibility through enhanced documentation, assumption reconciliation, and transparent linkage between valuation conclusions and available evidence

*****

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Composition of the Insolvency & Valuation Standards Board

CA. Gyan Chandra Misra, Chairman
CA. Rajesh Sharma, Vice-Chairman
CA. Charanjot Singh Nanda, President (Ex-officio)
CA. Prasanna Kumar D, Vice-President (Ex-officio)
CA. Jay Chhaira
CA. Piyush Sohanrajji Chhajed
CA. Chandrashekhar Vasant Chitale
CA. Vishal Doshi
CA. Arpit Jagdish Kabra
CA. Durgesh Kumar Kabra
CA. Purushottamlal Khandelwal
CA. Mangesh Pandurang Kinare
CA. Priti Paras Savla
CA. Babu Abraham Kallivayalil
CA. Dayaniwas Sharma
CA. Sripriya Kumar
CA. Ravi Kumar Patwa
CA. Satish Kumar Gupta
CA. Pankaj Shah
CA. Sanjay Kumar Agarwal
CA. Pramod Jain
CA. (Dr.) Sanjeev Kumar Singhal
Shri Sanjay Sharan, Indian Postal Service Group A (1989)
Shri Manoj Kumar Sahu, DII in O/o DGCoA
Shri Mukhmeet Singh Bhatia, IAS-1990, (Retd)

Secretary to the Board

CA. Sarika Singhal

*****

https://resolve.icai.org/
Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm



CONVENTION SECRETARIAT

Insolvency & Valuation Standards Board
The Institute of Chartered Accountants of India

ICAI Bhawan, A-29, Sector-62, Noida-201309

Downloaded by: Deepak Kumar | 10 Nov 2026, 12:03 pm