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THE JOURNAL FOR CORPORATE PROFESSIONALS



Focus on...
**Insolvency and
Bankruptcy Code, 2016**



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01 >> Meeting of ICSI delegation with Hon'ble Minister of Finance and Corporate Affairs – Clockwise from Left: Arun Jaitley (Hon'ble Union Minister for Finance and Corporate Affairs), CS Ashish C Doshi, CS Mamta Binani, CS Vineet K Chaudhary and CS Dinesh C Arora.

02 >> Arun Jaitley (Hon'ble Union Minister for Finance and Corporate Affairs) engrossed in ICSI publication.

03 >> National Symposium on Goods and Services Tax held at Bikaner - Chief Guest Arjun Ram Meghwal (Hon'ble Union Minister of State for Finance and Corporate Affairs) being welcomed among others by CS (Dr.) Shyam Agrawal, CS Surender Harsh and CS Dinesh C. Arora.

04 >> CS Mamta Binani seen interacting with Krishna Raj (Hon'ble Minister of State, Ministry of Women and Child Development) while CS Sonia Baijal looks on.

05 >> Meeting of ICSI delegation with Chairman NCLAT – CS Mamta Binani and CS Vineet K Chaudhary seen presenting a bouquet to Hon'ble Justice S.J. Mukhopadhaya (Former Justice Supreme Court of India and NCLAT Chairman).

06 >> Meeting of ICSI delegation with President, NCLT – CS Mamta Binani presenting a bouquet to M M Kumar(President, NCLT). Also seen in the picture CS Vineet K Chaudhary.

07 >> Meeting of ICSI delegation with Director (SFIO) – CS Mamta Binani presenting a bouquet to Nilimesh Baruah [Director (SFIO)]. Also seen in the picture CS Vineet K Chaudhary.

08 >> Meeting of ICSI delegation with Revenue Secretary, Ministry of Finance – CS Mamta Binani seen interacting with Dr. Hashmukh Adhia (Revenue Secretary, Ministry of Finance). Also present on the occasion CS Dinesh C Arora and Preeti Kaushik Banerjee.



09 >>> India Banking Reforms Conclave 2016 – CS Mamta Binani seen receiving a memento from Kailashnath Adhikari (MD, Governance Now, SAB TV Group). Others standing from Left: CA M Devaraja Reddy (President, ICAI), Ashokkumar Chauhan (MD & CEO, BSE Ltd.) and S S Mundra (Deputy Governor, RBI).

10 >>> Meeting of Empowered Committee of State Finance Ministers on Goods and Services Tax with apex Chambers of Commerce and Industry, Trade Organisations and Professional Bodies - A view of the ICSI delegation – Sitting from Left: CS P K Mittal, CS Mamta Binani, CS (Dr.) Sanjiv Agarwal, CS Sanjeev Malhotra and CS Dinesh C Arora.

11 >>> Meeting of Empowered Committee of State Finance Ministers on Goods and Services Tax with apex Chambers of Commerce and Industry, Trade Organisations and Professional Bodies - Group photo of ICSI delegation with Dr. Amit Mitra (Chairman of the Empowered Committee).

12 >>> Dr. Amit Mitra seen with CS Mamta Binani.

13 >>> The Institute of Certified Public Secretaries of Kenya – Annual International Conference on Good Governance: Transforming Institutions for Higher Performance – CS Makarand Lele and CS Mamta Binani seen with foreign delegates.

14-15 >>> Hindustan Times Shine HR Conclave – CS Mamta Binani addressing at the conclave. (Right) - A view of the participants at the conclave.

16 >>> Group photo of ICSI delegation at the conclave.

17 >>> Lucknow Chapter – Presentation on Income disclosure Scheme, 2016 – Standing from Left: CS Anuj K Tiwari, CS Geetika Keswani, Dr. Neil Jain (IRS, Income Tax Commissioner, Lucknow) CS Mamta Binani and CS Amit Gupta.

17th National Conference of Practising Company Secretaries



18 >>> 17th National Conference of Practising Company Secretaries – Press Conference – Sitting on the dais from Left: CS G S Sarin, CS Manish Aggarwal, CS Ashish Garg, CS Mamta Binani, CS Vineet K Chaudhary and CS Dinesh C Arora.

19-22 >>> Address by CS Vineet K Chaudhary, CS Ashish Garg, CS Mamta Binani and Chief Guest A R Kohli (Hon'ble Former Governor of Mizoram) at the Conference.

23 >>> Release of Conference Souvenir by Chief Guest A R Kohli.

24 >>> CS Mamta Binani seen presenting a memento to Chief Guest A R Kohli. Others standing from Left: CS Dinesh C Arora, CS Vineet K Chaudhary, CS Ashish Garg, CS Manish Gupta and CS G S Sarin.

25 >>> Release of ICSI publication Guidance Note on Secretarial Audit (Release 1.3) by CS Upender Gupta (Commissioner GST).

26 >>> Release of ICSI publication NCLT and NCLAT Manual - Standing from Left: CS Gopalakrishna Hegde, CS S K Agrawala, CS Sanjay Grover, CS U K Chaudhary, CS Anil Bhargwaj (Advisor (Eco.), CCI), CS Saurabh Kalia and CS Amit Gupta.

17th National Conference of Practising Company Secretaries



27 >>> Release of ICSI publication Guidance Note on AOC – 4 – On the dais from Left: Rajesh Sharma, CS Nesar Ahmad, Anupam Malik (Addl. Labour Commissioner, Haryana), CS Pavan Kumar Vijay and CS Ranjeet Kumar Pandey.

28 >>> Release of Image makeover Workshop Brochure – Standing from Left: CS Ashish Garg, CS Dinesh C Arora, CS Vineet K Chaudhary, Kiran Oberoi Vasudev (Chairperson , QRB, ICSI), CS Mamta Binani, Hon'ble Justice M M Kumar (President, NCLT), CS Manish Gupta and CS G S Sarin.

29-30 >>> Address by Kiran Oberoi Vasudev (Chairperson , QRB, ICSI) and Hon'ble Justice M M Kumar (President, NCLT).

31 >>> CS Mamta Binani presenting a memento to Hon'ble Justice M M Kumar (President, NCLT) while Kiran Oberoi Vasudev looks on.

32 >>> CS Vineet K Chaudhary presenting a memento to Kiran Oberoi Vasudev (Chairperson , QRB, ICSI) while CS Mamta Binani Looks on.

33 >>> Group photo – Hon'ble Justice M M Kumar and Kiran Oberoi Vasudev seen with President, Past Presidents, Council Members, past Council Members, NIRC Members, Managing Committee Members of Chandigarh Chapter and team ICSI from Headquarters.

Celebration of GST Awareness Month



34-36 >>> Address by CS (Dr.) Shyam Agrawal, Chief Guest Arjun Ram Meghwal (Hon'ble Union Minister of State for Finance and Corporate Affairs) and Dr. Gaurabh Vallabh (Prof. & Chairperson, Accounting and Finance, XLRI School of Business & Human Resource) at the National Symposium on GST held at Bikaner.

37 >>> Release of poster on GST: Boosting India's Growth – On the dais from Left: CS Laxmi Chand Purohit, CS Surender Kumar Harsh, CS Dinesh C Arora, Chief Guest Arjun Ram Meghwal, CS (Dr.) Shyam Agrawal, MLA Gopal Krishan Joshi, CS Narayan Das Daga, CS Nitesh Ranga and CS Reena Bala.

38 >>> Bhubaneswar Chapter - Full day workshop on GST - P.K. Biswal (Addl. Secretary, Planning and Convergence, Govt. of Odisha) addressing. Other sitting on the dais from Left: CS Priyadarshi Nayak, Anil Sood (Advocate), CS Ashok Kumar Mishra and CS Surendra Nath Mallick.

39 >>> Jaipur Chapter – Half-day Seminar on GST held at Sikar – CS (Dr.) Shyam Agrawal addressing. Others sitting on the dais from Left: CS Rahul Sharma, CA Sushil Ginodia, Ratan Jaldhari (MLA, Sikar), Pawan Modi (Eminent Industrialist) and Sunil Mor (President Sikar Tax Bar Association).

40-41 >>> Jodhpur Chapter – Programme on GST held at Jaisalmer – CS (Dr.) Shyam Agrawal addressing. (Right) - A view of the participants at the programme.

43 >>> Pune Chapter - Full day programme on GST – A view of the guest speaker and the dais.

42 >>> Mysore Chapter - GST programme held jointly with CII, Mysore – On the dais from Left: Ravi Prasad (Jt. Commissioner, Commercial Taxes, Govt. of Karnataka), K V Satya Prakash (Addl. Commissioner, Commercial Taxes, Govt. of Karnataka), K Balamurugan (Addl. Commissioner, Ministry of Finance, Deptt. of Revenue, Govt. of India), Dr. N Muthukumar (Chairman, CII, Mysore), Siddharth Bhatt (Laxmikumar & Sridharan) and CS M C Bhansali.

Celebration of GST Awareness Month



Other Events



- 44 >>> ICSI – CCGRT - Workshop on GST – Sitting from Left: Dr. Rajesh Agrawal, Chief Guest R Sekar and CS (Dr.) Sanjiv Agrawal.
- 46 >>> Modinagar Chapter - Programme held at Modinagar.
- 48 >>> Ludhiana Chapter – Programme on An Overview and Salient Features of Model GST Law – from Left clockwise: CS Manpreet Kaur, CS Madan Lal Arora, CS P S Bathla and CS Jatinder Singh discussing model GST Law.
- 50 >>> Ranchi Chapter – Interactive meet with members and students – Group photo of members with CS Mamta Binani and CS Sanjeev K Dikshit.

- 45 >>> A view of the invitees and delegates at the ICSI – CCGRT workshop.
- 47 >>> Surat Chapter - Speaker and the participants at the GST programme held at Surat.
- 49 >>> Agra Chapter - Programme held at Agra.
- 51 >>> Ranchi Chapter – Interactive meet with members and students – Group photo of students with CS Mamta Binani and CS Sanjeev K Dikshit.



- 52 >>> National Seminar on NCLT and NCLAT at Indore – Valedictory Session - CS Ashish Garg addressing.
- 54 >>> Bhayander Chapter - Full Day Seminar on National Company Law Tribunal – Law & Practice - From Left: CS Priyanka Bajaj, CS Sunil Agarwal, CS Manoj Mimani, CS Prakash Pandya, CS Praveen Soni, and CS Manish Baldeva.
- 57 >>> SIRC Foundation Day Celebration and Seminar – On the dais from Left: CS R Rajesh, CS Sivakumar P, CS Rajendran S and CS Mohan Kumar A.
- 59 >>> EIRC - Seminar on Corporate Governance, NCLT and GST - Standing from Left: CS Rajesh Poddar (Co-Chairman, Governance Task Force, CII Eastern Region & Deputy Company Secretary, ITC Ltd.), CS Sandip Kumar Kejriwal, Moley Banerjee (Chairman CII-ER Governance Task Force and MD, Linda India Ltd.), Chief Guest Jyoti Jindger (Adviser CII), Guest of Honour Bibekananda Mohanty (RoC, MCA) and A Roychowdhury (Deputy Director, CII, Eastern Region).

- 53 >>> A view of the invitees, dignitaries and delegates at the National Seminar.
- 55-56 >>> Thane Chapter – Seminar on NCLT and NCLAT Rules – CS Prakash Pandya addressing. (Right) - A view of the audience at the seminar.
- 58 >>> A view of the invitees, dignitaries and delegates.
- 60 >>> Rajkot Chapter – Foundation Day Celebration - Dr. Darshita Shah (Dy Mayor, Rajkot) being welcomed by CS Purvi Dave.



- 61 >>> Hyderabad Chapter - Panel Discussion on Gender Diversity in Corporate Board Room led by President at Hyderabad - Group photo: CS Mamta Binani, CS Ahalada Rao V, Dr. PVS Jagan Mohan Rao, CS Mahadev Tirunagari, CS Kavitha Rani Sakhamuri, CS Shalini Deen Dayal, CS Vasudeva Rao Devaki along with the participants.
- 62 >>> Hyderabad Chapter – ICSI President's visit to Center of Excellence, Hyderabad – Sitting from Left: CS Sudhir Babu C, CS Ahalada Rao V and CS Mamta Binani.
- 63 >>> Hyderabad Chapter - CS Mamta Binani inaugurated ICSI-Hyderabad Chapter Foundation Day month and first to sign the signature campaign banner of ICSI GST-CSR 5K Walk.
- 64 >>> Hyderabad Chapter - Group photo – Standing among others CS Mamta Binani, CS Ahalada Rao V, CS Sudhir Babu C, CS Ramakrishna Gupta R, CS Mahadev Tirunagari.
- 65 >>> Flag off - ICSI GST-CSR 5K WALK – Present among others CS Ahalada Rao V, CS Ramakrishna Gupta R, CS Mahadev Tirunagari, Dr K Laxman (President, BJP, Telangana State & MLA), Chintala Ramachandra Reddy (MLA), Ramachandra Rao (MLC), M. Srinivas (Commissioner ,Customs, Central Excise & Service Tax), Daivagna Sharma (Numerologist) and Father of P V Sindhu, Silver medal achiever in RIO Olympics.
- 66 >>> Gathering of students/members participated in ICSI GST-CSR 5K WALK.
- 67-68 >>> Kanpur Chapter – Seminar on NCLT/NCLAT – Standing from Left: CS Kaushal Saxena, CS Sameer Shukla, CS Vineet K Chaudhary, CS Amit Gupta, CS Mamta Binani, CS P K Mittal, CS Vaibhav Shukla, CS Shruti Agarwal and CS Ankur Srivastava. (Centre) - Rishabh Handa (Student, AIR First Rank in Executive Level Exam.) being felicitated by CS Mamta Binani.
- 69 >>> EIRC - Flag hoisting on the occasion of Independence day celebration.
- 70 >>> Flag hoisting on the occasion of Independence day celebration at ICSI Hq.

Insolvency and Bankruptcy Code, 2016

» P-23

Rakesh Wadhwa

Insolvency and Bankruptcy Code, 2016 is the master law through consolidation/modification of various laws such as Sick Industrial Companies (Special Provisions) Act, 1985, SARFAESI, Presidency Towns Insolvency Act, Provincial Insolvency Act, Companies Act and various adjudicating authorities such as BIFR, DRT, High Courts having jurisdiction on the subject matters related to insolvency, bankruptcy, liquidation/winding up of corporate entities, individuals, partnerships, etc. Enactment and implementation of IBC, 2016 will obviously expedite fast resolution of recovery proceedings, winding up proceedings, insolvency and Bankruptcy proceedings for cases filed by Creditors as well as debtors in the time bound manners through professional's involvement in the form of Insolvency Professionals. A common platform in the form of IBC and NCLT is provided for creditors and debtors resolutions. There is no doubt that the success of the code depends on the effective implementation by the authorities. Hope this new code will achieve the objective for which it is enacted and will promote the ease of doing business in India at par with the international standards.

Insolvency and Bankruptcy Code –
A look from a common man's perspective

» P-29

M Balasubramanian

The Insolvency and Bankruptcy Code, 2016 offers a uniform, comprehensive insolvency legislation encompassing all companies, partnerships and individuals. NCLT and Debt Recovery Tribunal play a vital role as an Adjudicating Authority. The code facilitates time-bound process for insolvency resolution and liquidation.

The Insolvency and Bankruptcy Code, 2016

» P-32

G Sriram

The Insolvency and Bankruptcy Code, 2016 provides for the constitution of a new insolvency regulator i.e., the Insolvency and Bankruptcy Board of India (Board). Its role includes: (i) overseeing the functioning of insolvency intermediaries i.e., insolvency professionals, insolvency professional agencies and information utilities; and (ii) regulating the insolvency process. Insolvency and Bankruptcy Board of India (IBBI) will be the regulatory body responsible for framing the rules, code of conduct and registration of the above agencies.

Insolvency and Bankruptcy Code, 2016

» P-37

Dr. Mahesh Thakar & Jyotmala Thakar

The Government has during recent years, taken the initiative of law reforms by introducing trendsetter laws like GST Act, Commercial Courts Act for disputes above Rs. 1 crore and now the much needed Insolvency and Bankruptcy Code, 2016. The law combines within its ambit the existing

legislation separately dealing with the cases involving corporates (Companies Act) and individuals (Provincial Insolvency Act). Insolvency has cascading effect on the persons having business transactions, employees, creditors and so on. The new law as such has separate parts wherein the corporates have been dealt with under Part II with 74 Sections and in Part III with 66 Sections provide for individual and partnership bankruptcy. The Debts Recovery Tribunal (DRT) will deal with the individual's bankruptcy and National Company Law Tribunal (NCLT) will deal with corporate insolvency matters. Insolvency will no longer be a luxury for the defaulters who drag on the litigations and enjoy other's money and time bound decisions at every stage will come.

Challenges in implementation of Insolvency
and Bankruptcy Code

» P-46

M R Umarji

Insolvency and Bankruptcy Code, 2016 which is expected to be brought into force shortly, will be throwing up many challenges in implementation. One major challenge for the trade, industry and commerce, is to adopt a policy of making all payments before due dates, and ensure that all financial commitments are honoured on time or face the consequence of an insolvency resolution application. There are also challenges for Ministry of Corporate Affairs to set up new entities such as, Insolvency Practitioners, I.P. Agencies, Insolvency and Bankruptcy Board of India, and Information Utilities. This article discusses various challenges in implementation of the IBC and what steps the affected parties are expected to take.

Corporate Insolvency Resolution Process –
Brief analysis and challenges

» P-50

Vineet K Chaudhary and Alka Kapoor

The Insolvency Resolution Process (IRP) under The Insolvency and Bankruptcy Code, 2016 provides mechanism by allowing creditors to assess the viability of a corporate debtor and to agree upon a plan for their revival or a speedy liquidation. The existing legal framework under which the primary onus to initiate a reorganisation process lies with the debtor and lenders could pursue distinct actions for recovery, security enforcement and debt restructuring. The time bound insolvency process within 180 days through appointment of resolution professional with National Company Law Tribunal as adjudicating authority for the insolvency process will give a big boost to ease of doing business in India by making revival and liquidation process easier.

Corporate Insolvency Resolution Process
under the Insolvency and Bankruptcy Code,
2016 - An analysis

» P-56

Nilesh Sharma

Insolvency and Bankruptcy Code, 2016 has been enacted to replace the existing provisions as to Insolvency / Bankruptcy of Corporates, Individuals and Partnership Firms. The major provisions of the Code include establishment of an Insolvency regulator i.e. Insolvency and Bankruptcy Board of India (IBBI), creation of a new class of professionals (i.e. Insolvency

Professionals) and Insolvency Professional Agencies (to develop professional standards, code of ethics and to exercise disciplinary role over IPs) and setting up of Information Utilities (who will collect, collate and disseminate information from companies and creditors). The cases in respect of corporates shall be adjudicated by NCLT and in respect of individuals and unlimited partnerships by DRTs and that the Appellate Jurisdiction shall be with NCLAT and DRATs respectively. With development of market for distressed businesses/assets and provision for availability of Finance for acquisition of the said businesses/assets, the IBC is likely to improve the rights of creditors especially the unsecured creditors and as a result will improve the credit availability in the market and reduce the cost of credit. The same will improve the competitiveness of Indian businesses and resultantly economic growth in the country.

Corporate Insolvency Resolution Process under the Bankruptcy Code and its impact on the Companies Act ➤ P-62

P H Arvind Pandian

This article considers in detail, the effect of the Bankruptcy and Insolvency Code on creditor's winding up in detail. Further, the article examines the procedure available to different kinds of creditors recognized under the Code and critiques the approach of the Code in so far as it seeks to replace discretion with mandatory terms of law. In line with this, the article, at appropriate instances, highlights the departures made by the Code from the previous regime of laws relating to bankruptcy and insolvency. It argues that the two-tier mechanism, set up around a creditor-based winding up system is a double edged knife, which may act as both an oppressor and a redresser for different situations. In conclusion, the article argues that the strength of this measure taken by the Parliament can only be determined by the nature of work done by the insolvency professionals, who shall stand to be the backbones of this mechanism.

Insolvency and Bankruptcy Code, 2016 - Fast Track Corporate Insolvency Resolution Process ➤ P-67

Hemant K Sharma

The essential idea behind the new law is that when a firm defaults on its debt, control shifts from the shareholders/promoters to a Committee of Creditors, who has 180 days in which to evaluate proposals from various players about resuscitating the company or taking it into liquidation. When decisions are taken in a time-bound manner, there is a greater chance that the firm can be saved as a going concern, and the productive resources of the economy (the labour and the capital) can be put to the best use. The fast track corporate insolvency resolution process has been introduced which shall be completed within a period of ninety days (90) from the insolvency commencement date and there can be only one extension of forty-five days (45). The adjudicatory authority will have the power to extend the process only if an application is filed by the resolution professional on the instructions of the creditors by a resolution passed at a meeting with seventy-five per cent (75%) votes of the committee of creditors. With the implementation of the Insolvency and Bankruptcy Code, the problem of delay has been reduced since the quick disposal of cases have maximized the recovery amount because of the

strict timelines within which the case has to be disposed of.

Information Utilities – Provider of Level Playing field in Insolvency and Bankruptcy Process ➤ P-71

S Eshwar

Under the present scheme of things, financial information about non-corporate borrowers is available only with the income-tax department and is not publicly accessible even under the Right to Information Act, 2005. The 'information utilities' contemplated under the Insolvency and Bankruptcy Code will help to overcome this deficiency. This article examines how information utilities will provide a level playing field in insolvency proceedings.

Position of Secured Creditor in the Winding up and in the Liquidation of Corporate Debtor ➤ P-74

G M Ramamurthy

The Insolvency and Bankruptcy Code, 2016 will now govern the whole gamut of insolvency except in the circumstances mentioned in Section 271 of the Companies Act, 2013. The position of secured creditor under liquidation is not the same as in the Companies Act, 2013 in the case of winding up. The Code has opened up new opportunities for insolvency professionals. The process of distribution of realisation of the assets has changed considerably under the Code. The Code aims at equitable distribution of the assets realised. Secured creditors are also permitted to make an application to the Adjudicating Authority (National Company Law Tribunal) if he faces resistance from the corporate debtor or any person connected with the secured asset in taking possession of, selling or otherwise disposing off the security. A correct understanding of the provisions of the Companies Act, 2013 and the Code will be of immense advantage to the Insolvency Professionals when the Code becomes operational. The person or entity to be considered as a secured creditor has also got enlarged due to SARFAESI Act. All these entities are now to acclimatise themselves with their position in winding up of a corporate debtor or in the liquidation of such debtor.

Winding up of Companies under the Insolvency and Bankruptcy Code, 2016 ➤ P-78

M L Sharma

The Insolvency and Bankruptcy Code, 2016 has made drastic changes with regard to winding up of companies. The Companies Act all along provided for winding up of companies on the ground of inability to pay debts. This ground for winding up has since been deleted from the Companies Act, 2013. It has been tagged with first compulsory resorting to corporate insolvency resolution process before going for liquidation on this ground under the Code. Such a provision shall also be applicable to Limited Liability Partnerships and other entities incorporated with limited liability under any other law for the time being in force. The Code has also shifted the provisions regarding voluntary winding up of companies from the Companies Act to the Code with some modifications, particularly doing away with members' voluntary winding up

and approval of creditors compulsory for voluntary winding up of corporate debtors. These provisions have been discussed in this article to give a layman's understanding of them.

Opportunities for Company Secretaries under the Insolvency and Bankruptcy Code, 2016 ➤ P-88

Mahesh A. Athavale and Anagha Anasingaraju

The Insolvency and Bankruptcy Code 2016 is set to become the law of the land in near future. It is touted to bring about a sea change in the way India will deal with insolvency, bankruptcy and winding up of corporate entities. The Code goes a step ahead and also brings within its ambit partnership firms and individuals. Even poor and marginalized sections of the society like farmers will also get covered under this Code. Insolvency Professionals have a huge and pivotal role to play in the scheme of things under the Code. Company Secretaries should be able to play this role effectively. This Code opens up new avenues of practice for Company Secretaries and other professionals. This Article aims to understand the scope and scheme of the Code and responsibilities and opportunities for Company Secretaries.

RESEARCH CORNER P-93

A Study of the separation of the position of Chairman and CEO and its impact on Corporate Governance ➤ P-95

Shiv Nath Sinha

The top two leadership roles in any company are the Chief Executive Officer (CEO) and the Chairman of the Board. A growing chorus of voices, from shareholder activists to regulators, is calling for public listed companies to separate the Chairman and CEO functions. The moot question is while the combination of the two roles in a single person may represent something of a risk factor but whether the separation of the two functions alone is a guarantee of the absence of risk. It is a debatable governance issue and, there is no clear substantiation that the separation of the two positions improves financial performance. This paper analyzes the relevant provisions prescribed under the Corporate Governance Code in UK, South Africa, Australia, OECD, USA and India. The paper also evaluates trend of the separation of the leadership role in the listed companies in India, USA & UK. Further, the paper measures the impact of the separation of the role on Return on Equity.

All India Research Paper Competition on Valuation ➤ P-101

National Training Programme Exclusive for Women Empowerment ➤ P-103

1st Global Congruence ➤ P-105

LEGAL WORLD

P-111

- LMJ: 11:09:2016 CLB does not have overriding jurisdiction over the Special Court, to try the cases relating to the transfer of tainted shares.[SC] • LW: 54:09:2016 Supreme Court appoints arbitrator. • LW: 55:09:2016 Supreme Court directs LIC to pay back wages and consequential benefits to workmen terminated 20 years ago. • LW: 56:09:2016 Since the workmen accepted retiral benefits there is no relationship left between the Corporation and the respondents and in such a situation further claim against the Corporation that it should treat the respondents to be Government servants and adjust their retiral benefits accordingly was totally untenable and wrongly allowed by the High Court.[SC] • LW: 57:09:2016 It is well-settled law that there is no difference between a contract of insurance and any other contract, and that it should be construed strictly without adding or deleting anything from the terms thereof. On applying the said principle, we have no doubt that a forcible entry is required for a claim to be allowed under the policy for burglary/house breaking. [SC] • LW: 58:09:2016 Supreme Court directs post-decisional public hearing with respect to environment clearance certificate. [SC]

FROM THE GOVERNMENT P-119

- Special Courts for speedy trial of offences under the Companies Act, 2013
- Companies (Share Capital and Debentures) Rules, 2014
- Spot Price Polling Mechanism
- Additional risk management norms for National Commodity Derivatives Exchanges
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Articles in Chartered Secretary

Guidelines for Authors

1. Articles on subjects of interest to the profession of company secretaries are published in the Journal.
2. The article must be original contribution of the author.
3. The article must be an exclusive contribution for the Journal.
4. The article must not have been published elsewhere, and must not have been or must not be sent elsewhere for publication, in the same or substantially the same form.
5. The article should ordinarily have 2500 to 4000 words. A longer article may be considered if the subject so warrants.
6. The article must carry the name(s) of the author(s) on the title page only and nowhere else.
7. The articles go through blind review and are assessed on the parameters such as (a) relevance and usefulness of the article (from the point of view of company secretaries), (b) organization of the article (structuring, sequencing, construction, flow, etc.), (c) depth of the discussion, (d) persuasive strength of the article (idea/argument/articulation), (e) does the article say something new and is it thought provoking, and (f) adequacy of reference, source acknowledgement and bibliography, etc.
8. The copyright of the articles, if published in the Journal, shall vest with the Institute.
9. The Institute/the Editor of the Journal has the sole discretion to accept/reject an article for publication in the Journal or to publish it with modification and editing, as it considers appropriate.
10. The article shall be accompanied by a summary in 150 words and mailed to ak.sil@icsi.edu
11. The article shall be accompanied by a 'Declaration-cum-Undertaking' from the author(s) as under:

Declaration-cum-Undertaking

1. I, Shri/Ms./Dr./Professor..... declare that I have read and understood the Guidelines for Authors.
2. I affirm that:
 - a. the article titled "....." is my original contribution and no portion of it has been adopted from any other source;
 - b. this article is an exclusive contribution for Chartered Secretary and has not been / nor would be sent elsewhere for publication; and
 - c. the copyright in respect of this article, if published in Chartered Secretary, shall vest with the Institute.
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 - b. shall abide by the decision of the Institute, i.e., whether this article will be published and / or will be published with modification / editing.
 - c. shall be liable for any breach of this 'Declaration-cum-Undertaking'.

(Signature)



विद्या ददाति विनयं विनयाद्याति पात्रतम्
पात्रत्वाद् धनमाप्नोति धनाद्धर्मं ततः सुखम्

(विद्या से विनय आती है, विनय से योग्यता आती है। योग्यता से धन आता है,
धन से धर्म और उसके बाद सुख आता है।)

(Knowledge makes you humble;
humility gives you character;
good character attracts wealth;
wealth can be used for doing good deeds.
This in turn leads to happiness in the world.)



Esteemed Professional Colleagues

feel elated for the humongous praise and compliments showered on the August issue of Chartered Secretary spotlighting GST. Staying in line, the nucleus of present issue is 'The Insolvency and Bankruptcy Code, 2016', the biggest economic reform next only to GST which was passed by the Parliament in May, 2016. Forthwith, India has multiple laws to deal with insolvency, which lead to protrusive delays in winding up procedure of any company. The Bankruptcy Code, consolidates the existing framework and creates a new institutional structure in our country. India ranks 136th in the World Bank's resolving insolvency ranking, which is below China, which ranks 55th and where it takes 1.7 years to resolve insolvency as compared to 4.3 years in India.

This Code is a welcome overhaul of the existing framework and a consolidated legislation for Insolvency and Bankruptcy of individuals, partnership firms, LLPs and Corporate sector that encourages entrepreneurs to head for a new start, while facilitating struggling firms to windup painlessly. The Code has imbibed the constructive attributes of the Bankruptcy System prevalent in the US and the UK, such as providing for a moratorium period during the resolution process, time-bound insolvency process etc. It paves the way for much needed reforms while focussing on creditor driven insolvency resolution.

The new Code introduces a deadline for the bankruptcy process. The Code is a step in the right direction sonorously and should warrant accessibility to enhanced credit. However, it will be equally vital that the

contour laid down by the Government is well implemented and executed. And, that is where the CS Fraternity has a great opportunity as well as responsibility. The Company Secretaries will emerge as expert insolvency professionals and will have a valuable role to play in the insolvency resolution process. The Code is a new generation law and requires capacity building of the experts emerging as insolvency professionals.

In view of this, it was decided to make 'The Insolvency and Bankruptcy Code, 2016', the 'polestar' of September issue of Chartered Secretary. I am contented to figure out that numerous brilliant scholars have sent remarkably intellectual contributions Pan-India. I believe that these contributions will add to wisdom of our readers.

On that note, let me continue apprising your goodselves about the steps taken by the Institute in its journey towards excellence:

44th National Convention of Company Secretaries in Ahmedabad

I am pleased to announce that the Institute is hosting its 44th National Convention of Company Secretaries at Ahmedabad, Gujarat from November 17-19, 2016 on an imperious theme "Powering Governance – Empowering Stakeholders: CS - The Governance Professional." Through meticulously chosen sub-themes, namely, 'CEOs Speak – Emulate Governance from Corporate Leaders', 'Looking Glass to 2022 – India at 75', 'Enhancing Skills – Finding the Way beyond Compliance',

'Digital Drive – Empowering Knowledge Economy', 'Learning Experience from Royal Majesties', 'Towards Meaningful Life', an attempt has been made to entice valuable deliberations to realize its core theme. Distinguished Intelligentsia from discrete spheres such as Government, Regulators, Academia, our own Profession and Corporate Sector will be enriching the esteemed gathering. Your participation will not only add to outstanding deliberations, but also render an opportunity for mutual give and take of experience with your professional colleagues from all over the country and abroad. I look forward for your gracious presence at Ahmedabad from 17-19 November this year.

20th Annual Conference of Institute of Certified Public Secretaries of Kenya

The Institute of Certified Public Secretaries of Kenya (ICPSK) organized its 20th Annual International Conference on August 17-19 at Mombasa. This high level Conference aimed at exploring the role of Good Governance in transforming both public and private sectors institutions for higher performance. ICSI was cordially invited to participate in this Conference amongst other judicious participants such as members of the ICPSK, Government Ministries, County Governments, Constitutional Commissions, Independent Offices, State Corporations, Semi-Autonomous Government Agencies, Private Companies and Consultancy Firms. On behalf of ICSI, I presented a research paper on e-governance practices in India during the session 'Improving Governance and Service Delivery through E-Government: The Case of India'.

Meetings

The Institute met following dignitaries with a view to explore opportunities towards joint participation in flagship government initiatives and contribution by our profession:

- Sh. Arun Jaitley, Hon'ble Minister of Finance & Corporate Affairs
- Mr. Arjun Ram Meghwal, Hon'ble Union Minister of State for Finance and Corporate Affairs
- Ms. Krishna Raj, Hon'ble Minister of State for Women and Child Development
- Sh. Hasmukh Adhia, Revenue Secretary, Department of Revenue, Ministry of Finance
- Hon'ble Justice Sh. S.J. Mukhopadhaya, Chairperson, NCLAT
- Hon'ble Justice Sh. M. M. Kumar, President, NCLT
- Sh. Upender Gupta, Commissioner, GST, Ministry of Finance.

Suggestions Submitted

With a view to make our contribution towards better Governance, we submitted our suggestions and representations to:

- The Ministry of Finance, Government of India
- The Ministry of Health & Family Welfare, Government of India
- The Ministry of Civil Aviation, Government of India
- The Ministry of Consumer Affairs, Government of India
- The Reserve Bank of India

Meeting with the Empowered Committee of State Finance Ministers

The Institute got the opportunity to be a part of the meeting of Empowered Committee of State Finance Ministers held to discuss GST related matters at New Delhi on August 30. During this meeting, lively and thought-provoking deliberations were made on distinctive facets of GST.

17th National Conference of Practising Company Secretaries

The 17th National Conference of Practising Company Secretaries hosted on August 12-13 at Kasauli, Himachal Pradesh witnessed a congregation of esteemed members from different parts of the country. Hon'ble Mr. A. R. Kohli, Former Governor of Mizoram and Hon'ble Justice Mr. M. M. Kumar, President, NCLT, graced the occasion as the Chief Guests at the Inaugural and Valedictory Sessions respectively. Further, Ms. Kiran Oberoi Vasudev, Chairperson, Quality Review Board, ICSI, was the Guest of Honour at the Valedictory Session. The two day programme encapsulated technical sessions/panel discussions on various contemporary themes like Startup India, Goods and Services Tax, Financial Risk Management, Insolvency and Bankruptcy Laws, Real Estate Act, Companies (Amendment) Bill, 2016, National Company Law Tribunal, Competition Law and Ease of Doing Business in India – Facilitations and Obstructions etc. addressed by eminent speakers from the Regulatory Bodies, Industry and Academia.

London Global Convention, 2016

I am pleased to inform you that the Institute of Company Secretaries of India (ICSI) is an Associate Partner with the Institute of Directors (IOD) in organizing its Annual '16th London Global Convention 2016' (in association with TIMES NOW) on 17-19 October, 2016 at London. The theme of the convention is 'Corporate Governance and Sustainability: Board's Oversight in a Challenging Global Economy'. It will be a pleasure to meet you all at London, it is a humble request to please block your diaries to make your esteemed presence at this Convention.

Insolvency and Bankruptcy Code, 2016

As a captain of the ICSI ship, it is my honor to share that ICSI is extending its wholehearted support to the Ministry of Corporate Affairs in the process of drafting Rules and Regulations relating to Insolvency Professionals, Insolvency Professional Agencies, Corporate Insolvency Resolution Process, Winding up Process etc. under the Insolvency and Bankruptcy Code, 2016.

National Symposium at Bikaner

The Institute organized National Symposium on Good and Services Tax at Bikaner on August 13. Sh. Arjun Ram Meghwal, Hon'ble Union Minister of State for Finance and Corporate Affairs graced the occasion as Chief Guest and addressed the gathering. A publication on 'Goods and Services Tax – A Guide' was also released on the occasion.

GST Awareness Month

Passage of Constitutional Amendment (122nd) Bill, 2014 in the Parliament is a historical milestone in India's journey towards global reforms. With a view to enrich our professionals about vivid facets of GST, the Institute commemorated August, 2016 as 'GST Awareness Month' and took various initiatives such as dedicating an issue of Chartered Secretary solely to GST, creating a GST Corner at the Institute's website, organizing Awareness Programs, GST Awareness walks, webinars, seminars, sharing of knowledge material and panel discussions etc.

GST Corner

The Institute is proactively taking capacity building initiatives in the domain

of proposed Goods and Services Tax. With a view to disseminate information about GST amongst the CS fraternity, a separate tab titled, 'GST Corner' has been created on the Institute's website containing knowledge material, updates, details of events etc. related to GST at link <http://www.icsi.edu/GSTCorner.aspx>.

Master Classes on GST

It gives us an immense pleasure to share with your goodselves that the Institute has launching a series of Master Classes on GST through webinars with a view to enrich CS professionals and students. You are urged to roll up your sleeves and get set to dive into this vast ocean of opportunities by clicking link <http://webcast.vouchpro.in/icsi190816>.

HR Conclave – A New Push to ICSI Placement Endeavours

ICSI believes in becoming a stepping stone for building careers for its members rather than just imparting education to them. Our placement team is always on its toes to unlock all possible job opportunities for the members to place them with leading companies Pan-India. Keeping this in mind, ICSI initiated first of its kind event and went a step further by organizing 1st HR Conclave of ICSI jointly with Hindustan Times Media (Shine.com) on August 30 at Hotel Leela, Ambience Island, Gurgaon. The event witnessed the presence of around 150 HR Heads from many leading Companies, MNC's, Banks, PSU's, Consultancies, Start-ups etc. who were apprised of different roles a Company Secretary can play to lead the companies on the path of excellence. The delegates expressed their ravishment and delight that a Statutory Body like ICSI has pioneered for taking such ponderous initiatives setting an example for others and is coming forward to get connected with Industry, which is in the interest of all stakeholders.

ICSI's key aim for this Conclave was to showcase to the potential recruiters 'Role and Importance of a Company Secretary'. We also released a new brochure "Company Secretary–Growth Carrier" which highlights multitude of roles a Company Secretary in employment can play for their company. On behalf of ICSI, I delivered the keynote address. A panel discussion on the topic "Restructuring the Organizational Design to be Future Ready" was organized on the occasion. The panelists for the same consisted of high profile HR leaders from large corporates. I assure my esteemed members that alike initiatives will be taken up in the future to ensure quality placements in industry for CS professionals.

ICSI National Award for Excellence in Corporate Governance and Corporate Social Responsibility

ICSI has been recognising governance initiatives of the corporates and since 2001; we are presenting Annual Awards for Excellence in Corporate Governance. This year, along with organizing 16th ICSI National Awards for Excellence in Corporate Governance, a new category of awards i.e. 1st ICSI National Awards for Excellence in Corporate Social Responsibility has also been instituted by the Institute to recognize CSR contributions of India Inc. The winners will be adjudicated by the learned jury led by Hon'ble Sh. V.N. Khare, Former Chief Justice of India. I humbly urge our esteemed members to ensure zestful participation of their companies for nomination for both these awards.

Secretarial Standards

The Ministry of Corporate Affairs (MCA) constituted a Committee to

examine the changes proposed in Secretarial Standards on Meetings of the Board of Directors (SS-1) and General Meeting (SS-2), as submitted by the ICSI. During the month of August, the Committee convened two meetings with the Institute to examine the proposed amendments to the Secretarial Standards. ICSI perspective was presented on proposed amendments and provided clarifications, wherever required by the Committee. After considering the above, the Committee will submit its report to MCA.

Submission of the Additional Information on the Companies (Amendment) Bill, 2016 before the Hon'ble Parliamentary Standing Committee on Finance

In the month of June, ICSI has submitted a Memorandum containing views and suggestions of the Institute on the Companies (Amendment) Bill, 2016. ICSI team led by myself had presented these views before the Hon'ble Parliamentary Standing Committee. During the month of August, additional required information was submitted to this Committee.

A Programme on 'Career as a Company Secretary' on Doordarshan

I feel pleased to share that Doordarshan National Channel telecasted a programme on 'Career as a Company Secretary' during its Live Show 'Good Evening India' on August 29 and I represented our revered profession in the show. We are captivated to receive positive feedback received from the viewers after telecast of this show.

Directors' Development Programmes for Effective Boards and Global Business Leaders

'Leadership and learning are indispensable to each other.' The Institute will very soon launch its Directors' Development Programme for Effective Boards and Global Business Leaders who are discharging the key role of directors. This programme is our flagship course for Directors and potential Independent Directors to equip them with latest skills, tools and framework to maximise Board's effectiveness, effective stakeholders' relationship, constructive relations with peers and ensuring high standards of Corporate Governance.

Global Congruence on International Corporate Governance Day

The Institute has declared the year 2016 as the "Corporate Governance Year". Keeping this in view, the Institute conceptualised idea of having a day declared by the UNO as 'International Corporate Governance Day' to be observed by every member country to symbolize the importance of Corporate Governance and to recreate and stand for the benefits of adopting good corporate governance practices. To take this initiative forward, ICSI is hosting its first ever Global Congruence on International Corporate Governance Day on 8-9 December, 2016 in Hyderabad. The Congruence is expected to witness participation from academia, industry and regulators across Globe. Being a Governance professional, I humbly urge CS fraternity to join this initiative of the Institute and make it a grand success.

Knowledge Treasure released at 17th PCS Conference

We seek pleasure in informing that to ensure dissemination of valuable presentations and other knowledge material of the 17th National Conference of Practising Company Secretaries among our esteemed members, the Souvenir-cum-Backgrounder and the presentations made by eminent faculties, have already been uploaded at ICSI website.

Further, following publications were also released at this Conference:

- Souvenir cum Backgrounder
- Guidance Note on Secretarial Audit (Release 1.3)
- Guidance Note on AOC-4
- NCLT and NCLAT – Manual
- Setting up of Practice by Company Secretaries
- Referencer on Board's Report-Revised Edition
- SEBI (LODR) Regulations 2015 – Debt Securities
- FAQs on Section 8 Companies
- Guidance Note on Code of Conduct
- CS in Practice - Areas of Recognition
- Udaan – Showcasing the Reach and Strength of the Profession of Company Secretaries
- CD containing ICSI Publications
- Brochure for Workshop on Image Makeover –The Confident You
- Brochure for Knowledge Essentiality Workshops on NCLT and NCLAT – Law and Practice

Release of Golden Leafs of ICSI National Conventions 1972- 2015

During 17th National PCS Conference, the ICSI for the first time compiled and released 'Golden Leafs of ICSI National Conventions 1972-2015' covering over four decades with a view to commemorate the glorious success of past National Conventions of ICSI. It gives glimpses of the golden yesteryears of ICSI Conventions and highlights the excerpts from the speeches of the distinguished speakers.

CS Olympiad

ICSI had signed a Memorandum of Understanding (MoU) with the Science Olympiad Foundation (SOF) for conducting the CS Olympiad for students of Classes 11 and 12 in schools across India. We believe that the free exploring mind of an individual is his most valuable asset in the world. Cut off dates for CS Olympiad are 15 September and 4 October, 2016. I request my esteemed members to encourage students from eligible classes to reap this opportunity and apply making use of link www.olympiad.info.

Launch of Online Courses

'When you know better, you do better.' To sharpen the axe of the Governance professionals, the Institute has launched the following online Courses in association with National Institute of Financial Management, Faridabad (NIFM):

- (a) **Certificate Course in Valuation:** The objective of the Course is to enhance the skills of Company Secretaries in carrying out the valuation assignment relevant in today's business environment.
- (b) **Diploma in Internal Audit:** This Course has been launched with the objective of augmenting the skills and knowledge of the members in the area of Internal Audit and opening up a vast world of opportunities in the field of Internal Auditing.

I request all esteemed members to enroll for this course to boost their expertise in the area of valuation and Internal Audit.

Conference on Ease of Doing Business

The Institute joined hands with FICCI, as a support partner in the

Conference on 'Ease of Doing Business: Distance to Destination' held at Federation House on August 05. Mr. Ramesh Abhishek, Secretary, DIPP, graced the occasion as the Chief Guest. The Conference offered an insight into understanding of the legal requirements and implications of the proposed amendments under the Companies Act, 2013 and the challenges which companies are still grappling with.

ICSI as a Support Partner at FIBAC - Banking Conclave, Mumbai

ICSI was the Support Partner in FIBAC-2016 organized on August 16-17 at Mumbai on the theme 'New Horizons in Indian Banking'. It is an Annual Global Banking Conference hosted by FICCI and Indian Banks' Association with renowned Boston Consulting Group (BCG) being the Knowledge Partner.

India Banking Reforms Conclave 2016 - Mumbai

The Institute represented as an Institutional Partner at the India Banking Reforms Conclave, 2016 organised by Governance Now and Public Policy Magazine at Mumbai on August 24. The main focus of the conclave to deliberate on challenges faced by Indian Banking Industry such as High Non-Performing Assets, Governance, Risk Management, HR Challenges and Transformations through Information and Communication Technologies. I represented the Institute in this Conclave and presented ICSI's views on 'Banking Reforms with CS as a Key Player'.

Workshops on Corporate Laws & Regulations, 2016

'Anyone who stops learning is old, whether twenty or eighty.' With a view to update professionals about the latest amendments in Corporate laws, the Institute has joined hands with the PHD Chamber as an associate partner in conducting workshop series on 'Corporate Laws & Regulations, 2016 (Recent Amendments)'. 3rd and 4th workshop in the series were organised on August 9 and 10 respectively covering topics on Appointment and Meeting of Directors, Audit, Compromise, Amalgamation and Winding Up, Insolvency Code, Acceptance of Deposits and FDI Policy, Takeover Code and Insider Trading, Securities Contract Act, Depositories Act etc.

Webinar on NCLT and NCLAT

As a part of the capacity building initiatives for members, ICSI has been conducting a series of webinars on NCLT and NCLAT with a special focus on transfer of cases earlier dealt by Company Law Board and the manner of presenting a case before the Tribunal as per NCLT Rules.

Income Declaration Scheme, 2016

The Institute is supporting the initiative of Income Declaration Scheme, 2016 by arranging for better dissemination of this Scheme amongst the CS fraternity by hosting a link on website <http://www.icsi.edu/IncomeDeclarationScheme2016.aspx>. Further, the Institute is also allocating slots on Income Declaration scheme in various Professional Development Programmes/Seminars/Conferences organized ICSI. One such half day programme was organized at PHD Chamber of Commerce, Lucknow on August 1 addressed by Dr. Neil Jain, Joint Commissioner, Income Tax Department.

Release of e-book Pratibimb-Transcending Barriers

'Pratibimb-Transcending Barriers' is a key initiative of the ICSI towards

development of personal and professional excellence of our esteemed members and students. The first Chapter of this e-book was released in July this year. The Second Chapter of the e-book titled 'Walk the talk – Effective Communication and Assertive Presence' was released during the month of August.

Release of Publication - Ministry of Corporate Affairs - Swacch Bharat

Ministry of Corporate Affairs (MCA) observed 'Swachh Bharat Pakhwada' and reached out to 11 lakh corporates and professionals in collaboration with prominent Industry bodies and Institutes including the our Institute. We are happy to share that a Compendium sharing the glimpse of activities during the fortnight has been published by the MCA and our Institute has been applauded for its efforts towards 'Swacchta Drive' initiated under the umbrella of ICSI in this Compendium.

Epilogue

शोषणं भवसिन्धोश्च प्रापणं सारसम्पदः ।
यस्य पादोदकं सम्यक् तस्मै श्रीगुरुवे नमः ॥१०॥

(The one who can help us cross this ocean of life,
the one who can reveal to us the Divine,
I adore his Paadukaas (hold on to his feet),
I salute such a 'Guru'.)

When everything feels like an uphill struggle, just think of the view on reaching the top. Only those who can endure the climb, can enjoy this view, just keep going, one sunrise at a time...!! This thought flashed through my mind instantly when I heard of PV Sindhu's victory in Rio Olympics. But, can we ignore the hidden hero behind this victory who deserves equal applause?

And doesn't this victory is itself commemoration of Teacher's Day 2016 as it has brought in spotlight the struggle and sweat of a 'Guru'. He is Badminton Guru Pullela Gopichand, the Coach, who is now known for producing Olympic Medalists. He has always been the pillar of firm support for all his pupils' right from Saina Nehwal, PV Sindhu, Srikanth Kidambi, Parupalli Kashyap to Prannoy Kumar, Arundhati Pantawane, Gurusai Datt and Arun Vishnu, all big names in the game now.

It's not a child's play to produce Olympic medalists. One simply can't manufacture one. However gifted the player may be, it's not a cherry pie. It takes the fortitude of Guru like Gopichand's adroit mind, resolute spirit and unyielding work ethics to churn out players who could become World Champions some day. PV Sindhu's triumph in the women's singles quarter-finals of the Rio Olympics over Wang Yihan, the World number two and the silver medalist at the London Olympics, which made India proud universally, is the result of that "You can do it" Mantra of Gopichand.

Keeping alive the quintessential and illustrative 'Guru-Shishya' tradition, there is a stalwart philosophy. He believes that a coach or a Guru needs to take absolute responsibility for the performance of his Shishyas' (players). He believes that training should always be stern; it should be killing, so that the final match seems to be a cakewalk to win. He considers it duty of the teacher to chalk out a strategy or blueprint and believes that a player's energy should focus only on 'execution'. His pupils recall him making experiment on himself rather than on his players in 2012 when he went on a Ketogenic diet, popular in the US then, for whole year just to probe if his players would be able to take it. He restricted his own food intake to just 8-10 items given in that diet chart. He read and researched and he dropped the idea when he

realised that his players, whose each morsel he monitors, might not be able to take this diet plan. He could have made it experiment on his players, but he did not, he made this test on himself...!!

Coming from a humble family having modest means, he placed a premium on values and discipline. Even at the age of 11, it was his passion to win and his ability to work extremely hard were his priced assets. The strict discipline and regular sleeping habits at home ensured that Gopichand was the first one to hit the practise courts at 5:30 am. This was a half hour earlier than his team mates, ensuring he got some more court time. Gopi's mother would walk for miles and avoided public transport to save money that was used to buy her son a shuttle cock. As Gopichand started his climb to the top echelons of the Indian badminton scene, his family zestfully endured lot of hardships and sacrifices.

Once, Gopichand spent a difficult and testing year recovering from a complex knee surgery that required over 30 stitches. He spent months 'without walking' but not 'without practising' as he would continue to do wall practise even from a stationary position. He also nurtured a reading habit and practiced yoga to improve his concentration during this testing time. With extreme determination and unflinching faith, Gopichand doggedly continued his rehabilitation for over a year and was eventually able to return to his past form.

In the year 2000, at Sydney Olympics, when he had just lost the pre-quarters at the Olympics and was naturally heartbroken and dejected with the turn of events, he turned to his fellow shuttler Aparna Popat "I do not know if I shall be able to compete in the next Olympics, but I would like to coach someone and bring home an Olympic medal through them." 16 years down the line, Gopichand has not only kept his word and ensured (not one, but two) Olympic medals for India, he has also put Indian badminton on the world map! Today, in Saina Nehwal and PV Sindhu, Gopichand has given our Nation two World champions and a new lease of life to Badminton in this sub-continent.

In his own words "When I started out as a coach, there were many who dissuaded me saying the system will not let you succeed. But I feel it is important to keep pushing. I saw ourselves as world beaters and I wanted to prove the sceptics wrong."

We need more Gurus' like you Gopichand in every sphere of life, be it sports, education, work or family. We salute your spirit Gopichand! Friends, We the ICSians are all trainers and trainees and we are all givers and seekers. Let us give our best and the world will reboot the same and return in bountiful doses. A very Happy Teachers Day!

I look forward to greet and welcome your goodselves to the National Convention, 2016!!

Best wishes.

Yours sincerely

Mamta Bini

September 05, 2016
New Delhi

(CS MAMTA BINANI)
president@icsi.edu

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ARTICLES



- INSOLVENCY AND BANKRUPTCY CODE, 2016
- INSOLVENCY AND BANKRUPTCY CODE –A LOOK FROM A COMMON MAN'S PERSPECTIVE
- THE INSOLVENCY AND BANKRUPTCY CODE, 2016
- INSOLVENCY AND BANKRUPTCY CODE, 2016
- CHALLENGES IN IMPLEMENTATION OF INSOLVENCY AND BANKRUPTCY CODE
- CORPORATE INSOLVENCY RESOLUTION PROCESS – BRIEF ANALYSIS AND CHALLENGES
- CORPORATE INSOLVENCY RESOLUTION PROCESS UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016: - AN ANALYSIS
- CORPORATE INSOLVENCY RESOLUTION PROCESS UNDER THE BANKRUPTCY CODE AND ITS IMPACT ON THE COMPANIES ACT
- INSOLVENCY AND BANKRUPTCY CODE, 2016 - FAST TRACK CORPORATE INSOLVENCY RESOLUTION PROCESS
- INFORMATION UTILITIES – PROVIDER OF LEVEL PLAYING FIELD IN INSOLVENCY AND BANKRUPTCY PROCESS
- POSITION OF SECURED CREDITOR IN THE WINDING UP AND IN THE LIQUIDATION OF CORPORATE DEBTOR
- WINDING UP OF COMPANIES UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016
- OPPORTUNITIES FOR COMPANY SECRETARIES UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016



THE INSTITUTE OF Company Secretaries of India

IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament



ICSI LAUNCHES 4 NEW COURSES

CERTIFICATE COURSE IN VALUATION

(Only for CS Members)

With the aim of providing candidates with a competitive edge in pursuit of their vivid career paths specifically in the financial marketplace, ICSI has launched online Certificate Course in Valuation in association with NIFM. This course is designed to offer an intensive instruction and training needed to successfully compete in rapidly developing global markets.

E-LEARNING MODULE ON BANKING TERMINOLOGIES

(Open for all)

With the structural contribution of Banking Industry in the development of Indian economy at global platform, the need to exemplify the technical banking terminologies amongst the professionals has increased. In this backdrop, the Institute has launched short term, all-encompassing e-Learning Module on Banking Terminologies.

DIPLOMA IN INTERNAL AUDIT

(Only for CS Members)

This course is designed to enhance the skills of CS to conduct internal audit including compliance and operational audits, offering solutions for weaknesses in internal controls and verifying the subjective compliance of related laws and regulations.

COURSE IN INTERNATIONAL BUSINESS TAXATION

(Open for all)

With an objective of providing specialized knowledge in all aspects of international taxation, ICSI has launched a 15 days online course in International Business Taxation.

ICSI Publications released in August, 2016

- Guidance Note on Code of Conduct
- Guidance Note on Secretarial Audit (Release 1.3)
- Guidance Note on AOC-4 (e-Form under Companies Act, 2013)
- National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) Manual
- Setting up of Practice by Company Secretaries
- Referencer on Board's Report - Revised Edition
- SEBI Listing Obligations and Disclosure Requirements (LODR) Regulations 2015 - Debt Securities
- FAQs on Section 8 Companies
- Company Secretary in Practice - Areas of Recognition

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Insolvency and Bankruptcy Code, 2016



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BACKGROUND

In India, there were multiple laws like Sick Industrial Companies (Special Provisions) Act, 1985 (SICA), the Recovery of Debt Due to Banks and Financial Institutions Act, 1993, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) and the Companies Act, 2013 dealing with insolvency and bankruptcy of companies, limited liability partnerships, partnerships firms, individuals and other legal entities in India. As a result High Courts, District Courts, the Company Law Board, the Board for Industrial and Financial Reconstruction (BIFR) and the Debt Recovery Tribunals (DRTs), have jurisdiction at various stages, giving rise to the potential

to examine and make recommendations with regard to the desirability of changes in existing law relating to winding up of companies so as to achieve more transparency and avoid delays in the final liquidation of the companies. The committee completed its work and submitted its report to the Central Government in the year 2000. The committee recommended that the jurisdiction, power and authority relating to winding up of companies should be vested in a National Company Law Tribunal instead of the High Court.

In December 2002, Indian Parliament passed the Companies (Second Amendment) Act, 2002 to restructure the Companies Act, 1956 including the setting up of NCLT and NCLAT. Dr J J Irani committee was set up to deal with

Since the present legal framework does not aid lenders in effective and timely recovery of defaulted assets thus causing undue strain on the Indian credit system, the Government has come out with a consolidated Code for dealing with individual and corporate insolvency and bankruptcy. The focus of this article is on the highlights of the Code.

of systemic delays and complexities in the process whereas liquidation of companies is handled by the high courts, individual cases are dealt with under the Presidency Towns Insolvency Act, 1909 and Provincial Insolvency Act, 1920. The present legal framework does not aid lenders in effective and timely recovery of defaulted assets and causes undue strain on the Indian credit system.

'Insolvency means the situation where an entity cannot raise enough cash to meet its obligations or to pay debts as they become due for payment and bankruptcy means when a person voluntary declares him as an insolvent and goes to the court. On declaring the person as 'bankrupt', the court is responsible to liquidate the personal property of the insolvent and distribute it among the creditors of the insolvent:

In the year 1999, the Government of India set up a High Level Committee headed by Justice V.B. Eradi, Judge of Supreme Court of India

weaknesses of the Second Amendment Act.. On 31st May, 2005, Dr J J Irani committee handed over its report to Government of India. Key recommendations of the committee were time bound proceedings, applicability and accessibilities, moratorium and suspension of proceedings, operating agencies, appointment of Administrators and their duties, Creditor's committee and liquidators, increased role of professionals, insolvency practitioners, cross border insolvency etc.

Considering the abovementioned recommendations, the Government set in motion a plan to overhaul the existing bankruptcy laws and replace them with one that will facilitate easy and time-bound closure of businesses. The draft legislation was based on the report of a high-level panel headed by former law secretary T.K. Viswanathan. The Finance Ministry put up the Insolvency and Bankruptcy Bill, 2015 on its website for public comments and it was passed on 05th May, 2016 by the Parliament

The purpose of this intermediary (Information utility) is to remove information dependency on the debtor's for critical information that is required to resolve insolvency. And this information would be available to creditors, resolution professionals, liquidators and other stakeholders in insolvency and bankruptcy proceedings.

as The Insolvency and Bankruptcy Code, 2016 and came into force vide notification dated 28th May, 2016.

Multiplicity of laws and adjudicating authorities for Insolvency and bankruptcy of various entities were a hindrance towards resolution of recovery problems of creditors and declaration of insolvency, their revival plan and liquidation of corporate entities. The objective of Insolvency and Bankruptcy Code, 2016 is to consolidate multiple laws and adjudicating authorities dealing with insolvency, bankruptcy, revival and/or liquidation of various entities including individual, partnership firms, corporate entities etc. Earlier laws pertaining to DRT and SARFAESI were the exclusive forums for banks/financial institutions while BIFR and Companies Act had limited application for sick companies, their revival and/or liquidation. The Insolvency and Bankruptcy Code, 2016 will overcome these kind of problems.

THE CODE

The Insolvency and Bankruptcy Code, 2016 extends to the whole of India (except Part III which deals with Insolvency Resolution and Bankruptcy for Individuals and Partnership Firms of the Code which shall not extend to the State of Jammu and Kashmir).

In order to welcome foreign investors to invest in the Indian economy and with a view to ease doing business in India, the Insolvency and Bankruptcy Code, 2016 is going to play a vital role in the economic system of the country.

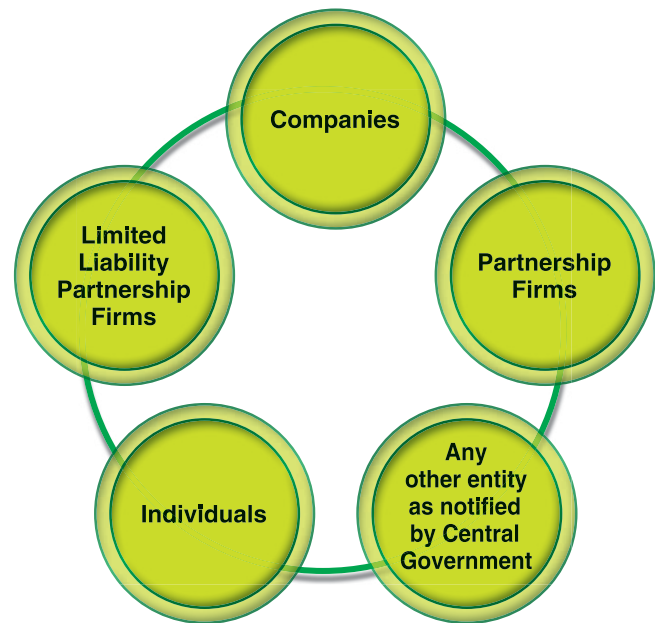
OBJECTIVES OF THE CODE

To create a new institutional framework, consisting of Insolvency and Bankruptcy Board, Insolvency Professional Agencies, Insolvency Professionals, Information Utilities and Adjudicating authorities thus offering a uniform and comprehensive legislation.

To Facilitates time bound insolvency resolution process and liquidation.

To improve ease of doing business in India and also to set up a better and faster debt recovery mechanism in India.

APPLICABILITY OF THE CODE



This Code is not applicable to the entities which are engaged in providing financial services like for instance the NBFCs, investment companies etc.

INSTITUTIONAL SET UP UNDER THE CODE

(A) INSOLVENCY AND BANKRUPTCY BOARD (IBB)

Section 3 (1) of IBC, 2016: Board means the Insolvency and Bankruptcy Board of India established under sub-section (1) of Section 188

The Code provides for the establishment of the Board called Insolvency and Bankruptcy Board of India. The Board shall consist of the following members, who shall be appointed by the Central Government:

1. Chairperson
2. Three members amongst the officers of the Central Government not below the rank of Joint Secretary or equivalent, one of each to represent the Ministry of Finance, the Ministry of Corporate Affairs and Ministry of Law, ex officio.
3. One member nominated by the Reserve Bank of India, ex officio
4. Five other members to be nominated by the Central Government, out of which three shall be the whole-time members.

Role of the Board includes:

1. Regulating all matters related to insolvency and bankruptcy process.
2. Setting out eligibility requirements of insolvency intermediaries i.e., Insolvency Professionals, Insolvency Professional Agencies and Information Utilities.
3. Regulating entry, registration and exit of insolvency intermediaries.
4. Making model bye laws for Insolvency Professional Agencies.
5. Setting out regulatory standards for Insolvency Professionals.
6. Specifying the manners in which Information Utilities can collect and store data.

- Overseeing the functioning of insolvency intermediaries and the resolution process.

(B) INSOLVENCY INTERMEDIARIES



INSOLVENCY PROFESSIONAL AGENCIES (IPAs)

Section 3 (20) of IBC, 2016: insolvency professional agency means any person registered with the Board under section 201 as an insolvency professional agency

These agencies are required to get registered and obtain certificate of registration from the Board. The Board shall have regard to the following principles while registering the insolvency professional agencies, namely:

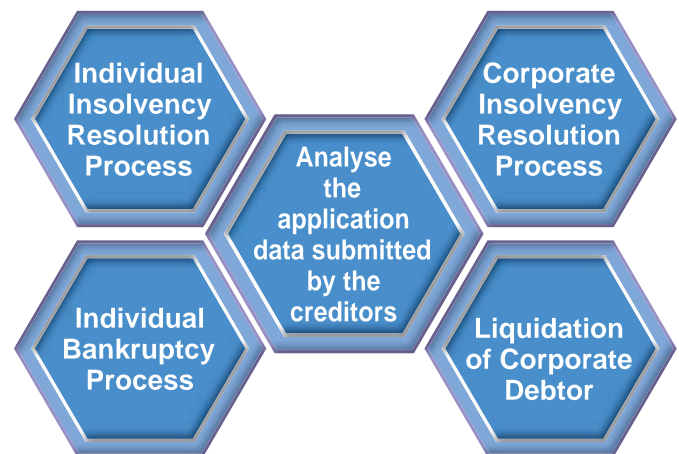
- Promote the professional development of and regulation of insolvency professionals.
- Promote good professional and ethical conduct amongst insolvency professionals.
- Protect the interests of debtors, creditors etc.
- Promote the services of competent insolvency professionals to cater to the needs of debtors, creditors etc
- Promote the growth of insolvency professional agencies for the effective resolution of insolvency and bankruptcy processes under this Code.

INSOLVENCY PROFESSIONALS (IPs)

Section 3 (19) of IBC, 2016: insolvency professional means a person enrolled under section 206 with an insolvency professional agency as its member and registered with the Board as an insolvency professional under section 207.

The Code provides for insolvency professionals as intermediaries who would play a key role in the efficient working of the insolvency and bankruptcy process. These professionals will be enrolled as a member of an insolvency professional agency and registered with Insolvency and Bankruptcy Board of India. The Board may specify the categories of professionals or persons possessing such qualifications and experience in the field of finance, law, management, insolvency or such other field, as it deems fit.

Functions of Insolvency Professionals:-



Every Insolvency Professional shall abide by the following code of conduct:-

- To take reasonable care and diligence while performing his duties.
- To comply with all requirements and terms and conditions specified in the bye-laws of the insolvency professional agency of which he is a member.
- To allow the insolvency professional agency to inspect his records.
- To submit a copy of the records of every proceeding before the Adjudicating Authority to the Board as well as to the insolvency professional agency of which he is a member.
- To perform his function in such manner and subject to such conditions as may be specified.

INFORMATION UTILITY

Section 3 (21) of IBC, 2016: information utility means a person who is registered with the Board as an information utility under Section 210.

A person shall obtain a certificate of registration by the Board to carry on its business as information utility under this Code. The purpose of this intermediary (Information utility) is to remove information dependency on the debtor's for critical information that is required to resolve insolvency. And this information would be available to creditors, resolution professionals, liquidators and other stakeholders in insolvency and bankruptcy proceedings.

Obligations of Information Utility

- Collect, collate, authenticate and disseminate financial information of debtors in a universally accessible format
- Get the information received from various persons authenticated by all concerned parties before storing such information
- Provide access to the financial information stored by it to any person who intends to access such information
- Have the ability to operate with other information utilities.

(C) ADJUDICATORY AUTHORITIES

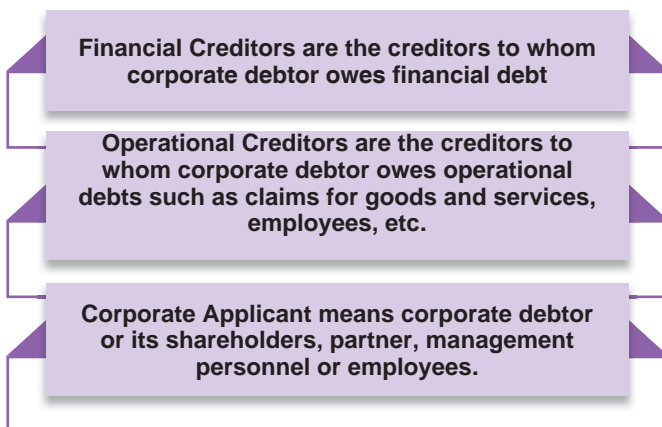
- The National Company Law Tribunal is the adjudicating authority to deal with the insolvency matters of Companies and Limited Liability Partnership Firms. Appeals from NCLT orders lie to the

- National Company Law Appellate Tribunal and thereafter to the Supreme Court of India.
- NCLAT shall be the appellate authority to hear appeals arising out of the orders passed by the Board in respect of Insolvency Professional Agency or Insolvency Professional or Information Utilities.
 - The Debt Recovery Tribunal is the adjudicating authority to deal with the insolvency & bankruptcy matters of Individual & Partnership Firms. Appeals from DRT orders lie to the Debt Recovery Appellate Tribunal and thereafter to the Supreme Court of India.

CORPORATE INSOLVENCY RESOLUTION PROCESS

Part II of the Code deals with matters relating to the insolvency and liquidation of Companies and Limited Liability Partnership Firms where the minimum amount of the default is Rupees one lakh and this amount can be increased up to Rupees one crore by the Central Government.

WHO MAY FILE AN APPLICATION TO THE ADJUDICATING AUTHORITY:



On receipt of an application, the Adjudicating Authority shall within fourteen days by order:



Before rejecting an application, the Adjudicating Authority gives a notice to the applicant to rectify the defect from the application within seven days of receipt of such notice from the Adjudicating Authority.

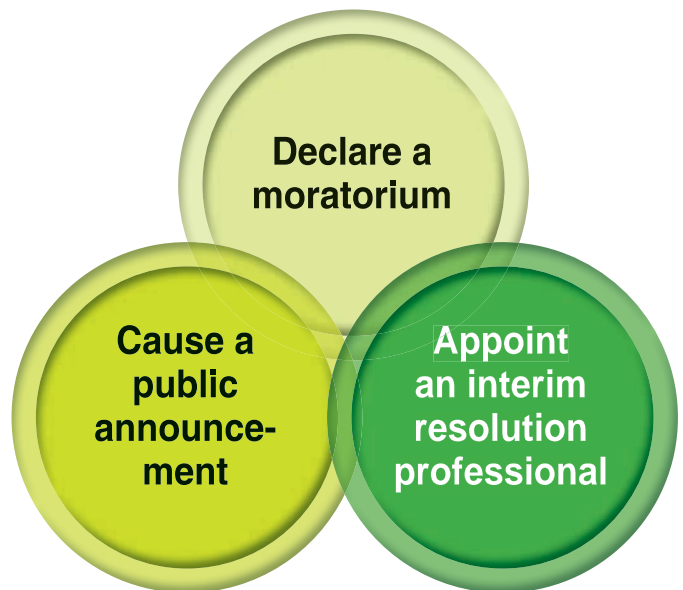
STRICT TIMELINES FOR COMPLETION OF INSOLVENCY RESOLUTION PROCESS

The Corporate Insolvency resolution process shall be completed within one hundred and eighty days from the date the application is admitted by the National Company Law Tribunal. If the process

cannot be completed within one hundred and eighty days then one time extension of ninety days subject to resolution passed at a meeting of the committee of creditors by a vote of seventy-five percent of the voting shares.

Here, 'committee of creditors' means the committee which shall comprise of all financial creditors of the Company or Limited Liability Partnership Firms.

After admission of the application, National Company Law Tribunal shall by an order:



MORATORIUM

The NCLT orders a moratorium on the debtor's operations for the period of the Insolvency Resolution Process. This operates as a 'calm period' during which no judicial proceedings for recovery, enforcement of security interest, sale or transfer of assets/ legal rights/ beneficial interest can take place against the debtors.

The order of moratorium shall have effect till the completion of corporate insolvency process.

PUBLIC ANNOUNCEMENT

The public announcement shall contain the following information about the corporate debtor:

1. Name and address
2. Name of the Registrar with which it is incorporated
3. Last date for submission of claims
4. Details of interim professionals
5. Penalties for false or misleading claims
6. Date on which the corporate insolvency resolution process shall close

APPOINTMENT OF INTERIM RESOLUTION PROFESSIONAL

The Adjudicating Authority shall appoint an Interim Resolution Professional within fourteen days from the insolvency commencement date.

Functions of interim professional are:

- To take over the management of the affairs of the corporate debtor.
- All officers and managers of the corporate debtor shall act on the instructions of the interim professionals.
- Have access to all books of account, record and other relevant documents shall be managed by these professionals.

COMMITTEE OF CREDITORS

The Interim Professionals identify the financial creditors and constitute a committee of creditors. Operational creditors are allowed to attend the meetings of committee if their dues are not less than ten percent of the debt but they do not have voting power.

Each decision of the committee requires a seventy five per cent majority vote.

APPOINTMENT OF FINAL RESOLUTION PROFESSIONAL

The first meeting of the Committee shall be held within seven days of the constitution of the committee of creditors where may:

Resolve to appoint the interim resolution professional as a final resolution professional	OR	Replace the interim resolution professional by another resolution professional.
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The Final Resolution Professionals-

- Shall conduct the entire corporate insolvency process
- Manage operations of the corporate debtor
- Have the same powers as that of the interim professionals under the Code.

RESOLUTION PLAN

- A resolution applicant may submit a resolution plan to the final resolution professional.
- Final resolution professional examine the plan.
- Then he shall present such plan to the committee of creditors for their approval.
- After obtaining approval from the committee of creditors, final resolution professional shall submit the approved plan to the Adjudicating Authority.
- If the Adjudicating Authority approves the plan, then this will be binding upon the employees, members, creditors and other stakeholders. And after approval of the plan, time period of moratorium ends here.
- If application gets rejected, then NCLT shall pass an order of liquidation of the corporate debtor and requires such order shall be sent to the registering authority.

FAST TRACK CORPORATE INSOLVENCY RESOLUTION PROCESS

Chapter IV of Part II of Insolvency and Bankruptcy Code, 2016 deals with the fast track insolvency resolution process.

An application for fast track corporate insolvency resolution process may be made in respect of the following corporate debtors, namely:-

(a) a corporate debtor with assets and income below a level as may be notified by the Central Government; or	(b) a corporate debtor with such class of creditors or such amount of debt as may be notified by the Central Government; or	(c) such other category of corporate persons as may be notified by the Central Government.
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TIME LIMIT FOR COMPLETION OF FAST TRACK CORPORATE INSOLVENCY RESOLUTION PROCESS:



INSOLVENCY RESOLUTION PROCESS FOR INDIVIDUALS/ UNLIMITED PARTNERSHIPS

Part III of the Code deals with matters relating to the insolvency and liquidation of Individuals and Unlimited Partnership Firms where the minimum amount of the default is one thousand rupees and this amount can be increased up to one lakh rupees by the Central Government.

Fresh start process: Under this process, eligible debtors as specified in the Code can apply to the Debt Recovery Tribunal for a fresh start for discharge of his qualifying debt. After filing an application, an interim- moratorium shall commence on the date of filing of the said application.

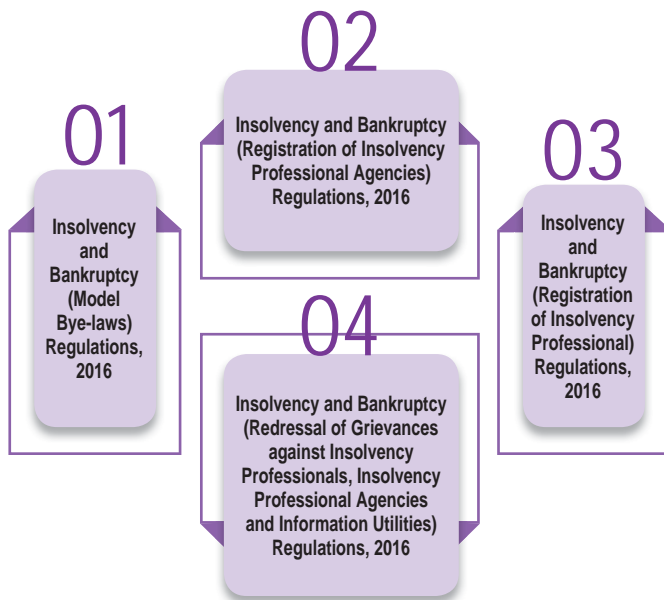
The insolvency resolution process consists of a repayment plan by the debtor, for approval of creditor.

If approved, the Debt Recovery Tribunal passes an order binding the debtor and creditors to the repayment plan.

If rejected, the debtor or creditors may apply for bankruptcy order.

The Ministry of Corporate Affairs (MCA) in on the fast-track to give final shape to the respective rules so that the IBC may be implemented after notification thereof.

REGULATIONS WHICH ARE LIKELY TO BE INTRODUCED IN THE UPCOMING DAYS



CONCLUSION

Indian Economy is in the process of revolution in legal system and to bring ease of doing business—a vision of the Prime Minister-Shri Narendra Modi—really at ground level. Enactment and implementation of the code will not only improve the Indian ranking on world map in ease of doing business but also it will improve credit market, GDP growth, FDI and business environment as a whole. The Insolvency and Bankruptcy Code, 2016 is the only law which is available to the financial & operational creditors and the debtors alike. *Earlier Laws pertaining to DRT and SARFAESI were exclusive forums for bank/ financial institutions only but now the individuals/partnership firms can also approach to DRT for declaration of insolvency and Corporate Entities/Creditors can approach to National Company Law Tribunal (NCLT) under IBC for declaration of insolvency and liquidation. This Code promises to bring war footing reforms with the special thrust on creditors driven insolvency resolution in a time-bound manner. It will improve the debt recovery rates and to maximize the realizable value of insolvent firms.*

While implementing the code, the following points shall be taken care of:

1. Appointment of Insolvency Professional Agencies, their Nos and qualitative competitiveness.
2. Uniformity in selection criteria of Insolvency Professionals.
3. Regulatory control of Insolvency and Bankruptcy Board over IPAs and IPAs over Insolvency professionals etc.

The success of the said code will be in how it is implemented. There will be various legal, logical, procedural hurdles which will be required to be overcome and the coming days will be crucial on tightening of nuts and bolts of the rules which are expected to be notified very soon

CS

APPOINTMENT

Required Company Secretary

Azure Jouel Private Limited, having its registered office in Mumbai and engaged in the business of manufacturing and dealing in studded diamond jewellery requires a Company Secretary. The incumbent should be an ACS with 4 years of relevant working experience. Apply with confidence within 15 days stating age, qualification, experience and details of salary drawn and expectation to: -

Unit No. GJ-8, 1st Floor,
SDF – VII, Phase – II,
SEEPZ-SEZ, Andheri (East),
Mumbai, Maharashtra – 400 096

APPOINTMENT

Required Company Secretary

Gwalior Properties and Estates Private Limited, a Non-Banking Financial Company (NBFC) having its registered office in Mumbai and incorporated with the object of investment and financial activities requires a Company Secretary. The incumbent should be an ACS with minimum 2 years of relevant working experience. Apply with confidence within 15 days stating age, qualification, experience and details of salary drawn and expected to: -

Industry House, 1st Floor, 159,
Churchgate Reclamation,
Mumbai – 400 020

Insolvency and Bankruptcy Code – A look from a common man's perspective



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The Insolvency and Bankruptcy Code was finally published in the Official Gazette on 28th May 2016, thus putting an end to months of anxious wait, mainly by the secured creditors and unsecured creditors, who look forward to a single law, that would replace a host of other laws governing individual and corporate bankruptcy and insolvency.

enactments, there are no provisions for pre-bankruptcy insolvency resolution process, nor is there a provision for 'fresh start process' for individuals. What these enactments contained were provisions for liquidation of estate of an individual bankrupt. In contrast to this, the 'fresh start process' under the Code is a totally new concept in India, which would allow persons to get a fresh start to life.

At present the individual and corporate bankruptcy is governed by a host of legislations making the procedure quite complex and cumbersome. The Insolvency and Bankruptcy Code, 2016, however is a consolidated single code that will govern insolvency and bankruptcy proceedings in the future. Its basic features relating to individual bankruptcy proceedings are examined from the angle of a common man here.

The common man can also breathe a sign of relief, in that his needs are very much addressed by the new law. Let us now proceed to examine how the Code helps the individual.

Broadly speaking, Chapters I to VII of Part III titled "Insolvency Resolution and Bankruptcy for individuals and partnership firms" contain provisions that are applicable to individuals. These provisions are contained in Sections 78 to 187 of the Code. Chapter I of Part III contains 21 definitions.

Individual borrowers and consumers can now start their lives afresh after being declared bankrupt. They also have the option of initiating the insolvency resolution process by themselves, in the happening of certain events. The District Courts no longer will have power to resolve disputes, and Debt Recovery Tribunals will substitute them.

Before the Code, there were two separate enactments, that is Presidency Towns Insolvency Act, 1909 and Provisional Insolvency Act, 1920, governing insolvency of individuals. In both these

Another new concept which was hitherto not there in the earlier legislations is that of Insolvency Resolution Professionals, who will be playing a major part during the insolvency process and also in forming Information Utilities.

FRESH START PROCESS

Sections 80-93 deal with fresh start process. Let us now examine this procedure.

- An application is to be filed and an interim-moratorium shall commence on the date of filing of said application and shall cease to have effect on the date of admission or rejection of such application.
- If an application is filed by the debtor through resolution professional, the Adjudicating Authority shall direct the Board within 7 days of the date of receipt of the application.
- The resolution professional is to examine the application within 10 days of his appointment, and submit a report to the Adjudicating Authority, either recommending acceptance or



rejection of the application.

- The Adjudicating Authority, may, within 14 days from the date of submission of the report by the resolution professional, pass an order either admitting or rejecting the application.
- Any creditor mentioned in the order of the Adjudicating Authority to whom a qualifying debt is owed may, within a period of 10 days from the date of receipt of the order object only on the following grounds, namely:— (i) inclusion of a debt as a qualifying debt; or (ii) incorrectness of the details of the qualifying debt specified in the order.
- The debtor or the creditor who is aggrieved by the action taken by the resolution professional may, within 10 days of such decision, make an application to the Adjudicating Authority.
- Where the debtor or the creditor is of the opinion that the resolution professional appointed under section 82 is required to be replaced, he may apply to the Adjudicating Authority for the replacement of such resolution professional.
- The resolution professional shall prepare a final list of qualifying debts and submit such list to the Adjudicating Authority at least 7 days before the moratorium period comes to an end.

An individual can discharge all his current liabilities under a systematic and controlled manner, as per the procedure of insolvency resolution process enshrined in the Code. Separate recovery harassment from different creditors can thus be avoided.

Sections 94-120 deal with Insolvency resolution process.

- Application is to be made either by debtor/creditor
- If the application under section 94 or 95 is filed through a resolution professional, the Adjudicating Authority shall direct the Board within 7 days of the date of the application to confirm that there are no disciplinary proceedings pending against resolution professional.
- The Adjudicating Authority may, within 14 days from the

date of submission of the report by the resolution professional, pass an order either admitting or rejecting the application.

- The interim-moratorium period commences as soon as application is accepted.
- The Adjudicating Authority shall issue a public notice within 7 days of passing the order under Section 100, inviting claims from all creditors within 21 days of such issue
- The creditors shall register claims with the resolution professional by sending details of the claims by way of electronic communications or through courier, speed post or registered letter.
- The debtor shall prepare, in consultation with the resolution professional, a repayment plan containing a proposal to the creditors for restructuring of his debts or affairs.
- The resolution professional shall submit the repayment plan along with his report on such plan to the Adjudicating Authority within a period of 21 days from the last date of submission of claims.
- The repayment plan or any modification to the repayment plan shall be approved by a majority of more than 3/4th in value of the creditors present in person or by proxy and voting on the resolution in a meeting of the creditors.
- The resolution professional shall issue a notice calling the meeting of the creditors at least 14 days before the date fixed for such meeting and creditor shall be entitled to vote at every meeting of the creditors in respect of the repayment plan in accordance with the voting share assigned to him.
- The Adjudicating Authority shall by an order approve or reject the repayment plan on the basis of the report of the meeting of the creditors submitted by the resolution professional.
- The resolution professional appointed shall supervise the implementation of the repayment plan.
- On the basis of the repayment plan, the resolution professional shall apply to the Adjudicating Authority for a discharge order in relation to the debts mentioned in the repayment plan and the Adjudicating Authority shall pass discharge order.

THE CODE FROM A DEBTOR'S VIEWPOINT

Certain assets have been excluded to be claimed by lenders. These are dealt with by section 79(13) speaking about the definition of "excluded assets". Accordingly, excluded debts include—

- (a) Unencumbered tools, books, vehicles and other equipment as are necessary to the debtor or bankrupt for his personal use or for the purpose of his employment, business or vocation.
- (b) Unencumbered furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the bankrupt and his immediate family.
- (c) Any unencumbered personal ornaments of the debtor or his immediate family which cannot be parted with, in accordance with religious usage.
- (d) Any unencumbered life insurance policy or pension plan taken in the name of debtor or his immediate family.

“ An individual can discharge all his current liabilities under a systematic and controlled manner, as per the procedure of insolvency resolution process enshrined in the Code. Separate recovery harassment from different creditors can thus be avoided. ”

(e) An unencumbered single dwelling unit owned by the debtor of such value as may be prescribed.

Though these assets are excluded, lenders can claim other properties belonging to the debtor. However, if the debtor has designed his transaction merely with intent to defeat the rights of the creditor, then the Trustee gets a right to examine and cancel such transactions. There are instances where debtors, expecting a tight liquidity position, transfer all assets to their family members. But it is to be understood that such transactions will be verified, to know if the assets transferred exceed the bare minimum required for the maintenance of the debtor and his family.

THE CODE, FROM A CREDITOR'S VIEWPOINT

If there is an evidence of default on payments, a single creditor or several creditors can jointly trigger insolvency. There should be an actual default. A resolution professional can be appointed by the creditor and trigger the insolvency process, by filing an application. The bankruptcy process can be initiated, if it has been found that the insolvency resolution process was initiated to defraud the creditors, or if the insolvency resolution process fails, due to non disclosure of information by debtors, or rejection of repayment plan by creditors, or repayment plan not fully implemented.

If an individual is unable to pay his debts or in the event of his committing a default, he himself can trigger an insolvency process. If the individual's income and assets is less than the specified limits, he would be eligible for a discharge from the “qualifying debts”. Qualifying debts include all unsecured debts except certain debts incurred due to fine or penalty imposed by the Court or a debt incurred in the past 3 months before filing a Fresh Start Process application.

The Insolvency Resolution Professional will examine and prepare a final list of all qualifying debts within 180 days or 6 months from the date of application. At the expiry of this period, the Adjudicating Authority will pass an order on discharge of the debtor from the qualifying debts, thus giving him an opportunity to start afresh, financially. At this juncture, it would be worthy to note that since all the information will become public any foreign travel would require the approval by the Adjudicating authority, and hence the fresh start process in fact should not be triggered, unless an individual is in a really tight situation.

EVENTS THAT WOULD TRIGGER FILING OF INDIVIDUAL BANKRUPTCY

An individual can file an application for bankruptcy in the

following events:-

- (a) When the gross annual income of the debtor is not more than Rs.60,000.
- (b) If the aggregate value of debtor's assets is not more than Rs.20,000.
- (c) If the debtor does not own a dwelling unit.
- (d) If the total value of the qualifying debts does not exceed Rs,35,000.
- (e) If the debtor is not an undischarged bankrupt.
- (f) If no previous order under this Code has been made in relation to debtor in the preceding 12 months of the date of application.

BANKRUPTCY ORDER FOR INDIVIDUALS AND PARTNERSHIP FIRMS

- (a) Application to be filed.
- (b) Apply to the Board for appointing Bankruptcy Trustee.
- (c) Adjudicating Authority will pass Bankruptcy order.
- (d) Complying with procedures like publishing in newspapers, statement of affairs, registration of claims, meeting the claimants, distributing the estate of the bankrupt.
- (e) Completing the administration or discharge order.
- (f) If the insolvency resolution process fails, the individual concerned can be taken to bankruptcy, if the creditor so wishes.

OTHER IMPORTANT POINTS

- The Code carries a clear focus on quick decision-making, be it turnaround or liquidation. In contrast to an early settlement of all stakeholder issues, the Code rather lays thrust on the speedy release of scarce capital assets locked in a closed unit for productive use.
- Also a significant provision in the Code pertains to the waterfall mechanism, whereby liquidation proceeds will be paid in the following sequential manner:
 - Secured creditors
 - Workmen's dues for 12 months
 - Employees other than workmen
 - Unsecured creditors.

An interesting thing to note is that Government dues have been given least priority and figure after most other dues.

- It would be interesting to note that the present laws protect only financial creditors, especially banking creditors. The Code also seeks to protect the interests of operational creditors. It provides for orderly and timely resolution of default and insolvency of companies, firms and individuals. As regards, banks and financial institutions, the Government is working through a task force, to set up a separate legislation for financial institutions.

CONCLUSION

The full benefits of the Code will be obtained in a situation where all the stakeholders collectively contribute in creating an ecosystem conducive to an effective, fair and expedient implementation of the Code. For the common man, it is clearly a win-win situation. CS

The Insolvency and Bankruptcy Code, 2016



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BACKGROUND

At present, there are multiple overlapping laws and adjudicating forums dealing with financial failure and insolvency of companies and individuals in India. The current legal and institutional framework does not help lenders in effective and timely recovery or restructuring of defaulted assets and causes undue strain on the Indian credit system. Recognizing that reforms in the bankruptcy and insolvency regime are critical for improving the business environment and alleviating distressed credit markets, the Government introduced the Insolvency and Bankruptcy Code Bill in November 2015, drafted by a specially constituted 'Bankruptcy Law Reforms Committee' (BLRC) under the Ministry of Finance.

Liability Partnership firms and individuals (other than financial firms). The Government is proposing a separate framework for bankruptcy of failing banks and financial sector entities.

One of the fundamental features of the Code is that it allows creditors to assess the viability of a debtor as a business decision, and agree upon a plan for its revival or a speedy liquidation. The Code creates a new institutional framework, consisting of a regulator, insolvency professionals, information utilities and adjudicatory mechanisms, that will facilitate the formal and time bound insolvency resolution process and liquidation.

The Insolvency and Bankruptcy Code (the Code) addresses several problems that

The Insolvency and Bankruptcy Code, 2016 is an Act to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto.

After a public consultation process and recommendations from a joint committee of Parliament, both Houses of Parliament have now passed the Insolvency and Bankruptcy Code, 2016 (Code). While the legislation of the Code is a historical development for economic reforms in India, its effect will be seen in due course when the institutional infrastructure and implementing rules as envisaged under the Code are formed.

THE CODE

The Code offers a uniform, comprehensive insolvency legislation encompassing all companies, partnerships firms, Limited

plague the current system. It consolidates multiplicity of laws, provides a time bound process for resolution of insolvency, makes information available for rational decision-making, shortens and clarifies the appeal process and manner of distribution of recovery proceeds. The Code outlines a 2-stage process with the first stage being the insolvency resolution process and the second stage being liquidation process triggered upon failure of resolution.

An insolvency resolution process can be initiated by either a creditor, or by the debtor, upon an event of default. A revival plan is to be proposed and agreed by the

‘ The National Company Law Tribunal (NCLT) is the adjudicating authority over a company’s insolvency and liquidation process. It will be an overarching body for resolving insolvency. National Company Law Appellate Tribunal (NCLAT) will have appellate jurisdiction over NCLT. The decisions of the NCLAT can only be appealed to the Supreme Court. ’

parties within 180 days from the admission of the application. Making this process time bound is very essential as the value of the assets can erode substantially with the passage of time. In event of disagreement or if a decision is not taken within the stipulated time frame the applicant automatically moves to the next stage of Insolvency Process.

The liquidation process will be led by a regulated insolvency professional, the liquidator. The liquidator will form an estate of the assets of the company and hold the estate as a fiduciary for the benefit of all the creditors. The secured creditors may relinquish their security interest in the estate, or realise its security post verification from the liquidator. The recoveries that are obtained are paid out to the various claimants through a well-defined waterfall process. The cost of insolvency will be paid first followed by workmen’s dues and secured creditors on pari-pasu basis. Next in line will be unsecured creditors followed by government dues.

The Code provides for setting up of the following institutions to ensure effective governance and implementation of the provisions of the law.

The National Company Law Tribunal (NCLT) is the adjudicating authority over a company’s insolvency and liquidation process. It will be an overarching body for resolving insolvency. National Company Law Appellate Tribunal (NCLAT) will have appellate jurisdiction over NCLT. The decisions of the NCLAT can only be appealed to the Supreme Court.

Information Utilities (IU) will serve as a repository of financial information of a company. The financial and operational creditors will have an obligation to submit the relevant information to the IUs. The information maintained in these IUs will be available to all relevant parties on the payment of a fee.

Insolvency Professionals (IP) will oversee the insolvency and liquidation process. Such professionals are envisaged to be empowered to run the process effectively.

Insolvency and Bankruptcy Board of India (IBBI) – IBBI will be the regulatory body responsible for framing the rules, code of conduct

and registration of the above agencies.

INSTITUTIONAL INFRASTRUCTURE

(a) *The Insolvency Regulator*

The Code provides for the constitution of a new insolvency regulator i.e., the Insolvency and Bankruptcy Board of India (Board). Its role includes: (i) overseeing the functioning of insolvency intermediaries i.e., insolvency professionals, insolvency professional agencies and information utilities; and (ii) regulating the insolvency process.

(b) *Insolvency Resolution Professionals*

The Code provides for insolvency professionals as intermediaries who would play a key role in the efficient working of the bankruptcy process. The Code contemplates insolvency professionals as a class of regulated but private professionals having minimum standards of professional and ethical conduct.

In the resolution process, the insolvency professional verifies the claims of the creditors, constitutes a creditors committee, runs the debtor’s business during the moratorium period and helps the creditors in reaching a consensus for a revival plan. In liquidation, the insolvency professional acts as a liquidator and bankruptcy trustee.

(c) *Information Utilities*

A notable feature of the Code is the creation of information utilities to collect, collate, authenticate and disseminate financial information of debtors in centralised electronic databases. The Code requires creditors to provide financial information of debtors to multiple utilities on an ongoing basis. Such information would be available to creditors, resolution professionals, liquidators and other stakeholders in insolvency and bankruptcy proceedings. The purpose of this is to remove information asymmetry and dependency on the debtor’s management for critical information that is needed to swiftly resolve insolvency.

(d) *Adjudicatory authorities*

The adjudicating authority for corporate insolvency and liquidation is the NCLT. Appeals from NCLT orders lie to the National Company Law Appellate Tribunal and thereafter to the Supreme Court of India. For individuals and other persons, the adjudicating authority is the DRT, appeals lie to the Debt Recovery Appellate Tribunal and thereafter to the Supreme Court.

In keeping with the broad philosophy that insolvency resolution must be commercially and professionally driven (rather than court driven), the role of adjudicating authorities is limited to ensuring due process rather than adjudicating on the merits of the insolvency resolution.

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Section 188 dealing with Insolvency and Bankruptcy Board reads thus:

‘ The scope for professional development of Company Secretaries under the Insolvency and Bankruptcy Code is wide. Company Secretaries in whole time practice can act as an Insolvency Professional or resolution professional after qualifying in the required Examination and enrolling as members of the Insolvency Professional Agency. ’

- (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Code, a Board by the name of the Insolvency and Bankruptcy Board of India.
- (2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Code, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.
- (3) The head office of the Board shall be at such place in the National Capital Region, as the Central Government may, by notification, specify.
Explanation.—
For the purposes of this section, the expression “National Capital Region” shall have the same meaning as assigned to it in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985.
- (4) The Board may establish offices at other places in India. (Sec-188)

Constitution of Board

The Central Government shall appoint the following members in the Board which consists of

- (a) a Chairperson;
 - (b) three members from amongst the officers of the Central Government not below the rank of Joint Secretary or equivalent, one each to represent the Ministry of Finance, the Ministry of Corporate Affairs and Ministry of Law, *ex officio*;
 - (c) one member to be nominated by the Reserve Bank of India, *ex officio*;
 - (d) five other members to be nominated by the Central Government, of whom at least three shall be the whole-time members.
- (2) The Chairperson and the other members shall be persons of ability, integrity and standing, who have shown capacity in dealing with problems relating to insolvency or bankruptcy and have special knowledge and experience in the field of law, finance, economics, accountancy or administration.

- (3) The appointment of the Chairperson and the members of the Board other than the appointment of an *ex officio* member under this section shall be made after obtaining the recommendation of a selection committee consisting of—
 - (a) Cabinet Secretary—Chairperson;
 - (b) Secretary to the Government of India to be nominated by the Central Government—Member;
 - (c) Chairperson of the Insolvency and Bankruptcy Board of India (in case of selection of members of the Board)—Member;
 - (d) Three experts of repute from the field of finance, law, management, insolvency and related subjects, to be nominated by the Central Government—Members.
- (4) The term of office of the Chairperson and members (other than *ex officio* members) shall be five years or till they attain the age of sixty-five years, whichever is earlier, and they shall be eligible for reappointment.
- (5) The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and members (other than the *ex officio* members) shall be such as may be prescribed. (Section 189).

Removal of member from office

The Central Government may remove a member from office if he —

- (a) is an undischarged bankrupt
- (b) has become physically or mentally incapable of acting as a member;
- (c) has been convicted of an offence, which in the opinion of the Central Government involves moral turpitude;
- (d) has, so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed under clause (d) unless he has been given a reasonable opportunity of being heard in the matter.(sec-190)

Powers of Chairperson of the Board

The Chairperson shall have powers of general superintendence and direction of the affairs of the Board and may also exercise such other powers as may be delegated to him by the Board.

Meetings of Board

- 1) The Board shall meet at such times and places, and observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be determined by regulations.
- (2) The Chairperson, or if, for any reason, the Chairperson is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.
- (3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have a second or casting vote.(sec-192).

Member not to participate in meetings in certain Cases

Any member, who is a director of a company and who as such

director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter. (Sec-193)

Vacancies etc, not to invalidate proceedings

- (1) No act or proceeding of the Board shall be invalid merely by reason of—
 - (a) any vacancy in, or any defect in the constitution of, the Board; or
 - (b) any defect in the appointment of a person acting as a member of the Board; or
 - (c) any irregularity in the procedure of the Board not affecting the merits of the Case.
- (2) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions in such manner as may be specified.
- (3) The salaries and allowances payable to, and other terms and conditions of service of, officers and employees of the Board appointed under sub-section (2) shall be such as may be specified by regulations.(Sec-194)

POWERS AND FUNCTION OF BOARD

- (1) The Board shall, subject to the general direction of the Central Government perform all or any of the following functions namely:—
 - (a) register insolvency professional agencies, insolvency professionals and information utilities and renew, withdraw, suspend or cancel such registrations;
 - (b) specify the minimum eligibility requirements for registration of insolvency professional agencies, insolvency professionals and information utilities;
 - (c) levy fee or other charges for the registration of insolvency professional agencies, insolvency professionals and information utilities;
 - (d) specify by regulations standards for the functioning of insolvency professional agencies, insolvency professionals and information utilities;
 - (e) lay down by regulations the minimum curriculum for the examination of the insolvency professionals for their enrolment as members of the insolvency professional agencies;
 - (f) carry out inspections and investigations on insolvency professional agencies, insolvency professionals and information utilities and pass such orders as may be required for compliance of the provisions of this Code and the regulations issued hereunder;
 - (g) monitor the performance of insolvency professional agencies, insolvency professionals and information utilities and pass any directions as may be required for compliance of the provisions of this Code and the regulations issued hereunder;
 - (h) call for any information and records from the insolvency professional agencies, insolvency professionals and information utilities;
 - (i) publish such information, data, research studies and other information as may be specified by regulations;
 - (j) specify by regulations the manner of collecting and storing data by the information utilities and for providing access to such data;
 - (k) collect and maintain records relating to insolvency and bankruptcy cases and disseminate information relating to such cases;
 - (l) constitute such committees as may be required including in particular the committees laid down in section 197;
 - (m) promote transparency and best practices in its governance;
 - (n) maintain websites and such other universally accessible repositories of electronic information as may be necessary;
 - (o) enter into memorandum of understanding with any other statutory authorities;
 - (p) issue necessary guidelines to the insolvency professional agencies, insolvency professionals and information utilities;
 - (q) specify mechanism for redressal of grievances against insolvency professionals, insolvency professional agencies and information utilities and pass orders relating to complaints filed against the aforesaid for compliance of the provisions of this Code and the regulations issued hereunder;
 - (r) conduct periodic study, research and audit the functioning and performance of to the insolvency professional agencies, insolvency professionals and information utilities at such intervals as may be specified by the Board;
 - (s) specify mechanisms for issuing regulations, including the conduct of public consultation processes before notification of any regulations;
 - (t) make regulations and guidelines on matters relating to insolvency and bankruptcy as may be required under this Code, including mechanism for time bound disposal of the assets of the corporate debtor or debtor; and
 - (u) perform such other functions as may be prescribed.





- (2) The Board may make model bye-laws to be adopted by insolvency professional agencies which may provide for—
- (a) the minimum standards of professional competence of the members of insolvency professional agencies;
 - (b) the standards for professional and ethical conduct of the members of insolvency professional agencies;
 - (c) requirements for enrolment of persons as members of insolvency professional agencies which shall be non-discriminatory;
Explanation.—For the purposes of this clause, the term “non-discriminatory” means lack of discrimination on the grounds of religion, caste, gender or Place of birth and such other grounds as may be specified;
 - (d) the manner of granting membership;
 - (e) setting up of a governing board for internal governance and management of insolvency professional agency in accordance with the regulations specified by the Board;
 - (f) the information required to be submitted by members including the form and the time for submitting such information;
 - (g) the specific classes of persons to whom services shall be provided at concessional rates or for no remuneration by members;
 - (h) the grounds on which penalties may be levied upon the members of insolvency professional agencies and the manner thereof;
 - (i) a fair and transparent mechanism for redressal of grievances against the members of insolvency professional agencies;
 - (j) the grounds under which the insolvency professionals may be expelled from the membership of insolvency professional agencies;
 - (k) the quantum of fee and the manner of collecting fee for inducting persons as its members;
 - (l) the procedure for enrolment of persons as members of

- insolvency professional agency;
- (m) the manner of conducting examination for enrolment of insolvency professionals;
- (n) the manner of monitoring and reviewing the working of insolvency Professional who are members;
- (o) The duties and other activities to be performed by members;
- (p) The manner of conducting disciplinary proceedings against its members and imposing penalties;
- (q) The manner of utilising the amount received as penalty imposed against any insolvency professional.

- (3) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under this Code, the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—
- (i) The discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;
 - (ii) Summoning and enforcing the attendance of persons and examining them on oath;
 - (iii) Inspection of any books, registers and other documents of any person at any place;
 - (iv) Issuing of commissions for the examination of witnesses or documents. (Sec-196).

Constitution of committees

The Board may, for the efficient discharge of its functions, may constitute advisory and executive committees or such other committees, as it may deem fit, consisting of a Chairperson and such other members as may be specified by regulations. (Section 197)

Condonation of delay.

Notwithstanding anything contained in this Code, where the Board does not perform any act within the period specified under this Code, the relevant Adjudicating Authority may, for reasons to be recorded in writing, condone the delay. (Sec-198)

Scope for Practicing Company Secretaries

The scope for professional development of Company Secretaries under the Insolvency and Bankruptcy Code is wide. Company Secretaries in whole time practice can act as an Insolvency Professional or resolution professional after qualifying in the required Examination and enrolling as members of the Insolvency Professional Agency.

CONCLUSION

The Code promises to bring about far-reaching reforms with a thrust on creditor driven insolvency resolution. It aims at early identification of financial failure and maximising the asset value of insolvent firms. The Code also has provisions to address cross border insolvency through bilateral agreements and reciprocal arrangements with other countries.

The unified regime envisages a structured and time-bound process for insolvency resolution and liquidation, which should significantly improve debt recovery rates and revitalise the ailing Indian corporate bond markets. CS

Insolvency and Bankruptcy Code, 2016



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The Insolvency and Bankruptcy Code 2016 passed in May 2016 by both the Houses of Parliament attempts a legislative answer to the above question. The Code consolidates and amends the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximisation of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto.

person who is unable to pay his debts as they fall due, or in the usual course of trade and business.	are such that he is entitled, on his voluntary application, to take the benefit of the bankruptcy laws. The term is used in a looser sense as synonymous with 'insolvency'.
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It appears that in the new Act (Code) the word 'insolvency' is used for corporates and bankruptcy appears to have been used for 'individuals' and 'partnership firms'.

The law that existed prior to the enactment of 2016 Code had not



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The major problem with India hitherto in the field of corporate and individual insolvency and bankruptcy, has been that there were too many obsolete, conflicting and non-effective laws which made the procedure cumbersome and tedious. The new law in the form of Insolvency and Bankruptcy Code is part of the larger economic reform and seeks to expedite insolvency proceedings.

WHETHER BANKRUPTCY AND INSOLVENCY ARE SYNONYMOUS?

The terms 'insolvency' and 'bankruptcy' arise from one common feature namely inability to pay the debts. Black's Law Dictionary defines the terms as under:

Insolvency	Bankruptcy
The condition of a person who is insolvent; inability to pay one's debts; lack of means to pay one's debts. Such a relative condition of a man's assets and liabilities that the former, if all made immediately available, would not be sufficient to discharge the latter. Or the condition of a	The state or condition of one who is a bankrupt; amenability to the bankruptcy laws; the condition of one who has committed an act of bankruptcy, and is liable to be proceeded against by his creditors therefor, or of one whose circumstances

defined either the term 'insolvency' or 'bankruptcy'. There were of course exhaustive Sections laying down what constitutes acts of insolvency.

HOW INSOLVENCY ADVERSELY AFFECTS THE ECONOMY?

The debts and transactions contracted in ordinary course of business need to be discharged in a time bound manner and this is essential lifeline of all business activities. Thus if a manufacturer supplies goods on credit and his dues are not realised, there will be a cascading effect on various parties. The entities which supplied materials to him may not receive their payments. The statutory dues may remain unpaid due to lack of liquidity. The employees may not get their salaries. Investors and depositors also suffer. Hence, identifying and dealing with such acts at inception stage is the best

alternative to avoid larger financial calamities.

In that sense, the Insolvency law has twofold purpose to serve. One is to give relief to the debtor from harassment of his creditors whose claims he is unable to meet and the other is to prevent a scramble among the creditors to get at the assets of the debtor promoting fraud and collusion between the creditor and debtor and provide a machinery by which all creditors are equitably satisfied¹.

The present unfortunate scenario in India is that the unscrupulous defaulter is found using protection of insolvency laws as a “sword” while the legislature intended it to be only a “shield” to the extent deserved. A practical experience from interactions with hundreds of borrowers² in banking system shows that the wilful defaulters even go to the extent of challenging the creditor “do whatever you can... I will apply for registration under Sick Industrial Companies Act (SICA)”. The balance sheets are fabricated and tailor made to get the tag of being sick and seeking protection from legal proceedings. One and all would agree that this grim reality tarnishes the image of India when it is emerging as a global leader and enthusiastically canvassing “Make in India” campaign and attracting global investment.

INSOLVENCY HITS ALL ADVANCED ECONOMIES AS WELL

All is not well with advanced economies of the world in the field of financial defaults. In a country like China, the penal laws also may get straightway attracted but in countries following democracy and rule of law, the due procedure has to be followed.

A case study of few bankruptcy cases in USA spanned over last 30 years reveals the following position:

BANKRUPTCIES IN USA

Year	Name of corporate	Pre-bankruptcy valuation of assets (US \$ in billions)
1987	Texaco	34.94
1988	Financial Corporation of America	33.86
2001	Enron Corporation	65.50
2002	WorldCom, Inc.	103.91
2005	Delta Airlines	21.80
2008	Lehman Brothers Holdings, Inc.	691.00
2008	Washington Mutual	328.00
2009	Chrysler	39.30
2009	General Motors	82.29

One may recall that US economy had its largest bankruptcy

¹ AIR 1956 Mad 157

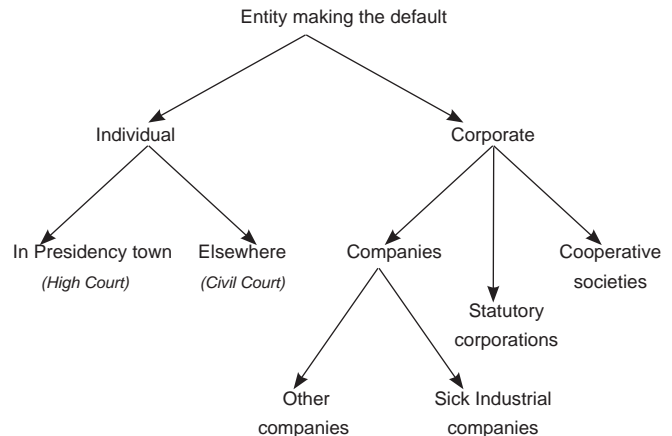
² The author has worked in legal and recovery Depts of banks/finance companies.

³ Article 1, Sec 8, Clause 4.

cases in 2008 and that was the year when global economic crisis occurred.

INDIA, A CLASSIC CASE OF TOO MANY LAWS WITH TOO LITTLE IMPACT

In India, the traditional laws had their applicability based on who is the defaulter and what is his geographical location. Thus the position can be summed up as under:



It needs to be noted that for each of the aforesaid law, there were different forums such as Civil Court, High Court (Company Court), BIFR, now National Company Law Tribunal (NCLT) and so on. Each of them used to function under different statutes and disputes often arose as to who exercises jurisdiction in the matter. Thus in winding up proceedings the priority may be given to workers dues but the dues may be a subject matter of dispute before Industrial/ Labour Court. The assets of the entity under winding up/ insolvency may be already attached by secured creditor. Inter se among secured creditors, there may be disputes about priority between the statutory dues and the dues of secured creditor. Once the matter gets entangled in this web of laws, the pursuit for justice not only becomes endless but at times even meaningless because the Liquidators Bill for preservation and Protection of Securities is much more than what the assets can realize.

A GLANCE AT THE POSITION IN FOREIGN COUNTRIES

Since 1909, when Presidency Towns Insolvency Act was enacted and later in 1920 when Provincial Insolvency Act was enacted, India continued with the same laws for almost 100 years. The world has changed a lot in the meanwhile.

- (i) **USA** : The Constitution of United States authorizes Congress to enact uniform laws on this subject(Bankruptcy) throughout all the States³. The power has been exercised quite frequently during last 216 years. The most significant change came in 1978 and thereafter in 2005 through the Bankruptcy Abuse Prevention and Consumer protection Act of 2005. The law there also defines concept of ‘Bankruptcy Crimes’, tax implications upon bankruptcy and thereby integrates the bankruptcy law with other laws.

the Insolvency law has twofold purpose to serve. One is to give relief to the debtor from harassment of his creditors whose claims he is unable to meet and the other is to prevent a scramble among the creditors to get at the assets of the debtor promoting fraud and collusion between the creditor and debtor and provide a machinery by which all creditors are equitably satisfied.

In US bankruptcy petition can be filed by Individual as also corporates. Petitions are filed in District Level Courts known as US Bankruptcy Court. The law also deals with bankruptcy proceedings in foreign forums. Under Chapter 9, the Courts consider how the foreign jurisdiction treats creditors and whether US creditors are protected against prejudice to the proceedings of their claims. There are separate protective provisions for adjustment of debts of family farmer, fishermen or individual with regular annual income. Separate provisions for debts of a municipality also have been made.

- (ii) **United Kingdom** :In UK, the Insolvency Act 1986 deals with the cases of individuals and companies. The Act deals with at length on receivers and their powers, administrative orders, voluntary arrangement by companies, members voluntary winding up, creditors voluntary winding up, winding up by the court and dissolution of companies, liquidators and their powers, winding up of unregistered companies. It covers registered friendly societies.

The procedure involves filing of bankruptcy petitions, and orders for bankruptcy being passed. Provisions for protection of bankrupt's estate and investigation of his affairs also have been made. Separate provisions for trustees in bankruptcy and administration by trustee have been made. A separate Chapter deals with effect of bankruptcy on certain rights and transactions and powers of court in bankruptcy. Bankruptcy offences have been separately defined. Role of new professionals called 'insolvency practitioners' has been recognized and their qualifications have been laid down.

Provisions against debt avoidance and preferential debts laying down priority to be given among creditors/ claimants have been separately provided for company and individual under insolvency.

It is open for directors of the company to take a proposal to the company or its creditors for voluntary arrangement and the proposal shall provide for appointment of trustee for its implementation. The proposal may also be submitted to the court and the court can appoint trustee.

- (iii) **Australia** :Like India, in Australia earlier there were separate legislations dealing with individual insolvency and corporate insolvency. Harmer Report (1998) recommended for having common legislation for both. Separate legislations still continue to govern the aspect of insolvency.

The individual's insolvency is mainly dealt with in Bankruptcy Act 1966, and Bankruptcy Regulation 1996. The proceedings are conducted in Federal Magistrate Court dealing with Bankruptcy Cases.

Corporate insolvency has been dealt with under Corporations Act 2001 and the connected regulations.

After leading cases like Cook s. Banson and Alan Bonds Bankruptcy Case, the vigor of law have been tightened over bankrupts and greater investigative and recovery power has been conferred on trustees in bankruptcy. The amendments in 1991 and later in 1996 were aimed at dealing with 'High Flyers' who were abusing the process and technicalities of bankruptcy law⁴.

The Company Law Review Act 1998 did not make many changes on the issues relating to corporate insolvency. The debtor's petition was to be presented by the debtors to the official receiver.

- (iv) **China** : China has been the world leader in economic growth during last thirty years and hence their legislation deserves closer attention. In China, Ministry of Commerce is the regulator. The cases are dealt by Peoples Courts. The judge appoints an administrator and a moratorium applies preventing further civil law recovery action by any creditor. The Civil Procedure Law 1982 in China has a specific chapter 19 for dealing with bankruptcy procedure for legal person enterprises. There is another law called People's Republic of China on enterprise bankruptcy (for trial implementation 1996). It applies only to State owned enterprises. Prior approval of the relevant department is a condition precedent before bankruptcy proceedings in China against such enterprise.

Another draft bankruptcy law provides that a person can be deemed to have committed act of insolvency if he ceases to make payment and that will constitute his inability to pay the debts. The new proposed law will separately deal with insolvency of sole proprietorships, partnerships, enterprise legal persons and other economic organizations constituted under the statute.

⁴In India there is almost the same position in several cases of high debt defaulter entities.

(v) **Singapore** : Singapore is the world business hub. The bankruptcy related proceedings are regulated by insolvency and public trustees office. The individual bankruptcy was earlier governed by Chapter 20 of Bankruptcy Act and Corporate insolvency was dealt with by Chapter 50 of the Companies Act.

Singapore adopted a pro-active approach to the aspect of insolvency and the new Bankruptcy Act 1995 emphasizes on reducing the instances where parties resort to bankruptcy proceedings and encourage the settlement of claims through voluntary arrangements.

(vi) **Canada** : The proceedings are regulated by office of the superintendent of Bankruptcy. Various stages of bankruptcy appear to be dealt with by separate legislations.

The statutory framework for liquidation of the assets of an insolvent, whether individual, partnership or corporate and its distribution in fair and orderly way is dealt with under Bankruptcy and Insolvency Act (BIA). The trustee appointed under the Act takes charge of the assets, sales them and distributes the proceeds. The bankruptcy can be avoided by negotiation arrangement with their creditors for compromise of the debts or reorganization of financial affairs.

An insolvent company can seek a court for stay in creditors action while it negotiate an arrangement with them for re-schedulement or compromise under Companies' Creditors Arrangement Act (CCAA.)

For liquidation of major financial institutions, including banks, insurance companies, trust and loan companies who cannot be liquidated under BIA separate law called Winding Up and Restructuring Act (WURA) is applicable.

INSOLVENCY PROCEEDINGS IN INDIA – DELAYS AND BACKLOGS

Till recently individual insolvency proceedings in India were heard and decided by ordinary civil courts. The civil courts deal with all type of civil suits including money disputes, property disputes, family disputes and so on. The civil courts have huge backlog of pending cases as may be appreciated from the following official data:

Summary Report of Civil Cases in India as on 24.8.2016

Cases Disposed In Last Month	212051
Cases filed in last month	208849
Cases disposed in last month (more than 10 years old)	8678
PENDING CASES	
Cases pending over 10 years	681378
Cases pending (between 5 to 10 years)	1189000
Cases pending (between 2 to 5 years)	2242358
Cases pending less than 2 years	3437698
Total pending Cases	7550430

CATEGORY WISE PENDING CASES	
Senior citizen	628043
Filed by Women	1197900
Total Judge/Court	16,618
Per judge pendency of Civil Cases	454

Per judge pendency after including 1,52,46,759 criminal cases (total 2,27,97,189, as per available data) comes to 1372.

In India, so far there are no separate and exclusive courts dealing with insolvency. World Bank in 2015 compiled the data of the time involved in resolving insolvency disputes. The time was to be considered from the date of filing of insolvency petition/ suit until the resolution of dispute.

The position was on expected lines and India was falling far behind.

Country	Time involved in deciding insolvency petition
Singapore	8 months
Malaysia	1 year
United Kingdom	1 year
United States	1.5 years
India	4.3 years to 6 years

India at present ranks 130th in World Bank's ease of doing business index out of total 189 countries.

The data may be same in context of the population, the litigation explosion, the judge strength and various factors but India has to be concerned that capital is precious for establishing and running any business and it should not be wasted away on weak, unviable or fraudulent businesses. It hampers the economy and benefits only the person who swindles away the money by defying the law.

In India, another recent phenomenon is of mass insolvency petitions such as petitions filed in various States by organized groups like farmers. In such cases Govt. after Govt. have come out with loan waiver schemes and made payment through budgetary provisions to the creditors mainly the nationalized banks. Many experts on economy are of the view that it is neither a healthy practice nor a long term solution to the problem.

SALIENT FEATURES OF THE NEW LAW

All business entities come under common umbrella for bankruptcy proceedings.

All companies whether covered by Companies Act or any Special Act, Limited Liability Partnership Act 2008, other bodies incorporated under laws for the time being in force, partnership firms and individuals have been included and are governed by the new law.

DEFINITION OF CREDITOR MADE WIDE

Under the Provincial Insolvency Act 1920, creditor included a

judgment debtor. Under the new revised law Section 3(10) and (11), 'Creditor means any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor, an unsecured creditor and a decree holder.'

'Debt means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt.'

SEPARATE PARTS FOR CORPORATE INSOLVENCY AND INDIVIDUAL BANKRUPTCY

Part II of the new Law with 7 Chapters and 74 sections deals with corporates. In Part III, 4 chapters and 66 sections have been provided for individual and partnership bankruptcy.

CIVIL COURTS JURISDICTION BARRED -MATTERS TO BE DEALT WITH BY ADJUDICATING AUTHORITIES

Sections 63 and 180 of the new Act bars the jurisdiction of Civil Court and the jurisdiction is exclusively vested in Adjudicating Authority.

The adjudicating authority shall be as under:

For individuals and partnerships (S.179)	For Corporate persons (S. 60)
Debt Recovery Tribunal (DRT)	National Company Law Tribunal(NCLT), Dispute of Corporate debtors and personal guarantors also included.

It appears that proper manpower planning and expense allocation will have to be made. The NCLT is yet to be effectively made functional. As far as the DRTs are concerned, they exist since last more than 20 years. So far they were dealing with recovery applications of the banks above Rs. 10 lacs, connected counter claims and securitization appeals. The added responsibility will increase their workload manifold. The present pendency position in DRTs is as under:

Pendency in DRTS and DRATS (for may 2016)

Original applications	64663
Securitization Application	22230
DRAT appeals	3096
DRAT Miscellaneous Appeals (only for Delhi & Mumbai)	397

The advantage will be that the affairs of the debtors including the debtors of the bank will come under a common scanner and adjudicator, as far as individuals/ firms are concerned. For corporates and sick industrial companies, it will be NCLT.

INSOLVENCY PROFESSIONAL AGENCY

A new and exclusive area of practice has been carved out for the professionals to provide services needed by debtors, creditors and other persons as may be specified. Section 200(C) emphasizes

good, professional and ethical conduct while protecting the interest of their clients. No person shall carry on business as insolvency professional except when he has obtained a certificate of practice.

CONSTITUTION OF INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

For the purposes of the Code, the above board will be established. It is a body corporate. The chair person of the Board will be a person who held the rank of cabinet secretary and other members will be of secretary level. Three experts of repute also will be appointed and the Board mainly performs functions relating to registration of insolvency professional agencies, their bye laws, stipulating minimum standards of competence.

POSITION REGARDING PRIORITY OF PAYMENT OF DEBTS

Under the Provincial Insolvency Act, priority was given only to the debts due to govt. or local authority and salary/ wages of clerk/ servant not exceeding Rs. 20 for services rendered during last four months before presentation of petition.

The provision of Rs. 20 looks laughable in present scenario.

The new law makes an overriding provision to give priority under Sec. 178 and also settles the controversy as to between secured creditor and the State dues- who gets the priority. The order of priority has been stipulated as under:

- firstly, the costs and expenses incurred by the bankruptcy trustee for the bankruptcy process in full.
- secondly the workmen's dues for the period of twenty-four months preceding the bankruptcy commencement date, and debts owed to secured creditors.
- thirdly, wages and any unpaid dues owed to employees, other than workmen, of the bankrupt for the period of twelve months preceding the bankruptcy commencement date.
- fourthly, any amount due to the Central Government and the State Government.
- lastly, all other debts and dues owed by the bankrupt.

Unless the first category is paid in full, the second and subsequent category does not get any amount if assets of the bankrupt are insufficient. Claimants in the same category will be taking it pari passu.

Unsecured creditors shall rank equally. Surplus remaining shall be applied in paying interest on the debt.

In respect of corporates Sec. 53 deals with distribution of assets and is on identical line.

Section 52 gives an option to the secured creditor whether he wants to realize security interest by his own action or relinquish security interest to the liquidation estate and receive proceeds from the sale of assets by the liquidator as available under Section 53.

APPELLATE MACHINERY

The Appellate Machinery under the new law operates as under:

Type of debtor	First Appeal	Second Appeal
Company	National Company Law Appellate Tribunal (Sec. 61)	Supreme Court (on a question of law) (Sec. 62)
Individual & partnerships	Debt Recovery Appellate Tribunal (Sec. 181)	Supreme Court (on a question of law) (Sec. 182)

In both cases, the tribunals that hear the appeals have the persons qualified to be High Court judges. Later, the Second Appeal on question of law goes to the Supreme Court. Perversity of finding constitutes a substantial question of law⁵. There is no re-appreciation of evidence but if the lower forum rejected an evidence on flimsy grounds, it constitutes a substantial question of law. Findings arrived at by considering irrelevant fact or by non-consideration of relevant fact also gives rise to substantial question of law⁶. The substantial question of law has to be formulated before deciding the Appeal.

FAST TRACK PROCEEDINGS

If the assets and income of a corporate debtor is below a level notified by Central Govt. or it has such class of creditors or such amount of debt as maybe so notified or involves notified category of corporate persons, the matter can be tried under corporate insolvency resolution process on fast track basis. The advantage of this provision is the time limit which requires that the process shall be completed within a period of 90 days from the insolvency commencement date. The application under this procedure can be filed by any creditor or a corporate debtor along with proof of existence of default as evidenced by records available with an information utility or on the basis of such other information as maybe specified by the board.

MORATORIUM

In case of default by a corporate debtor, the creditor or the debtor itself is entitled to initiate corporate insolvency resolution process by filing an application under section 7 before the adjudicating authority. The authority has to complete insolvency resolution process within a period of 180 days.

The authority is empowered to declare moratorium for prohibiting all of the following:

- the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein.
- any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the SARFAESI Act, 2002.
- the recovery of any property by an owner or lessee or where such property is occupied by or in the possession of the

corporate debtor.

The order shall have effect from the date of order upto completion of corporate insolvency resolution process.

FRESH START PROCESS OPTION IS AVAILABLE TO SMALL DEBTORS

A small debtor if he fulfills the following conditions can move application to the adjudicating authority under Sec. 80. The criteria laid down is as follows:

Criteria	Limit (<i>not exceeding</i>)
Gross annual income of the debtor	Rs. 60,000/-
Aggregate value of assets of the debtor	Rs. 20,000/-
Aggregate value of qualifying debts	Rs. 35,000/-

The applicant should not be an undischarged insolvent. He should not have a dwelling unit encumbered or otherwise. No previous fresh start order should have been made in relation to him in preceding 12 months before submitting application.

In his application, he has to submit list of all the debts owed by him, interest payable on such debts, list of securities held in respect of debt, personal details as maybe prescribed, particulars of legal proceedings commenced against applicant.

Upon filing of the application, an interim moratorium period commences and no legal action or proceedings can be initiated against him. There appears to be no clarity in respect of action u/s. 138 of Negotiable Instruments Act regarding bouncing of cheque which is a criminal offence.

RESTRICTIONS ON BANKRUPT INDIVIDUALS

A bankrupt from the bankruptcy commencement date gets subjected to several restrictions and incapacities. The provisions are of far-reaching consequences under section 141:

Restriction	Implications
Directorship	He cannot act as a director of company nor can he directly or indirectly take part in or be concerned with promotion, formation or management of the company.
Creation of charge & further debts	Without the previous sanction of bankruptcy trustee, he shall be prohibited from creating any charge on his estate or taking any further debt.
Overseas travels	He is not permitted to travel overseas without the permission of adjudicating authority.
Obligation to intimate	He is required to inform his business partners that he is undergoing a bankruptcy process. Prior to entering any financial or commercial transaction of prescribed value, either individually or jointly, has to inform all the parties involved about his bankruptcy process.

⁵ AIR 2001 SC 1273

⁶ AIR 2008 SC 956

Thus the debtors who at the cost of money of others were behaving like high fliers and duping more and more people, are now getting clipped with the new provisions.

STRINGENT OFFENCES AND PENALTIES FOR CORPORATES AND PERSONS RESPONSIBLE

The punishment in case of corporates is imposed on officers and there is provision for minimum punishment and fine.

Officer of corporate debtor who, twelve months immediately preceding the insolvency commencement date, has concealed any property or debt due to or from the corporate debtors above Rs. 10000/- or has removed part of the property, wilfully made false entry in any book or paper, concealed, destroyed or mutilated it, parted with any document, willfully created any security interest over the asset obtained on credit or willfully concealed the knowledge of others doing so shall be punishable with imprisonment for a term of not less than 3 years but which may extend to 5 years or with fine which shall not be less than Rs. 1 lac but may extend to Rs. 1 crore. It is open to the person concerned to take a defense that he had no intent to defraud or conceal. Defrauding creditors and making gift or transfer of or removing any property is also punishable. Misconduct such as non disclosure to the resolution professional also can attract punishment.

In respect of falsification of books of corporate debtor, with intent to defraud or deceive any person has been made punishable for a term not less than 3 years but may extend to 5 years. Willful and material omission from statements relating to affairs of corporate debtor attracts similar punishment. False representations made to creditors, false information submitted in application, contravention of moratorium terms is also punishable. In all the cases, imprisonment has been provided.

As far as individuals and partnership firms are concerned, there are similar provisions made under sections 184 to 187. In addition to imprisonment of 2 years, fine 3 times the amount of property dishonestly dealt with, can be imposed. Contravention of the provisions and providing false information also attracts imprisonment and fine.

Thus the insolvency law which was so far considered toothless to create impact against the debtors, has been provided with many deterrent provisions.

VARIOUS CATEGORIES OF PROFESSIONALS AND THEIR ROLE

Sec.	Category	Role
20	Interim resolution professional	To make every endeavour to protect and preserve the value of property of corporate debtor and manage the operations as going concern.
206	Insolvency professionals	To take action as stipulated u/s. 208 where any insolvency resolution, fresh start, liquidation or bankruptcy process has been

		initiated in respect of corporate liquidation, individual bankruptcy and other matters.
149	Bankruptcy trustee	His function is to investigate affairs of the bankrupt, realise and distribute the estate of bankrupt.
34, 35	Liquidator	He verifies claims of all creditors, takes into his custody or control all assets, property, effects and actionable claims of corporate debtors, evaluates the assets, ensures continuity of business for beneficial liquidation.
22, 23, 5(27)	Resolution professional	It means an insolvency professional appointed to conduct corporate insolvency resolution process and includes an interim resolution professional.
209	Information utilities	They provide core services and make available information in universally accessible format. They also accept electronic submission and get the information received from various persons authenticated by concerned parties. They also publish such statistical information.

The qualifications and experience requirement including provisions regulating them shall be laid down under the rule making power.

IMPORTANT AMENDMENTS IN OTHER STATUTES:

Income Tax Act - Section 178

Section 178 of the Income Tax Act as it stands now requires the liquidator of any company or receiver of assets of the company to give notice to the Assessing Officer and without leave of the Commissioner, Income Tax, he cannot part with any of the assets of the company or the properties until notified. Payment to secured creditors entitled under law to priority is not affected by this provision.

The above provision has overriding effect under Sec. 178(6) and the Third Schedule to the new bankruptcy law makes the following significant change:

Income Tax Act Sec. 178(6)	Position after Amendment
The provisions of this Section shall have affect notwithstanding anything to the contrary contained in any other law for the time being in force.	After the words 'for the time being in force' the words and figures 'except' the provisions of the Insolvency and Bankruptcy Code, 2016' shall be inserted.

INDIAN PARTNERSHIP ACT 1932 – SEC. 41 CLAUSE (A)

The comparative position is as under:

Indian Partnership Act Sec. 41(a)	Position after Amendment
A firm is dissolved (a) by the adjudication of all the partners but one as insolvent.	Sec. 41(a) is amended by First Schedule. Now that the specific provision for adjudication of bankruptcy of a firm is included in the Law the provision was redundant and hence deleted.

RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT

The long title of the Act becomes longer by the following change:

Sec. of RDB Act	Position after Amendment
Sec. 1 of the RDB Act- The Title of the Act was 'Recovery of Debts due to Banks and Financial Institutions Act, 1993'.	The Title will be 'Recovery of Debts due to Banks and Financial Institutions, Insolvency Resolution, and Bankruptcy of individuals and partnership firms Act.'
Sec. 17 of the RDB Act- The Tribunal was exercising the jurisdiction, power and authority to entertain and decide applications from the banks and financial institutions for recovery of debts due to such banks.	Sec. 1(A) has been added – 'Without prejudice to sub-section (1)- <ul style="list-style-type: none"> the Tribunal shall exercise, on and from the date to be appointed by the Central Govt., the jurisdiction, powers and authority to entertain and decide applications under Part III of Insolvency and Bankruptcy Code, 2016. the Tribunal shall have circuit sittings in all district headquarters.'

SECURITIZATION ACT- SEC. 13(9)

The Insolvency and Bankruptcy Code 2016 has been given overriding effect in respect of consortium financing by the secured creditors. The comparative position is as under:

Provision as it stood – Sec. 13(9)	Position after Amendment
In the case of financing a financial asset by more than one secured creditors or joint-financing of a financial asset by secured creditors, no se-	'In the case of' shall be substituted by 'Subject to the provisions of the Insolvency and Bankruptcy Code, 2016, in the case of..'

cured creditor shall be entitled to exercise any or all of the rights conferred on him under or pursuant to sub-section (4) unless exercise of such right is agreed upon by the secured creditors representing not less than sixty percent in value of the amount outstanding as on a record date and such action shall be binding on all the secured creditors.	(Rest of the provision remains same) This will reduce the possibility of conflict of laws and give overriding effect to the proceedings under Insolvency and Bankruptcy Code.
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COMPANIES ACT

Under the 11th Schedule to the Act almost 36 amendments have been introduced. The prominent among them are the following :

- Section 2(23) – relating to Company Liquidator
- Section 2 (94) – relating to winding up.
- Section 8(9) – the rehabilitation and insolvency fund.
- Section 66(8) – unable to pay the amount of debt or claim.
- Section 224 – wound up under Companies Act.
- Section 230 – Liquidator.
- Section 272 – Petition for winding up.
- Section 275(2) – Provisional Liquidator.
- Section 280- Jurisdiction.
- Section 326 – Overriding preferential payments.
- Section 434 – Transfer of pending proceedings.
- Section 468 – Relating to proceedings have been amended.

One of the important provisions is under the Section 271 which lays down that 'if a company has acted against the interest of sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality then company can be subjected to winding up'.

This becomes a major third round of amendments to the New Companies Act after it was enacted in 2013.

SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS) REPEAL ACT

The provisions of the SICA have been totally wiped off by inserting Sec. 4(b) which inter alia stipulates that 'on the notified date, any appeal preferred to the Appellate Authority or any reference made or inquiry pending to or before the Board or any proceeding of whatever nature pending under SICA 1985 shall stand abetted'.

Option is available to such company to make reference to National Company Law Tribunal within 180 days from the commencement of Insolvency and Bankruptcy Code 2016 in accordance with the provisions of the Code.

No fees will be payable for such reference.

LIMITED LIABILITY PARTNERSHIP ACT 2008

Section 64(c) provided that a limited liability partnership may be wound up by the Tribunal 'if the limited liability partnership is unable to pay its debts.' This clause has been omitted.

TIME BOUND COMPLIANCE AND ACTION CHART

Winding up proceedings under the Companies Act and Insolvency Proceedings under the earlier laws had been victim of inordinate delays which virtually benefited the dishonest debtors. A meticulous care has therefore been taken in the new Code and various action points have been stipulated.

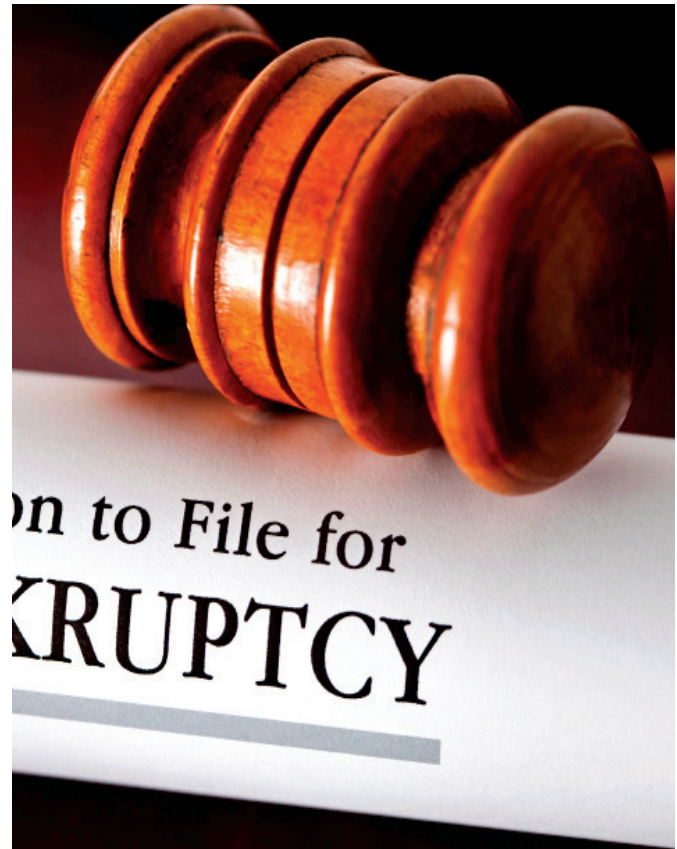
The event chart is as under:

Stage	Time Limit (No. of days)
Filing of application with requisite particulars.	Before the debt itself becomes time barred under the Limitation Act.
Adjudicating Authority deciding admission or rejection of application. Rectification of defect.	Seven days.
Declaration of moratorium upon admission.	Fourteen days from date of filing.
Appointment of insolvency resolution professional.	Twenty Eight days from date of filing.
Constituting committee of creditors and appointment of Final resolution professionals.	Thirty Eight days from date of filing.
Submitting resolution plan, cessation of moratorium in case of approval of plan. Alternatively – initiation of liquidation in case of rejection of resolution plan and insolvency resolution process completion.	194 days from the date of filing.
Extension of insolvency resolution process.	Upto 240 days from date of filing.

If the abovementioned schedules are strictly adhered to and no dilatory tactics are entertained, then the impact of or rather the positive impact of the Act can be seen within two years or thereabout. It appears the Higher judiciary also will have to exercise self restraint in entertaining writ petitions or Special Leave petitions filed purely for the purpose of circumventing the vigors of the new law.

CONCLUSIONS

India has completed 25 years of its economic reforms. The economic reforms can be successful if the country keeps pace with the global trends and maintains parity with important economic and finance sector legislations in other countries. The biggest challenge is hence to create an efficient, well integrated and transparent machinery. The role of professionals has been given prominence and there will be greater and unprecedentedly high expectations from them. The use of information technology for cross comparison of



information also will prove to be of great help. The dubious practice of defrauding the creditors and enjoying others money needs to be curbed because it is ultimately detrimental to the society at large. The law will implement it through NCLTs and DRTs and their machinery will have to be overhauled to meet the new challenges. The rules and regulations that will be framed also assume great significance.

Justice V. R. Krishna Iyer observed ⁷:

'Law is a practical instrument, a working tool in a work-a-day world and where, (...) the affected fraction of the community is the common official, the commercial man and ordinary folk, the wiser rule of construction follows commonsense, not casuistry, context, not strictness and not subtle nuance but plain sense.'

The new law will have to send a message that in commercial world honoring the financial commitments in a timely manner matters and any deviation may invite drastic adverse consequences.

Keeping in view the urgency for bringing the IBC Law in action, the Finance Minister has directed senior officials of the Ministries of Finance and Corporate affairs to take steps including setting up of a board for implementation in a time bound manner. CS

⁷ Trustees of port of Bombay v. Premier Automobiles Ltd., (1974) 4 SCC 710, Para 39

Challenges in implementation of Insolvency and Bankruptcy Code



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In India, Industrial undertakings and large commercial enterprises providing employment to people at different levels, have always received preferential treatment in the matter of loan defaults and inability to make profits. The policy of the Government, at State and Central level, had always focussed on continuation of employment of the workforce and for that purpose the lenders were required to find ways and means by which the business enterprise can continue manufacturing or other business activity.

were enacted for setting up special Debt Recovery Tribunals and also give powers of enforcement of securities without the intervention of the Courts to Banks & FIs. Actions under such new laws are also facing similar problems in implementation and challenges to validity of recovery action at various stages continues to delay and defeat recovery efforts. In the above extremely adverse environment, it became necessary to enact the Insolvency and Bankruptcy Code, 2016 for a dual purpose of ascertaining whether defaulting

The law of insolvency as it stands at present is interpreted by courts and insolvency orders are passed in extreme cases. The proposed Bankruptcy Law is a major change and departure from the existing law, which is interpreted by the Courts in favour of debtors. Courts have held that winding up is a discretionary relief which the Court should grant if existence of the company will cause immense prejudice to all concerned. The order of winding up should be made in rarest of rare cases. From such principles the pendulum will start swinging in the opposite direction once the Code comes into operation.

Nobody even mentioned the need to recover defaulted loan and the stress was on giving further loans for revival and rehabilitation. In the process the lenders were expected to grant reliefs, concessions, reduce or waive interest and also agree for long repayment schedules. The criteria for sickness was and even now continues to be 100% erosion of net-worth under SICA and provision for indefinite stay of recovery proceedings against sick industrial undertaking continues to be on the statute book. In cases where such favoured treatment did not work, the management of the enterprise was taken over by the Government or the industry was nationalised by enacting a special law. With the introduction of income recognition and prudential norms for Banks & FIs in scene has undergone a change. To address the problem of delays of the system in speedy recovery of defaulted loans of banks and FIs, special laws

enterprise is viable and can be placed under a resolution plan and if not liquidate the assets and pay the creditors. At the outset, it is necessary to note the changes proposed to be introduced in the system:

- The trigger for filing application for corporate insolvency resolution process is default in repayment of financial debt or operational debt. There is no requirement of any notice before filing for insolvency resolution process, by financial creditor.
- Verification of default is to be done on the basis of data available with Information Utility to be set up under the Code.
- All solvent corporate debtors and lenders have to furnish data to Information Utilities in respect of debts, liabilities, assets against which



secured loans are obtained and instances of default.

- On verification of default from the information utility the Adjudicating Authority shall appoint interim Insolvency Professional and make public announcement of commencement of the Insolvency Resolution Process.
- Insolvency Professional has to take possession of all assets and manage the affairs of the corporate debtor.
- Insolvency Professional shall form a creditors committee obtain the relevant data from the company and get the Resolution Plan prepared and approved by the Creditors Committee and the Adjudicating Authority.
- From the date of Insolvency Resolution order there will be a moratorium against any action or recovery proceedings against the corporate debtor for 180 days or extended time of 270 days.
- Insolvency Professional is a practicing Chartered Accountant, Company Secretary, Advocate or Cost Accountant registered with the Insolvency and Bankruptcy Board of India.
- There are time limits prescribed for each step in the Insolvency Resolution Process and if insolvency resolution plan is not approved within 180 days or 270 days if extended, the corporate debtor shall be ordered to be wound up and put under liquidation.

It is clear that trigger for insolvency resolution petition is a single default which will result in taking over possession of assets and management of the defaulter Enterprise by the Insolvency Practitioner (IP). On such possession being taken the IP has to form Creditors Committee, examine viability and

One crucial change sought to be introduced under the Insolvency and Bankruptcy Code, 2016 is the power to file insolvency petition against a debtor company immediately on default without any notice and the power of NCLT to pass orders for insolvency resolution within 14 days after verification of default.

if approved by 75% of creditors obtain sanction for the Resolution Plan within 180 days or extended period of 270 days. If no plan is approved within 180/270 days the Enterprise is to be placed under liquidation.

The challenge in implementation of the Insolvency & Bankruptcy Code is that the new law will require total transformation of mind-sets and well established norms and practices on the part of:

1. business enterprises, as borrowers of the banks and FIs;
2. mercantile community i.e. all buyers of goods and services including all public sector undertakings, departments of Government both State and Central as well as local and other public authorities;
3. the lenders viz. banks, financial institutions, investors in debt instruments and all other lenders; and
4. the judiciary.

BORROWERS

The borrowers of the Banks and FIs need to note that the new law empowers the Insolvency Practitioners to repossess assets and take-over management of the Enterprise of the borrower, in the event of default in repayment of any loan instalment or interest without any notice and the law is very stringent as compared to the SARAFESI Act, 2002. The borrowers therefore need to devise a cash flow management policy to ensure that there are no defaults and adopt a Code of Conduct in regard to repayment of all liabilities

- As a matter of policy ensure that all commitments to pay irrespective of the quantum, for goods purchased or services availed or loan repayment shall be honored on or before due date;
- If for any reason funds cannot be arranged for payment, inform the Bank well in advance with reasons for delay in payment. Also indicate the date by which payment will be made and whether subsequent payments due will be made on time;
- If there is any other long-term problem such as defect in the product which will take some time to correct or lack of orders

‘ In cases of loans to micro and small enterprises, it would be physically impossible to take possession of defaulting enterprises and ask Insolvency Practitioners to manage them. In such cases, Banks will have to examine feasibility of restructuring the debt and if need be recover the debts by resorting to Debt Recovery Laws. But if the Debtor itself files for insolvency resolution, the lender will have no option to ensure that Insolvency Resolution Practitioner appointed will protect the interest of lenders. ’

or inability to sell, lenders will have to be kept informed.

- If there are any remedial measures such as restructuring the debt, further finance to correct defects in machinery / or change in manufacturing process etc. bring it to the notice of the lenders at the earliest opportunity.
- As a matter of policy ensure that there is no concealment of facts or diversion of funds or any action / conduct which is contrary to loan sanction terms;
- Extend full co-operation to the lenders in the matter of preparation of Resolution Plan and obtain approval of Adjudicating Authority with the consent of the lenders.

LENDERS

When the new law becomes operative, the banks and FIs will have to formulate new policies for dealing with defaults for different categories of loans and borrowers. Since, initiation of insolvency resolution process may result in Liquidation of the Enterprise after 180 days Reserve Bank and the lenders need to address following policy issues:

- (1) The Bankruptcy Code provides that Insolvency Resolution Process can be initiated by a financial creditor or operational creditor or the corporate debtor, in the event of default. The term default means non-payment of whole or any part or instalment amount of debt which has become due and payable and is not paid. If there is a default in payment of instalment of a loan, the bank / FI will have to recall the entire loan before filing for Insolvency Resolution. Hence, in the event of default, the Bank will have to assess whether default is on account of some temporary problems or there is probability of further default and whether to recall the entire loan outstanding

and file Insolvency Resolution Petition;

- (2) If default is likely to be corrected shortly, it may not be worthwhile to start Insolvency Resolution Process;
- (3) Banks & FIs will also have to decide the categories of loan accounts in which the action for recovery will be by filing Insolvency Resolution Process. In cases of loans to micro and small enterprises, it would be physically impossible to take possession of defaulting enterprises and ask Insolvency Practitioners to manage them. In such cases, Banks will have to examine feasibility of restructuring the debt and if need be recover the debts by resorting to Debt Recovery Laws. But if the Debtor itself files for insolvency resolution, the lender will have no option to ensure that Insolvency Resolution Practitioner appointed will protect the interest of lenders.
- (4) If default is not likely to be corrected, file Insolvency Resolution Petition (IRP) which will compel the borrower to prepare Insolvency Resolution Plan acceptable to 75% in value of all creditors within 180 days.
- (5) If after notice the Defaulter corrects the default is the status quo ante to be restored or the Defaulter should be made to obtain approval of Resolution Plan inspite of repayment of defaulted loan instalments, on the basis that total loan has been recalled.
- (6) For assessing the treatment of default for total recall or treatment of payment of defaulted loan instalment or interest it will be necessary to work-out certain norms taking into consideration following circumstances relating to default:
 - the default is a solitary one without any delays in payment of other dues for valid and satisfactory reasons; or
 - whether the default is inspite of capacity to pay or there are indications of diversion of funds and willful default; or
 - the default is recurring coupled with delays/ defaults in payment of other dues/ liabilities, requiring examination of long-term viability; or
 - the default is on account of delays in payment for supply of goods / services to Government Departments, other public authorities and public sector enterprises or large undertakings; or
 - The default is on account of some accident or natural calamity, requiring compassionate treatment of default including grant of debt relief.
 - The Banks and FIs will have to note that monetary ceilings for the loans subject to the proposed Bankruptcy

Code are very low at Rs. 1,00,000/- for companies and Rs. 1,000/- for non-corporates and hence the law will apply to all loans whether a loan to a farmer to buy a pair of bullocks or project finance for a mega petro chemical project. The norms for dealing with defaults will have to be formulated for different categories of borrowers.

- It is possible that defaulted loan is for purchase of a specific asset like a vehicle or other equipment or a house and it may be possible to recover the defaulted loans by selling the security. In such cases it may not be necessary to resort to insolvency resolution process against the defaulter;
- Credit Monitoring for high value accounts will have to be more elaborate to check whether the borrower is receiving payments for goods sold or services rendered on time, and whether the borrower is generating surplus.
- Loan documentation of the Banks may have to be modified to provide that on a single default the Bank shall be entitled to initiate insolvency petition and that as and when the borrower realizes that there is a likelihood of loan default it should inform the Bank the reasons for default and what steps are proposed to be taken by the Enterprise to correct the default and what is expected from the lenders.

BUSINESS COMMUNITY

One crucial change sought to be introduced under the Insolvency and Bankruptcy Code, 2016 is the power to file insolvency petition against a debtor company immediately on default without any notice and the power of NCLT to pass orders for insolvency resolution within 14 days after verification of default. The new law calls for introducing new culture for the entire mercantile community as well as all purchasers of goods and services of honoring commitments to pay on due dates. The present practice is to delay payments as long as possible and do business availing credit from bank and also from suppliers of goods and services. Such delayed payments has been the problem, the MSME sector is grappling with for past many years.

All the Government authorities, local and other public authorities, PSUs and other business entities under the control of the Government will have to ensure that all commitments made or obligations undertaken are honoured on due dates. Such new culture will facilitate trade and industry to honour their own commitments for payment of borrowed funds and other payments for goods and services.

The business community needs to adopt a Code of Conduct for itself in the matter of utilization of loans and meeting payment obligations, as under:

- Utilize the Loans for the purpose for which they are granted and ensure that there is no diversion of funds and the cash flows and other realizations;

- Truly account for the cash flows and other realizations and utilize them for repayment of the loans as per agreed terms;
- If the cash flows are not used to repay loans disclose the reasons and state where the funds are used, and preferably obtain approval of the Bank for using the funds for purpose other than repayment of working capital availed against such receivables;
- Ensure that all undisputed liabilities or payments, cheques issued are discharged, paid or honoured on due dates so that disputes are minimized.

JUDICIARY

The law of insolvency as it stands is interpreted by courts and insolvency orders are passed in extreme cases. The proposed Bankruptcy Law is a major change and departure from the existing law, which is interpreted by the Courts in favour of debtors. Courts have held that winding up is a discretionary relief which the Court should grant if existence of the company will cause immense prejudice to all concerned. The order of winding up should be made in rarest of rare cases. There is a recent Madras High Court decision holding that passing winding up order against a company is like signing a DEATH WARRANT and such order cannot be passed for recovery of a loan. From such principles the pendulum is swinging in the opposite direction requiring adoption of following principles for winding up companies:

- A default is repayment of debt by a company means the company is not solvent and insolvency proceedings can be initiated immediately on default;
- As a borrower company is expected to be aware that loan repayment is due on a particular date, there is no need to give any notice of default;
- Any resolution plan proposed by the company should be approved or not is for the creditors committee to examine and decide. If such plan is not approved by the creditors the company is to be liquidated and such liquidation order is as a result of creditors' decision not to support the company.
- There is no exercise of judicial discretion in deciding whether liquidation order needs to be passed on rejection of Resolution Plan. If plan is not approved by Creditors, the company is to be wound up.

Adoption of new norms for honoring commitments to pay and implementation of the IBC based on new principles are going to be major challenges.

In addition, establishment of new entities such as Insolvency Professionals, Insolvency Professional Agencies, Insolvency and Bankruptcy Board of India, Information Utilities and the National Company Law Tribunals and make them functional is also going to be a major challenge in implementing the Code. CS

Corporate Insolvency Resolution Process – Brief analysis and challenges



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Corporate failure may be due to business or financial failure. Business failure is breaking down of business model and inability to generate enough revenues. Financial failure is due to mismatch between payments and receivables of an enterprise. A sound bankruptcy process helps the creditors and debtors to come to a platform that brings remedy for business or financial failure. It is not necessary that the defaulting companies go for liquidation. There may be situations in which a viable mechanism can be found through which the companies may be protected as a going concern.

significantly lower than its liabilities. The re-organisation plan involved sale of brands, reduction of labour force etc. The company's core brands namely Chevrolet, Cadillac, GMC and Buick were retained. The Company sold off its brand namely Saturn, Saab and Hummer. The US treasury has ownership stake of 60.8% in the emerged General Motors.

THE CASE OF WORLDCOM

For that matter, Chapter 11 could even recover WorldCom which emerged from bankruptcy during 2004 after filing of bankruptcy application. WorldCom did not have the cash needed to pay \$7.7 billion

The Insolvency and Bankruptcy Code is a new generation law that provides efficient revival mechanism and also throws challenges in the form of capacity building, harmonisation of various laws, creation of insolvency professionals, development of regulatory platform and so on.

SOME INTERNATIONAL EXAMPLES

In fact, American bankruptcy procedures enable sick companies to restructure its debt obligations even while remaining operational. In this context, one must recognise that in the US the well known Chapter 11 bankruptcy proceedings are considered as re-organization/resurrection process for corporates. Many companies are known to have revived from them. Further, Chapter 11 ensures the emergence of companies with sustainable debt levels and profitable working.

THE CASE OF GENERAL MOTORS

One of the most remarkable events in 2009 has been the decision of General Motors Corporation USA to file bankruptcy proceedings — a decision forced on the company after it lost market share in the recession. Its assets were

in debt, and therefore, filed for Chapter 11 bankruptcy protection on July 21, 2002. In its bankruptcy filing, the firm listed \$107 billion in assets and \$41 billion in debt. WorldCom's bankruptcy filing allowed it to pay current employees, continue service to customers, retain possession of assets, and gain a little breathing room to reorganize and renamed as MCI.

The existing UK insolvency framework is defined by the Insolvency Act 1986. Accordingly to the Act, failing companies are either liquidated or submitted to an insolvency process that may allow them to be rescued as going concerns. The administration procedure was introduced by the Insolvency Act, 1986 and substantially revised by the Enterprise Act, 2002 to include a streamlined rescue procedure allowing the company or (more often) its directors to appoint an administrator without the involvement of the Court subject to conditions.

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In India, The Insolvency and Bankruptcy Code, 2016(IBC) gazetted on 28.05.2016, that provides a consolidated single regulatory platform for insolvency of corporates, LLPs, individuals and partnership firms, has taken the positives of US and UK Bankruptcy Laws such as moratorium during insolvency process, time bound insolvency process, role of insolvency professionals in the process such as taking over of management, powers of creditors in the process etc. The code introduces a new regulator “The Insolvency and Bankruptcy Board of India”. It also introduces the concept of “Information Utility” a data base of credit information that helps in the Insolvency Resolution Process, since one of the main hurdle in the current restructuring and liquidation process is non-availability of credit information.

This article attempts to analyse the Corporate Insolvency Resolution Process (CIRP) under Part II Chapter II of the Insolvency and Bankruptcy Code, 2016.

WHO CANNOT INITIATE CIRP?

1. CIRP cannot be initiated unless there is a default which is beyond the Minimum threshold.

CIRP can be initiated only when any corporate debtor commits default. The minimum default thresholds for initiation of CIRP is Rupees One lakh or such higher amount as may be notified the Central Government which shall not exceed Rupees one Crore.

2. CIRP cannot be initiated against the financial service provider

As per Section 3(8) of IBC corporate debtor means a corporate person who owes a debt to any person. As per Section 3(7) “corporate person” means a company as defined in clause (20) of section 2 of the Companies Act, 2013, a limited liability partnership, as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008, or any other person incorporated with limited liability under any law for the time being in force but shall not include any financial service provider. As the definition of corporate person excludes financial service provider, CIRP cannot be initiated against financial service provider.

Why financial service provider is excluded from the definition of ‘Corporate Person’?

The financial service provider is excluded from the definitions of corporate persons as the failure of financial firms is comprehensively covered under the proposed “Indian Financial Code”

3. Persons not entitled to initiate CIRP

Section 11 of the Code states that the following persons shall not be entitled to make an application to initiate corporate insolvency resolution process under this Chapter, namely:—

- (a) a corporate debtor undergoing a corporate insolvency resolution process; or
- (b) a corporate debtor having completed corporate

insolvency resolution process twelve months preceding the date of making of the application; or

- (c) a corporate debtor or a financial creditor who has violated any of the terms of resolution plan which was approved twelve months before the date of making of an application under this Chapter; or
- (d) a corporate debtor in respect of whom a liquidation order has been made.

4. Who can initiate/apply for CIRP

Who are entitled to initiate CIRP application to National Company Law Tribunal(NCLT)?

a) FINANCIAL CREDITOR

b) OPERATIONAL CREDITOR

c) CORPORATE APPLICANT

Before we dwell on the resolution process, let us understand each of the three categories of creditors who can make an application to NCLT for an Insolvency Resolution Process.

a. Financial Creditor

As per Section 5(7) of IBC “financial creditor” means any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to;

As per section 3 (11) “debt” means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt.

Section 5(8) of the IBC states that “financial debt” means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes—

- (a) money borrowed against the payment of interest;
- (b) any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;
- (e) receivables sold or discounted other than any receivables sold on nonrecourse basis;
- (f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for

- calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;
- (i) the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause;

All Secured Creditors are Financial Creditors

Financial creditor includes secured creditor, since the definition of financial debt covers security interest also.

b. Operational Creditor

As per Section 5(20) “operational creditor” means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred;

As per section 5(21) of the IBC states that “operational debt” means a claim in respect of the provision of goods or services including employment or a debt in respect of the repayment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority.

All unsecured Creditors are not operational creditors

All unsecured creditors are not operational creditors; where as all operational creditors are unsecured creditors, as money borrowed against the payment of interest without security interest is also included in the definition of financial debt and thus considered as financial creditors.

c. Corporate Applicant

As per Section 5(5) of IBC “corporate applicant” means—

- (a) corporate debtor; or
- (b) a member or partner of the corporate debtor who is authorised to make an application for the corporate insolvency resolution process under the constitutional document of the corporate debtor; or
- (c) an individual who is in charge of managing the operations and resources of the corporate debtor; or
- (d) a person who has the control and supervision over the financial affairs of the corporate debtor;

As per section 3(8) of the IBC “corporate debtor” means a corporate person who owes a debt to any person;

Person includes a person resident outside India.

In respect of the above three applicants the term “person” includes

- (a) an individual;
- (b) a Hindu Undivided Family;
- (c) a company;
- (d) a trust;
- (e) a partnership;
- (f) a limited liability partnership; and
- (g) any other entity established under a statute, and **includes a person resident outside India.**

Hence, as per definition a person includes resident outside India and accordingly a CIRP application can be initiated by him.

THE DIFFERENCE IN THE ROLE OF CIRP APPLICANTS

Sl. No.	Particulars	Financial Creditor	Operational Creditor	Corporate Debtor
1.	Initiation of Insolvency resolution process	On occurrence of default a financial creditor may itself or jointly with other financial creditor initiate the process.	On occurrence of default an operational creditor can initiate the process after the expiry of the period of ten days from the date of delivery of notice or invoice demanding payment and he does not receive the payment or notice of dispute from the corporate debtor.	Defaulting Corporate debtor can initiate.
2.	The definition of Default	As per explanation to section 7(1), definition of default with reference to financial creditor is Default includes a default in respect of a financial debt owned not only to the applicant financial creditor but to any other financial creditor of the corporate debtor.	As per Section 3(12) Default means non-payment of debt when a whole or any part or instalment of the amount of the debt has become due and payable and is not repaid by the debtor or the corporate debtor as the case may be.	As per section 3(12) Default means non-payment of debt when a whole or any part or instalment of the amount of the debt has become due and payable and is not repaid by the debtor or the corporate debtor as the case may be.
3.	Documentation	They have to submit record of default by the entity in electronic	The evidence submitted of default can be either in electronic or	The debtor must provide the statement of audited balance sheet

		records of the liabilities filed in the information utilities.	physical form which includes a copy of invoice demanding payment or demand notice delivered by operational creditor to the corporate debtor.	of the entity at the time of application, with all assets and liabilities as well as the audited balance sheet for the two years prior to the application, and the cash flow statement of entities during such period.
4.	Proposal of insolvency resolution professional (IRP)	Along with the application to the NCLT, financial creditor has to propose the name of Insolvent professional to manage the IRP.	The IBC does not mandate the operational creditor to propose an insolvent professional. He may propose the same. If no proposal is made, NCLT shall make reference to the Insolvency and Bankruptcy Board of India for recommendation of Insolvency Professional, and based on the same appointment can be made.	The IBC requires that corporate debtor shall propose a registered insolvent professional to manage the IRP.
5.	Members of creditors committee	The committee of creditors shall comprises of all financial creditors of the corporate debtor, where corporate debtor does not have any financial creditors, the committee	Operational creditors do not form part of committee of creditors.	They do not form part of committee of creditors.

		shall comprise of such persons as specified by the Board.		
6.	Attending the meeting of committee of creditors	They have right to attend.	Their representative can attend in case where the aggregate dues are not less than 10% of debt.	They will be invited to attend the meeting for only discussions.
7.	Voting	The voting of the creditors committee will be by majority vote of not less than 75% of the voting share of the financial creditors.	They don't have any voting power.	Not relevant
8.	Information Utilities Service	Financial creditor has to provide financial information and information relating to assets in relation to which any security has been created, to the Information utility for record keeping.	Operational creditor may submit the financial information to the information utility in such a form as may be specified	

CONCEPT OF MORATORIUM IN CIRP.

As per section 13 of the IBC the NCLT shall by an order declare moratorium that imposes a stay for the actions referred under section 14 (1) of the IBC. The following shall be prohibited by declaring moratorium, namely-

- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

- (b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

The order of moratorium shall have effect from the date order accepting the application till the completion of the corporate insolvency resolution process.

CONCEPT OF RESOLUTION PROFESSIONAL IN CIRP

The CIRP involves appointment of interim resolution professional by NCLT and appointment of Resolution Professional by Committee of Creditors.

Section 5(27) states that “resolution professional”, for the purposes of this Part, means an insolvency professional appointed to conduct the corporate insolvency resolution process and includes an interim resolution professional;

Section 2(19) “insolvency professional” means a person enrolled under section 206 with an insolvency professional agency as its member and registered with the Board as an insolvency professional under section 207; Such professionals are required to pass the qualifying examination as stated under Section 196.

The name of Interim Resolution Professional is proposed by applicant of Insolvency process and appointed by NCLT. The Resolution Professional is appointed by the committee of creditors (with 75% of voting share of financial creditor). The committee of creditors may appoint Interim Resolution Professional as resolution professional or any other resolution professional.

The Process

The Financial Creditor/Operational Creditor or Corporate Debtor as the case may be, initiate the CIRP by application to NCLT under section 7,8 and 10 respectively.

- Financial Creditor on Default and operational Creditor after ten days from the date of delivery of demand notice can initiate CIRP
- A Financial Creditor and Corporate Debtor shall propose the name of IRP and Operational Creditor may propose the name of IRP

NCLT within 14 days of receipt of application by order admit or reject application(before rejecting* give notice to rectify the defect within 7 days of receipt of notice)

Intimation of admission or rejection to be given by NCLT within seven days of admission or rejection

NCLT to declare Moratorium, appoint Interim Resolution Professional (IRP) for a term not exceeding thirty days from the date of appointment and cause public announcement

Public announcement shall contain the information, such as - name and address of the corporate debtor under the CIRP, name of the authority with which corporate debtor is registered, the last date for submission of claims and date on which CIRP will be closed etc.

Insolvency Commencement date starts from the date of admission of application and is to be completed within 180 days of commencement which can be extended to ninety days(one time) by NCLT**

Interim Resolution Professional to constitute Committee of Creditors comprising all financial creditors .

Management of affairs of corporate debtor as a going concern, powers of Board of Directors or the partners of debtor shall stand suspended and exercised by the Interim Resolution Professional (IRP)

Committee of Creditors within 7 days of its constitution either to resolve to appoint IRP as Resolution Professional(RP) or replace IRP with another RP

All decisions of committee of creditors shall be taken by vote of not less than 75% of voting share *of financial creditor**

Preparation of information memorandum by RP for formulation of Resolution Plan by Resolution Applicant.

Resolution Applicant prepares the Resolution plan based on information memorandum

Submission of Resolution Plan by Resolution Applicant to be examined by RP and to be approved by 75% of voting share of financial creditor

RP to submit approved Resolution Plan to NCLT which shall Approve or Reject/Order for Liquidation

The approved plan shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan.

Moratorium ends on the date of approval

Appeal may be made to NCLAT on Rejection

**Grounds of rejection – default has not been occurred or any disciplinary proceedings against the proposed resolution professional by financial creditor or corporate applicant as the case may be*

***Section 3(12) states that “insolvency commencement date” means the date of admission of an application for initiating corporate insolvency resolution process by the Adjudicating*

Authority (i.e. NCLT) Whereas Section 3(11) states that “initiation date” is the date on which financial creditor (under sections 7), operational Creditor (under Section 9) or Corporate Debtor (under section 10), as the case may be makes an application to the NCLT for initiating corporate insolvency resolution process (CIRP).

***Section 5(28) defines “voting share” means the share of the voting rights of a single financial creditor in the committee of creditors which is based on the proportion of the financial debt owed to such financial creditor in relation to the financial debt owed by the corporate debtor.

FEW CHALLENGES

The time bound process of CIRP

The 180 days time bound process for CIRP would be a major challenge calling for speedier process in collating credit information, preparation of information memorandum by RP, setting up of information utilities that provide credit information, establishment of full benches of NCLT to handle the work load of pending cases, availability of insolvency professionals, process involved in taking over of management by insolvency professionals, time for the adjudicating authority in evaluation of the resolution plan etc.

Establishment of infrastructure at the offices of adjudicating authorities

The IT and other infrastructure at the offices of adjudicating authorities is required to be strengthened to handle the CIRP and liquidation cases that are being filed with them.

Specification, creation and capacity building of insolvency professionals

The Code requires RPs who are insolvency professionals and are to be member of Insolvency Professional Agencies and is required to pass the qualifying examination. To generate such professionals to handle CIRP cases will take few years. As per Section 244 which deals with transitional provisions relating to treating such categories of persons with such qualification and experience as insolvency professional agencies and insolvency professionals, capacity building of such professionals would be a challenge, since the Code is very new.

Cross Border Insolvency

The report of the Joint Committee on Insolvency and Bankruptcy Code observes the following paragraph vide point no 62 “The Committee deliberated the issue and noted that “The Code at present does not explicitly deal with issues and text related to cross border insolvency. However given that many corporate transactions and businesses today involve an international and cross border element, the implications of cross border insolvency cannot be ignored for too long if India is to have a comprehensive and long lasting insolvency law as the Code aims to achieve. Not incorporating this will lead to an incomplete Code”

Accordingly the following clause has been incorporated in the code in Section 234

234. (1) The Central Government may enter into an agreement

with the Government of any country outside India for enforcing the provisions of this Code.

(2) The Central Government may, by notification in the Official Gazette, direct that the application of provisions of this Code in relation to assets or property of corporate debtor or debtor, including a personal guarantor of a corporate debtor, as the case may be, situated at any place in a country outside India with which reciprocal arrangements have been made, shall be subject to such conditions as may be specified.

The process of recognition of foreign proceedings and cross court recognitions, agreements with countries is a long term process and challenging.

Consequential amendment in other legislations and harmonisation with IBC.

The impact of Insolvency and Bankruptcy Code, 2016 will have an overriding effect on other legislations, requiring amendments of the following:

- The Indian Partnership Act 1932
- The Central Excise Act 1944
- The Income Tax Act 1961
- The Customs Act. 1962
- Recovery of Debts Due to Banks and Financial Institutions Act, 1993
- The Finance Act 1994
- The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002
- Sick Industrial Companies (Special Provisions) Repeal Act, 2003
- The payment and Settlement Systems Act 2007
- The Limited Liability Partnership Act 2008
- the Companies Act, 2013

The amendment of the above mentioned legislations and their harmonisation with IBC would be a big challenge.

The Insolvency and Bankruptcy Code 2016, a vital reform that will make it much easier to do business in India. The IBC will lead to promote entrepreneurship, availability of credit, and balance the interests of all stakeholders by consolidating and amending the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner and for maximization of value of assets of such persons and matters connected therewith or incidental thereto. This Law promises to make it easier to wind up a failing business and facilitate a better and faster debt recovery mechanism in the country. CS

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Corporate Insolvency Resolution Process under the Insolvency and Bankruptcy Code, 2016 - An analysis



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INTRODUCTION

The Bankruptcy Law Reform Committee (BLRC) formed by Government of India in the month of August, 2014, under the chairmanship of Mr. T.K. Vishwanathan (Former Secretary General, Lok Sabha and Former Union Law Secretary) to study the corporate bankruptcy legal framework in India and submit a report to the government for reforming the system submitted its final recommendations on 04.11.2015.

Information Utilities and getting the Insolvency Professionals issued the necessary licences after they qualify the exams and possess the practical experience as may be prescribed by IBBI.

NEED FOR AN EFFECTIVE INSOLVENCY AND BANKRUPTCY REGIME

Business failures, which take place for a variety of reasons, are natural and normal features of a market economy

An effective law to deal with corporate insolvency / bankruptcy enables an economy to rescue the viable businesses and to pull the valuable economic resources out of the unviable businesses through the liquidation process at the earliest without further depletion in the value of the assets so that the same can be deployed in other profitable economic activity.

Along with the recommendations, BLRC also submitted a draft Bill titled as 'Insolvency and Bankruptcy Bill, 2015', which proposed to replace the existing provisions as to insolvency resolution and liquidation/ bankruptcy of corporate entities, individuals and partnership firms. The bill also proposed to repeal the Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920. The said Bill was passed by both the Houses of Parliament and subsequently got Presidential assent on 28.05.2016. The Govt. of India has to now frame the necessary rules and regulations and create the necessary infrastructure before putting the provisions of the said Act ("Insolvency and Bankruptcy Code" or 'The Code') into effect. The necessary infrastructure for the same includes formation of Insolvency and Bankruptcy Board of India (IBBI), setting up the Insolvency Professional agencies and

especially in developing and emerging economies. A number of products and services becoming obsolete due to development of new products and services, sudden change in the Government policies, setting up of new units by competitors resulting in increase in supply of the goods being produced and a number of other reasons, may make business of a corporate unviable / fail. The business failure affects all the stakeholders of a corporate including its lenders, shareholders, creditors, suppliers, customers, workers and central and state governments very adversely. It is, therefore, essential that the valuable resources including capital, manpower, machinery and management, are pulled out of the failed / unviable businesses at the earliest and are deployed in other profitable ventures. The viable businesses are, however, required to be re-organized at the

earliest.

In a situation of corporate insolvency, if the stakeholders can make rational and quick decisions to deal with the said situation i.e. the decision about continuation of business, its re-organization or its closure, a law to deal with the insolvency situation and the intervention of the courts may not be required. However, it has been observed that the stakeholders fail to take such decisions to deal with the situation of insolvency and, therefore, is the need for a corporate insolvency law.

An economy needs an effective Bankruptcy Law to deal with the situation where in the case of inability of a debtor to make the payment to its creditors as per the payment schedule, the right of the creditors to get the control over the affairs of the defaulting debtor does not get effected and that the debtor continues to have control over the affairs of its business. Though, contractually the creditors may have the right to get control over the business of the defaulting debtor, however, due to inefficiency of the prevailing legal system, they are not able to get the said control without the intervention of the court. In case, the legal system provides for adequate penalty and punishment for those who violate these contractual obligations, the intervention of the courts / tribunals in these matters can be minimized.

It is often said that “ in the absence of a bankruptcy law a firm’s assets would be sold as scrap and value would be lost”. As such, the law to deal with corporate insolvency / bankruptcy enables an economy to rescue the viable businesses and to pull out the valuable economic resources out of the unviable businesses through the liquidation process at the earliest without further depletion in the value of the assets so that the same can be deployed in other profitable economic activity.

FUNCTIONS OF A CORPORATE INSOLVENCY REGIME

A corporate insolvency regime has the following functions:

- (i) It identifies the signs of insolvency at the earliest.
- (ii) Initiates the insolvency process quickly.
- (iii) Creates a collective platform of the stakeholders to enable them to take decisions about the future of the distressed entity
- (iv) Helps reorganization of the viable businesses;
- (v) Sends the unviable businesses to liquidation at the earliest to arrest any substantial loss in value.

OBJECTIVES OF A CORPORATE INSOLVENCY REGIME

A well designed corporate insolvency regime has the following policy objectives:

- (i) It should protect the interest of the creditors by reorganizing the viable businesses to the extent possible and should quickly liquidate the unviable businesses. In case any delay takes place in the above process, the biggest sufferer are the creditors. In many cases, promoters / managers of unviable businesses prolong the insolvency process and during the said period siphon away the funds

/ assets of the company. In addition, due to the passage of time, the value of the assets also gets depleted. As such, a corporate insolvency regime should protect the creditors interest by avoiding the delays in the insolvency process. Early completion of insolvency process also protects the interest of other stakeholders i.e. employees and shareholders.

- (ii) A corporate insolvency regime should help in promoting the growth of an economy through efficient reallocation of resources, which otherwise remain locked in unviable / closed entities.
- (iii) An efficient corporate insolvency regime improves the rights of the creditors and incentivizes them to increase the supply of credit in the market. As a result, not only that the supply of credit in the market improves, the cost of credit also reduces improving the viability and competitiveness of the businesses.
- (iv) An efficient corporate insolvency regime improves business environment and thus encourages entrepreneurship. The same also results in improving the investor confidence.
- (v) In India, due to weak rights of the creditors specially the unsecured creditors corporate bond market has not developed much though worldwide bonds are treated as reliable and efficient source of raising finance at much lower cost by companies. As a result of the same, the infrastructure sector in India has been the biggest sufferer. However, with an efficient corporate insolvency regime resulting in improved creditors rights, it is expected that the corporate bond market in India shall develop, which will improve the availability of finance to the corporates at much cheaper cost.

EFFECT OF BANKRUPTCY OF FIRMS AND BANKRUPTCY LAWS ON ECONOMIES

Bankruptcy of the firms and the legal procedures to deal with the same have huge implication for an economy. Bankruptcy of firms affects an economy very adversely due to loss of production / services by the manufacturing / other facilities owned by the bankrupt firms. The same results from loss of business / orders, non-supply of material by the suppliers, desertion by the employees, dis-continuation of the working capital facilities by the lenders, dis-connection of power, attachments by statutory authorities etc.

Bankruptcy laws also affect an economy very substantially. Creditor-friendly bankruptcy laws, which affect transfer of management from the debtor to an Insolvency Professional / Administrator / Trustee, may disrupt and damage continuing businesses of the debtors, which although viable, but has not been able to fulfill its debt obligations due to temporary financial constraints. The same also results in liquidation of many viable businesses as the secured creditors have a tendency to push the defaulting debtors towards liquidation as any delay by the bankruptcy process adversely affects the value of their security.

On the other hand, in the cases of debtor-friendly regimes, the

‘ An effective legal framework for timely resolution of Insolvency and Bankruptcy would support development of credit markets and encourage entrepreneurship and would also improve ease of doing business and facilitate more investment leading to higher economic growth and development. ’

debtors, their shareholders and unsecured creditors prolong the proceedings even in the cases of economically unviable firms in place of allowing the said firms to liquidate. The dilution in the value of the security of the secured lenders due to delay in the bankruptcy process is borne by the secured creditors. On the other hand, the debtor / shareholders and unsecured creditors, they benefit due to the continuation of operations of the unviable firms as the funds generated by the said firm are used by them towards their personal benefits at the cost of the secured creditors.

FAILURE OF EXISTING BANKRUPTCY MECHANISM IN INDIA AND ITS EFFECT

For dealing with insolvency and bankruptcy there has not been a single law in India. Insolvency and Bankruptcy of companies are dealt with by Sick Industrial Companies (Special Provisions) Act, 1985, the RDDB FI Act, 1993, the SARFAESI Act, 2002 and the Companies Act, 1956. A number of tribunals are dealing with the said laws including BIFR, DRT & NCLT and their Appellate Tribunals. Liquidation of companies is handled by the High Courts. The Individual Bankruptcy and Insolvency is being dealt with under the Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920 and is dealt with by the courts. The said framework for Insolvency and Bankruptcy is treated as inadequate, ineffective and results in undue delays in their resolution.

In India, the creditors have had very less power to deal with defaulting borrowers. The promoters/management of the company continue to have control of the companies even after committing defaults. In 2002, the banks and FIs were given the powers to enforce their security interest without going to the court through the provisions under the SARFAESI Act. Though the said powers have been given to banks and FIs, a number of other lenders / creditors including NBFCs, individuals and firms, who supply goods and services to the corporates, lend money to them and subscribe to the bonds

issued by the corporate, do not have recourse to the same. Weak powers to the said creditors have resulted into low growth in our credit market specially in the bond market.

Another impact of the weak rights of the creditors is that they lend only to very few big companies, who are unlikely to default. Further, debt in business financing mostly consists of secured debt as that is the debt where the creditors have some rights. The absence of lending without security and the lack of lending based on the business prospects of a firm has resulted in debt financing of asset-heavy industries. On the other hand, some of the other important industries which are labour intensive have been starved of credit.

The scenario, which we are in presently, where the NPAs have increased manifold during the recent few years, we often hear that “though the companies are sick, their promoters are not”. People also say that the promoters of the defaulter companies should be held personally liable for the defaults or that they should be put behind bars.

There is a need, however, to understand that in a market economy, business failure is as usual as thriving of a business. It is not that all the business failures are due to the mala fide intention and siphoning away of the funds by the promoters of the businesses. There are many reasons for failures of businesses which are beyond the control of the promoters / management of the businesses. Considering all the defaults as criminal will discourage entrepreneurship and risk taking and will adversely affect the growth and development of the economy. The concept of a “company with limited liability” was created for encouraging the entrepreneurs to undertake riskier businesses, which entrepreneurs were not willing to undertake otherwise. As a result of creation of the said entities only, the economies have been able to produce a number of products and services, which entrepreneur, with unlimited liability organizational structures would not have ventured into.

The Insolvency and Bankruptcy code 2016 has been enacted with the objective to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and Individuals, in a time bound manner, for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interest of all stakeholders including alteration in the priority of payment of government dues etc. It was considered that an effective legal framework for timely resolution of Insolvency and Bankruptcy would support development of credit markets and encourage entrepreneurship and would also improve ease of doing business and facilitate more investment leading to higher economic growth and development.

FEATURES OF PRESENT CREDIT MARKET IN INDIA

Some of the features of the present credit market in India, which necessitates reforming its Insolvency laws, through the

IBC as observed by BLRC in its final report dated 04.11.2015, are as follows: -

- (i) The idea behind the suggestions made by the committee has been that as long as the debt obligations are met by a corporate, its equity owners have complete control and creditors have no say in how the business is run. However, when default takes place, control is supposed to transfer to the creditors; equity owners have no say.
- (ii) The companies in India, however, do not work based on the above. Till now, the creditors have had low powers when faced with default and promoters stay in control of the company even after default.
- (iii) Presently, the creditor has only one element of a bankruptcy framework i.e. SARFASI Act, which provides banks the power to repossess and sell the fixed assets which are pledged to them.
- (iv) Although, SARFAESI Act gives powers to the banks to repossess and sell the securities mortgaged to them, but not all lenders in the economy are banks. A number of lenders are small and household and financial firms who invest in corporate bonds, but the prevailing Insolvency and recovery Legal framework does not provide the said bond holders an effective system of recovering their dues and as a result of the same, the corporate bond market in India has not developed.
- (v) The above has resulted into in very low recovery rates and when default take place lenders seem to recover only around 20% of the total debt on NPV basis.
- (vi) The weak rights available to the creditors make them averse to lend. As a result, only a very few large companies, who have low probability of failure are the beneficiaries or recipients of lending in India.
- (vii) Further secured credit dominates the Indian market as unsecured creditors don't have any effective rights. In the case of secured debt, credit analysis is relatively easy as the same requires taking a view on the market value of the collateral and as a result credit analysis as a sophisticated analysis of the business prospect of a firm has shriveled.

OBJECTIVES OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

The code seeks to consolidate the existing laws relating to insolvency of companies, limited liability entities, unlimited liability partnerships and individuals, which are scattered in a number of legislations, into a single legislation. The BLRC observed that the enactment of the code will provide greater clarity in law and facilitate the application of consistent and coherent provisions to different stakeholders affected by business failure or inability to pay debt and will address the challenges being faced for swift and effective bankruptcy resolution. The committee further observed that the code sought to improve the handling of conflicts between creditors and debtors, avoid destruction of value, distinguish malfeasance vis-à-vis business failure and clearly allocate losses in macroeconomic downturns.

MAJOR PROVISIONS OF THE CODE

The major provisions of the Code are as given hereunder: -
Insolvency regulator: The Code provides for establishment of an insolvency regulator i.e. Insolvency and Bankruptcy Board of India (IBBI) to exercise regulatory oversight over insolvency professionals, insolvency professional agencies and information utilities.

Insolvency adjudicating authorities: The adjudicating authority which will have the jurisdiction to hear and dispose of the insolvency cases by or against the individual and unlimited partnership firms shall be the debt recovery tribunal and with respect to the companies and limited liability entities, will be NCLT. The Appeal against DRT and NCLT shall lie to DRAT and NCLAT respectively. NCLAT shall also be the appellate authority to hear appeals against orders passed by the regulator in respect of insolvency professionals or information utilities.

Insolvency Professionals and Insolvency Professional Agencies: One of the most important changes brought about by the Code is that it provides for creation of a totally new class of professionals i.e. the insolvency professionals, who will conduct and run the entire insolvency process and will be regulated by Insolvency and Bankruptcy Board of India. Insolvency professional agencies, under the oversight of IBBI, will develop professional standards, code of ethics and exercise a disciplinary role over errant members leading to the development of a competitive industry for insolvency professionals.

Insolvency Information Utilities: The said utilities will collect, collate and disseminate the information from listed companies and financial and operational creditors of companies. An individual insolvency data base is also proposed to be set up.

Swift and efficient Insolvency and Bankruptcy Resolution for Corporates, LLPs, Individuals and unlimited partnerships: The Code has provisions for swift and efficient insolvency and bankruptcy resolution not only for corporate structures but also for individual and unlimited partnerships. It provides for time bound insolvency resolution process and in case of failure of the same, a swift bankruptcy process for the above kinds of business structures.

INSOLVENCY RESOLUTION PROCESS FOR COMPANIES AND LIMITED LIABILITY ENTITIES

The code provides for initiation of the insolvency resolution process by any financial creditor, operational creditor (including workmen, employees and statutory creditors whose past payments are due) or the corporate debtor (CD) in the event of any default in payment of its debt obligation by the corporate debtor. Within fourteen days of the initiation of the process by filing an application, the Adjudication Authority (AA) shall take a decision about the admission or the rejection of the application and if admission is made, an Interim Resolution Professional (IRP) is appointed within fourteen days of the date of admission, who immediately takes over the

management control of the affairs of the business of CD and that the powers of the Board of the CD are suspended. IRP then constitutes a Creditors Committee (CC), which consists of all the financial creditors of the CD and that the CC appoints a Resolution Professional (RP), who then takes over the entire responsibility of running the resolution process from the IRP. RP formulates a resolution plan, which is placed before the CC for its consent. The resolution plans can also be submitted by the creditors or by the CC. The resolution plan having the consent of more than 75% of the financial creditors in value terms is forwarded by the RP for approval by the AA.

The AA after examining the plan sanctions the same and that the sanctioned plan shall also be binding on the remaining financial creditors and the operational creditors and shareholders. In case, the plan is not supported / approved by the financial creditors representing 75% or more of the financial debt, the CD will be ordered to be wound up. The said process is to be completed within a period of 180 days, though under certain circumstances, with the consent of more than 75% of the financial creditors, AA may extend the resolution period by a period not exceeding 90 days. In case, the resolution process is not completed within the said time period, the CD is directed to be wound up by the AA.

The Code also provides for a fast track insolvency resolution process to be completed within a period of 90 days, which can be extended by the AA at the request of the resolution professional supported by a resolution of the CC, for a period not exceeding 45 days. The fast track process applies to certain categories of debtors.

ANALYSIS OF THE PROVISIONS RELATING TO THE CORPORATE INSOLVENCY RESOLUTION PROCESS (CIRP) UNDER THE IBC

- i. The CIRP process, as stated above, results in transfer of management from the CD to the insolvency professional immediately after initiation of the insolvency resolution process and as a result, the promoters and management of the CD will not have any incentive to prolong the CIRP process.
- ii. The possession of the assets of the CD in the hands of court appointed IP shall ensure that the assets / funds of the CD are not siphoned away during the resolution period.
- iii. The IP examines the transactions of the CD for the last two years to identify any illegal diversion of assets / funds and in case of any such diversion, applies to the AA for cancellation / reversal of the transactions resulting in said diversion.
- iv. The promoters of a company are allowed to file plans for the revival / buyback and that the same gives an opportunity to them to get the debt level of the company reduced to a sustainable level.

- v. The public at large may also make proposals to buy the company at a certain price. The same shall help transfer of ownership and management of viable businesses on a going concern basis to the resourceful entrepreneurs. As a result, valuable productive assets of the distressed companies can be continued to be used for productive uses.
- vi. All the stakeholders know that if no deal is struck within the specified period of 180 days (extendable by 90 days with the super majority consent of the financial creditors and with the consent of AA), the company will be liquidated. The same will force the stakeholders to take early decision and will help avoid delays.
- vii. The adjudicator will ensure that the prescribed resolution process is followed i.e. all the financial creditors were part of the creditors committee and that 75% of the financial creditors have actually supported the resolution plan. The business decisions are taken by the financial creditors, who are having the necessary financial stake and are well equipped to take the said decisions, and that the AA is relieved of the same.
- viii. The provisions of IBC shall improve the rights of the creditors and shall tilt the power to control the affairs of a distressed company in favour of its creditors and as a result of the same, availability of credit in the market for business purposes shall improve. The same will improve the level of activities in the economy and will increase the employment and national income.
- ix. However, there is another side of the story too. Though, the provisions of IBC shall improve credit availability in the market, they may discourage entrepreneurship to some extent. The provisions improve the rights of creditors at the cost of the rights of the equity-holders. A small default in payment of the dues of creditors may result in loss of control over the business entity, though the default is due to temporary liquidity crunch and the business is viable on long term basis.
- x. The business entity shall be expected not to default to its creditors due to fear of loss of control, it will also get benefited as its customers / debtors shall also be forced to make the payment in time and not to default otherwise they may also lose control of their businesses. Overall, it appears that the business environment in the economy shall improve and the capital formation and entrepreneurship alongwith the credit in the economy shall improve substantially.

PROPOSED BENEFITS TO THE INDIAN ECONOMY FROM THE BANKRUPTCY REFORMS:

In addition to the benefits as listed in an earlier para, the Indian economy shall have the following benefits as a result of the Bankruptcy reforms:

One of the most important changes brought about by the Code is that it provides for creation of a totally new class of professionals i.e. the insolvency professionals, who will conduct and run the entire insolvency process and will be regulated by Insolvency and Bankruptcy Board of India. Insolvency professional agencies, under the oversight of IBBI, will develop professional standards, code of ethics and exercise a disciplinary role over errant members leading to the development of a competitive industry for insolvency professionals.

Availability of Finance to Businesses not having much tangible assets: - Due to prominence of secured credit in India, a number of good business opportunities, which do not have much tangible assets, do not get finance. However, with improvement in creditors' rights, the said businesses shall also be able to raise finance.

Rescuing more number of distressed entities as going concerns: - Due to prominence of the secured credit in India, any default in payment leads to taking up of control of the assets and their sale by the lenders by invoking the provisions of SARFAESI Act, 2002. The same, in many cases, destroys the value in the viable businesses which could have been saved as a going concern. With improvement in credit availability in the market and especially unsecured credit and with improvement in the rights of creditors under the IBC, it will be possible to save more number of units on going concern basis by following the time bound insolvency resolution process.

Wider distribution of credit: - Due to weak rights of the creditors, the recovery rate in case of default has been very low and as a result the lenders prefer to lend in favour of a small set of very safe borrowers. The other businesses which do not get the finance become dependent on equity financing which is very expensive making their projects as unviable. Improvement in the rights of the creditors will increase the availability to finance to a larger number of entrepreneurs.

Development of Corporate Bond Market: - In India the said channel for financing has been choked due to bad recovery rates for them under the existing regimes. IBC would enable higher recovery rates for corporate bondholders which would catalyze the development of bond market in India. The same would enable availability of cheaper finance to the businesses and especially the infrastructure sector.

Increased Investor Confidence: - Under the IBC, any foreign lender or investor can also cause a quick liquidation of the investee / borrower company in case of default of the terms of the Shareholders Agreement / Loan Agreement and

can pull back his investment / loan, which will be a huge confidence booster while making the investment / lending. The same will result in higher foreign investment / loans in the economy.

CONCLUSION

The IBC, 2016 is a revolutionary step as it proposes to transform the credit market in India, which hitherto was malfunctioning due to various problems and malpractices. The borrowers/debtors were able to avoid or delay making payments to lenders/creditors for years as the latter were not having any effective remedy to deal with defaults made by the former. With the improved rights of the lenders/creditors and especially the unsecured creditors, who can also now initiate the Insolvency Process, credit availability in the market is likely to be improved and as a result cost of credit is likely to be reduced. The same will improve the competitiveness of the Indian businesses and will result in promoting the in economic growth in the country.

However, the success of the IBC is dependent on its effective implementation including creation of the required Institutional Infrastructure, appointment of competent and suitable persons to implement the Code.

The success of the Code is also dependent on the development of market for the distressed businesses where the new entrepreneurs come forwards to take over the said businesses for revival. During the last few years, it has been observed that attempts of the lenders to either sell or affect change/transfer of management of the distressed businesses especially the industrial businesses have not yielded the desired results. Other than the prevailing recessionary phase, non-availability of finance for the takeover/purchase of distressed businesses/assets is also a reason for failure of the sale/change of management attempts by the lenders. Putting the code into effect, without development of market for the distressed businesses/assets and without making provisions for availability of finance for the same, may prove to be disastrous as the majority of the distressed businesses shall be put into liquidation for failure of Insolvency resolution process within the prescribed 180 days' period.

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Corporate Insolvency Resolution Process under the Bankruptcy Code and its impact on the Companies Act



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Bankruptcy is a legal proceeding in which you can put your money in your pant pocket and give your coat to your creditors – Joey Adams

Looking at the debt rates and defaults in India, one would not be wrong in wondering if Joey Adams were actually talking about the pathetic state in which Indian financial institutions and other business houses saw themselves in, under the previous regime of Bankruptcy and Insolvency laws, which

adopts an applicant-based approach, providing for different mechanisms for insolvency resolution for financial creditors, operational creditors and corporate applicants². Further, while laying down this classification for creditor triggered insolvency mechanisms, the Code leaves the other winding up mechanisms to be governed by the Companies Act, 2013³ itself. Thus, insofar as creditor's winding up is concerned, it can be said that the Code is a complete code in itself, barring some exceptions, where support may be

The Insolvency and Bankruptcy Code marks a substantial change in legislative policy relating to corporate insolvency, wherein, creditors in general and financial creditors in particular are substantially empowered to obtain debts due to them. While the two-tier insolvency mechanism by default is a welcome development in the law, the approach of the Code, requiring the NCLT to admit insolvency resolution process invoking applications to be admitted *de hors* considerations regarding the sub-stratum of the company may be problematic.

were ridden by inefficiencies, leaving banks and business houses helpless beyond an extent in recovering debts that had gone bad. In a remarkable show of strength, the Parliament has passed the Insolvency and Bankruptcy Code, 2016 (also referred to as 'Code') on the 28th day of May, 2016, consolidating the laws relating to insolvency and bankruptcy in India. The Code seeks to induce efficiency within the insolvency and bankruptcy law regime in India by separating the commercial and judicial aspects of insolvency and bankruptcy processes. Doing away with the different regimes which existed in different enactments, the Code provides for a consolidated mechanism for insolvency in India¹. With regard to corporate insolvency, the Code

taken from other legislations.

The Code vide the Schedules appended to it has amended several legislations including the SARFAESI Act, the Limited Liability Partnership Act, etc. While these amendments make substantial changes to the way in which the current insolvency laws covered by those legislations work, this article shall closely look at the effects of the Code on creditors' winding up under the Companies Act, 2013, the provisions of which are yet to be notified.

CLASSIFICATION OF CREDITORS

The term 'creditor' means any person to whom a debt is owed⁴, i.e. a person to whom a liability or obligation in respect

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¹ Statement of Objects and Reasons (3), The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the code")

² Section 7, 8 and 9, the code

³ Relevant provisions have yet to be notified by the Ministry of Corporate Affairs

⁴ Section 3 (10), the code



of a claim is due from any person⁵. This term includes a financial creditor, an operational creditor, a secured creditor or an unsecured creditor⁶. While the difference of secured and unsecured creditors are reminiscent of the regime the Code seeks to replace, the difference between financial and operational creditors are new mechanisms and concepts introduced under this Code. The term 'financial creditor' is defined under the Code as any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to⁷. The term financial debt means and includes money borrowed against the payment of interest; any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent; any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument; the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed; receivables sold or discounted other than any receivables sold on nonrecourse basis; any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing; any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account; any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution and others⁸. On the other hand, the other kind of creditors recognised under the Code are operational creditors, which means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred⁹. The term "operational debt" means a claim in respect of the provision of goods or services including employment or a debt in respect of the repayment of dues arising under any law for

the time being in force and payable to the Central Government, any State Government or any local authority¹⁰. Thus, the term financial debt, defined under section 2(7) as against the term operational debt under section 2(21) is wider owing to the use of the words 'includes' in the former, which is absent in the latter. The effect of this is that, anything that is not covered under the term operational debt under the Code will be a financial debt and the mechanism provided for the resolution of a financial debt will be applicable for the same.

As indicated earlier, the Code envisages two different mechanisms for financial and operational creditors, with the one for the former more stringent than the latter. With regard to financial creditors, the Act provides that a financial creditor may, upon a default occurring at the end of a corporate debtor, file an application to initiate the corporate insolvency resolution process, upon which, the adjudicating authority, vis. the NCLT shall be required to ascertain the existence of a default within fourteen days from the records of an information utility, which shall be created under the Code¹¹. For this purpose, the term 'default' means non-payment of debt whether in whole or any part or instalment of the amount of debt¹² and a financial creditor may maintain an application under the Code if the default relates to a default in respect of a financial debt owed not only to the applicant financial creditor but to any other financial creditor of the corporate debtor¹³. This relaxation of the locus standi rule, allowing financial creditors to sue on the debt of other financial creditors can be problematic. For example, the explanation would allow a person, whose debt is due only at a later point of time to sue as a financial creditor basing an application on a default of debt due to an unrelated third party financial creditor, who might now sue by itself. Thus, the Explanation to section 7 renders itself to possible abuse and also of maintaining an apt cause of action. Further, the Code does not envisage a notice to the debtor with respect to financial debts, which are said to be due for the purposes of the resolution process, which enables financial debtors helpless to a great degree when the interest rates are usurious or are disputed. While the information utility may be a check in so far as disputed rates of interest are concerned, questions such as usury may be difficult to raise with respect to financial debts.

Upon a finding of default, the NCLT is required by law to immediately appoint an interim insolvency resolution professional under this Code¹⁴. It may be noted that the use of the word 'shall' creates a mandatory obligation in law for the NCLT to admit such application and appoint the resolution professional, irrespective of the solvency of the company or there being any bona fide defense, upon a mere default occurring. Thus, the sub-stratum of the company is no longer a relevant criterion for the admission of an insolvency application, which shall be admitted, even on the failure to pay a part of an instalment of a debt. Thus, unlike creditor's winding up mechanism existing as of today, which was not regarded debt recovery mechanism, has been replaced

⁵ Section 3 (11), the code

⁶ Section 3 (10), the code

⁷ Section 5 (7), the code

⁸ Section 5 (8), the code

⁹ Section 5 (20), the code

¹⁰ Section 5 (21), the code

¹¹ Section 7 (1) & Section 7 (4), the code

¹² Section 3 (12), the code

¹³ Explanation to Section 7 (1), the code

¹⁴ Section 7 (5)(a), the code

by the insolvency resolution mechanism of the Code, which for all purposes acts as a debt recovery mechanism parallel to the mechanism set up under the SARFAESI Act.

With regard to operational creditors, the mechanism set out in the Code is not automatic and provides scope for disputes to be raised, upon which, the mechanism will not set forth. Section 8 of the Code provides that an operational creditor may, on the occurrence of a default, deliver a demand notice of unpaid operational debtor copy of an invoice demanding payment of the amount involved in the default to the corporate debtor, upon which, the corporate debtor within 10 days of the receipt of such notice, shall be required to notify the operational creditor regarding the existence of a dispute, if any, and record of the pendency of the suit or arbitration proceedings filed before the receipt of such notice or invoice in relation to such dispute or notify previous repayment of the said sum with proof. A failure to do so, at the end of the corporate debtor will entitle the operational creditor to file an application for initiation of insolvency resolution process, which the NCLT shall only admit when no notice of dispute has been received by the operational creditor or there is no record of a dispute with the information utility. Thus, with respect to operational debt, the NCLT has a greater leeway to see if there is any pending dispute as regards the payments sought, but if the same is not raised within 10 days of the demand notice, then that itself would entitle the operational creditor to get the application admitted and an interim insolvency resolution professional appointed. Hence, it is advisable to always reply within 10 days of the date of demand so as to avoid admission of an application under section 9, with respect to operational creditors. However, it is submitted that the Code while requiring a notice of dispute to be given, does not empower the NCLT to verify the legitimacy of the dispute raised. Thus, the mechanism of the Code may be stalled by merely raising a dispute, whether bona fide or not and the Code provides for no discretion or power to the NCLT to verify these aspects of the dispute raised which may leave the operation creditors remediless of obtaining a relief under the Code and constraining the said operational creditor to approach a Civil Court of law.

VOLUNTARY WINDING UP

Apart from the insolvency resolution mechanisms being set up by two types of creditors mentioned above, the Code also provides for voluntary winding up under the Code by the corporate applicant, which means a corporate debtor; or a member or partner of the corporate debtor who is authorised to make an application for the corporate insolvency resolution process under the constitutional document of the corporate debtor; or an individual who is in charge of managing the operations and resources of the corporate debtor; or a person who has the control and supervision over the financial affairs of the corporate debtor¹⁵. By doing so, the Code also repeals in the entirety Part II of Chapter XX of Companies Act, 2013, which deals with voluntary winding up¹⁶. However, it is unclear whether voluntary winding up is entirely covered by this Code alone. The amended section 271 of the Companies Act, 2013

provides for winding up under the Companies Act by passing a special resolution. However, as noted above, the chapter relating to voluntary winding up under the Companies Act, 2013 has been repealed. Thus, voluntary winding up in cases where defaults in debt exist shall be covered by the Code whereas other voluntary winding up mechanisms which require the special resolution of the shareholders are covered by Part I of Chapter XX of the Companies Act, 2013. This position however needs more clarity, which the courts ought to provide.

INSOLVENCY RESOLUTION MECHANISM VIS A VIS WINDING UP PROCESS/ LIQUIDATOR POWERS

Under the Code, it is seen that under section 7, 9 & 10, an interim insolvency resolution professional can be appointed by the NCLT, who can then be replaced by an insolvency resolution professional appointed by the Committee of Creditors¹⁷. The Code under section 21 (2) refers to a committee of creditors comprising of only financial creditors and not refer to the operational creditors. The question by virtue of this omission which arises is whether the constitution of the committee of creditors is only for financial creditors and not operational creditors, the impact of which would be that there would no committee of creditors nor would there be a possibility of a resolution plan. The Code provides that upon the appointment of an interim insolvency resolution professional, the NCLT shall order a moratorium¹⁸, prohibiting the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; prohibiting the corporate debtor from transferring, encumbering, alienating or disposing of any of its assets or any legal right or beneficial interest; prohibiting any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the SARFAESI Act, 2002; and prohibiting the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor. Thus, the proceedings under this Code, in so far as they are parallel to proceeding under the SARFAESI Act, shall supersede the SARFAESI Act, which shall be kept in abeyance until the proceedings under this Act are completed. The interim insolvency resolution professional, appointed in these attendant circumstances, shall be vested with the powers to deal with the affairs of management of the company; with the powers of the board of directors, etc¹⁹. Further, such interim professional is required by the Code to collect all information relating to the assets, finances and operations of the corporate debtor for determining the financial position of the corporate debtor; receive and collate all the claims submitted by creditors to him; constitute a committee of creditors; monitor the assets of the corporate debtor and manage its operations until a resolution professional is appointed by the committee of creditors; take control and custody of any asset over which the corporate debtor has ownership rights as recorded in the balance sheet of the corporate debtor; and to perform several other functions, which the central government may prescribe.

¹⁷ Section 22, the code

¹⁸ Section 14, the code

¹⁹ Section 17, the code

¹⁵ Section 10 & Section 5(5), the code

¹⁶ Clause 15A of Schedule 7, the code

Of particular interest is the power of the interim professional to continue with the management of the corporate debtor as a going concern²⁰, which power was not previously available to the provisional liquidator appointed in the winding up proceedings conducted under the Companies Act, 1956²¹. By virtue of section 450 and 457 of the Companies Act, 1956, the liquidator and the provisional liquidator did not possess the power to run the company as a going concern for the benefit of the creditors, but were limited to carry on the business of the company so far as may be necessary for the beneficial winding up of the company²². However, under the Code, the power to continue the business of the company is not limited to enabling beneficial winding up, but extends generally to protect and preserve the value of the property of the corporate debtor and manage the operations of the corporate debtor as a going concern. Further, the insolvency resolution professional shall not exercise any discretion with regard to whether the company should be run as a going concern or not, but rather is mandated by law to seek to run the company as a going concern, unless the situation be such that the endeavour on all accounts ought to fail. To this end, the Code authorises the professional to enter into contracts on behalf of the corporate debtor or to amend or modify the contracts or transactions which were entered into before the commencement of corporate insolvency resolution process and to raise interim finance provided that no security interest shall be created over any encumbered property of the corporate debtor without the prior consent of the creditors whose debt is secured over such encumbered property²³. This power to raise interim finance coupled with the general power to take all necessary action to keep the corporate debtor as a going concern indicates to the fundamental change in approach of legislative policy in comparison with the previous regime, wherein, the mere appointment of a provisional liquidator would de jure stop the company being treated as a going concern, as against the new legislative policy wherein, even post the appointment of the insolvency resolution professional, the professional is charged with the duty of keeping corporate debtor a going concern by all means necessary. This also extends to the resolution professional appointed by the committee of creditors, who is duty bound to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor, for which purpose, she shall exercise all necessary powers enlisted under section 25 of the Code, including the power to raise interim finances subject to the approval of the committee of creditors and to invite prospective lenders, investors, and any other persons to put forward resolution plans²⁴.

This is a part of the larger policy shift in the legislation wherein, instead of a single tier winding up mechanism, in cases of creditor's winding up, the law now provides for a two tier mechanism, wherein, first the resolution profession, under the aegis of the NCLT shall put forth a resolution plan to repay the debts of the corporate debtor, upon the failure of which alone,

the law, at stage 2 provides for winding up of the company²⁵. This mechanism, which previously existed with respect to sick companies, is now available for all companies in general, thus requiring the sick companies related chapter in the Companies Act to be repealed in its entirety by the Code²⁶. The two stages of the new mechanism of insolvency resolution deserve discussion in greater detail:

Stage 1: Resolution Plan and its Approval

Section 29 of the Code provides that the resolution professional should prepare an information memorandum in such form and manner containing such relevant information required by the resolution applicant to make the resolution plan for the corporate debtor, which shall include the financial position of the corporate debtor, all information related to disputes by or against the corporate debtor and any other matter pertaining to the corporate debtor for formulating a resolution plan. The details of what information shall be relevant for such purpose may be prescribed by the Insolvency and Bankruptcy Board, established under this Code²⁷. Based on the information provided under section 29, resolution applicants may submit a resolution plan to the resolution professional, which shall provide for the payment of the costs of the insolvency resolution process; for the repayment of financial and operational debts at amounts no lesser than that which would be payable upon liquidation under section 53 of the Code; for the management of the affairs of the corporate debtor post the approval of the resolution plan and for the supervision and implementation of such plan²⁸. Further, this power to suggest resolution plans is in addition to the power under the Companies Act to enter into compromises and arrangements, which power has been retained post the Code as well²⁹. Thus, during the pendency of proceedings under the Code, parallel applications under section 230 of the Companies Act may also be filed. However, the mechanisms taken up under each enactment will be governed by that particular enactment alone, unless the Act or the Code provide otherwise. Hence, it is submitted that there can be no overlap of provisions with respect to insolvency/ debt reworking mechanisms, unless specifically provided for in the enactment or pleaded for in the petition itself.

If the plan confirms with the aforesaid requirements, per section 30 (2), then the resolution professional shall put the resolution plan to vote in the committee of creditors, who may approve the plan by a vote of not less than seventy-five per cent of voting share of financial creditors³⁰. Thus, if there are four creditors, namely A, B, C and D, out of which A is owed Rs. 90 out of 100 and B, C and D are owed the remaining Rs. 10, then under the Code it appears that the vote of A, having more than 75% of the voting share would suffice to approve the resolution plan. It may be noted that this voting rule is universal in the code, in so far as the meeting of creditors is concerned and hence is a marked departure from the rules in this regard, under the Companies Act. Upon approval by the committee of creditors, the

20 Section 20, the code

21 See Generally Section 450 & 457 of the Companies Act, 1956

22 Section 457 (2)(b), Companies Act, 1957

23 Section 21, the code

24 Section 25, the code

25 See Generally Chapter II & Chapter III of the code

26 Clause (8) of Schedule 7 of the code

27 Section 29 the code

28 Section 30 the code

29 Section 230, Companies Act, 2013 read with schedule of the code

30 Section 31, the code

resolution plan shall be put before the NCLT, which shall, upon satisfaction that the criteria mentioned in section 30(2) are met, shall approve the resolution plan, which shall then be binding on all concerned parties including the corporate debtor, creditors, guarantors and other stakeholders involved in the resolution plan. Once approved, the resolution plan may not be set aside by the NCLAT, on any ground other than the five grounds mentioned in section 61(3). However, under section 61(3)(v), the number of grounds may be increased by the Board.

Stage (ii): Liquidation

The Code provides for the NCLT to order liquidation of the corporate debtor in a number of situations that are enumerated in section 33 of the Code. It provides that the NCLT shall pass an order of liquidation when (i) prior to the completion of 180 days as prescribed under section 12 of the Code, it does not receive a resolution plan or rejects the plan so given under section 31³¹; (ii) if the committee of creditors do not approve of the resolution plan and decide to liquidate the corporate debtor; and (iii) where the corporate debtor³² contravenes the approved resolution plan, upon which an aggrieved party makes an application for liquidation³³. It may be noted that there is no discretion for the NCLT as to whether an order for liquidation may be passed or not. Once any of the grounds mentioned in section 33 are satisfied, the NCLT 'shall' be required to pass an order liquidating the corporate debtor.

Once a liquidator is appointed, then the mechanism set forth by the Code in Chapter III shall take over. The provisions in this Chapter are akin to the powers of the liquidator under the Companies Act, 1956 and Companies Act, 2013, with only a few notable differences. Primarily, once an order under section 33 is made, appointing a liquidator, then an appeal against such order shall only be on limited grounds of material irregularity or fraud in relation to the liquidation order³⁴. It is settled law that once the grounds of appeal are limited, then there can be no grounds beyond what is provided for in the statute for the purpose of appeal, owing to which, the corporate debtor, once subjected to liquidation may be constrained with limited grounds to appeal. Further, in relation to appointment of liquidator under the Companies Act, 2013, for the grounds mentioned in the amended section 271, the Companies Act now provides that there cannot be any stay of the winding up order once it is made and the liquidator is appointed³⁵.

Further, the Code introduces the concept of a liquidation estate wherein all the assets mentioned in section 36(3) of the Code shall form a part of the liquidation estate with respect to the corporate liquidator. The liquidator shall, while dealing with the liquidation estate, act as a fiduciary to the creditors as a whole³⁶. The Code also recognises the concept of beneficial interest and trust ownership amongst others, which are excluded

from the purview of the liquidation estate assets³⁷. Further, in addition to the powers held by the liquidator under the previous regime, the Code provides for special informational powers, wherein, the liquidator shall have access to any information system, for the purpose of admission and proof of claims and identification of the liquidation estate assets³⁸. It is submitted that this is a welcome development in the law, which empowers the liquidator to have access to necessary information for the purpose of determining claims, which would ensure that unwarranted claims are not granted or at the least, time is not wasted in trying to refute unwarranted claims. While doing so, to safeguard the interests of the creditors, the Code provides for a statutory appeal to the NCLT, against orders of the liquidator rejecting their claims, which is a marked difference from the previous regime where no special appeal existed for this purpose³⁹. Finally, the liquidator is also empowered to make applications to avoid extortionate credit transactions, either financial or operational, made within two years preceding the insolvency commencement date⁴⁰. Where the NCLT is convinced that a transaction so made is extortionate in nature, it shall be required to pass orders restoring status quo ante or to set aside the whole transaction or to modify the terms of the transactions or to require any person to return sums of money received or to create any security interest with respect to such sums⁴¹. It is submitted that this power ought to be used sparingly by the court as it is drastic in nature and would impede into otherwise arm's length transactions, which shall fall within the exclusive domain of party autonomy and freedom of trade and commerce.

CONCLUSION

Hence, the Code marks a shift from debtor centric liquidation process to creditor determined liquidation process. The idea of giving the debtor innumerable chances to survive with the fond hope that it will revive and rise as a phoenix from the ashes is done away with. In the present regime, businesses that do not perform well will perish faster, making resources available for other entrepreneurs, than merely prolonging the inevitable death, which drags. It should be noted that the Code marks a substantial change in legislative policy relating to corporate insolvency, wherein, creditors in general and financial creditors in particular are substantially empowered to obtain debts due to them. While the two-tier insolvency mechanism by default is a welcome development in the law, the approach of the Code, requiring the NCLT to admit insolvency resolution process invoking applications to be admitted de hors considerations regarding the sub-stratum of the company may be problematic. The fate of the Code rests in the change in the mindset of the creditors and the work that insolvency professionals render as creditors cannot always have the cake in full. They will also have to make sacrifices in larger good of corporates and public and enjoy its fruit in a time bound manner. CS

31 Section 33 (1), the code

32 Section 33 (1)(b), the code

33 Section 33(1)(c), the code

34 Section 61 (3), the code

35 Section 289, Companies Act, 2013 per clause 15 of schedule 7 of the code

36 Section 36(2), the code

37 Section 36(4), the code

38 Section 37 the code

39 Section 42 the code

40 Section 50 the code

41 Section 51 the code

Insolvency and Bankruptcy Code, 2016 - Fast Track Corporate Insolvency Resolution Process



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India is one of the youngest Republics in the world, with a high concentration of the most dynamic entrepreneurs and even then the growth of the economy was crippled by an environment that took the longest times and entailed highest costs by world standards to resolve any problem that arose while repaying dues on debt. For a young emerging economy with the entrepreneurial dynamism of India, this was indeed a troublesome problem. India's dynamism not only needed reforms, but reforms done urgently. For this, the Government constituted a Committee to focus on a two-phase mandate over its tenure.

also meant demands on a much wider and deeper base of knowledge, on both matters of the economics of the problem as well as the legal framework. Research contributions and real world knowledge on the economics and the legal framework were gathered from the many policy papers, workshops and a conference that was conducted during the period of the Committee's working.

The Central Government introduced an exhaustive Insolvency and Bankruptcy Code, 2015 on individual insolvency, insolvency of limited liability partnerships, unlimited liability partnerships and

It is believed that the benefits of the Insolvency and Bankruptcy code shall start flowing in after three to five years from now. The main challenge will be creating a large pool of insolvency professionals who will help with the fast implementation of the law. The new regulators will also need to draft procedural rules for insolvency professionals and information utilities among others.

In the first phase, the Committee had to examine the existing bankruptcy framework, and whether there were policy and legal changes that could yield immediate effect. The focus was on the problems of insolvency and bankruptcy under the Companies Act, 2013. The outcome of the deliberations of the Committee led to the Interim Report of the Committee that was put out for public comments at the end of February, 2015.

The task of the committee in the Second Phase was to create a uniform framework that would cover matters of insolvency and bankruptcy of all legal entities and individuals and to save those entities with a dominantly financial function. This shifted the mandate to a much wider problem that included micro, small and medium enterprises, sole proprietorships and individuals. This

corporate insolvency.

Bankruptcy refers to a legal state in which an individual/organization sends an application to the relevant court wherein he/it declares himself/itself as insolvent due to his/its inability to pay off debts and expenses, seeking to be declared as a bankrupt. The banking industry in India was in a state of crisis. The stressed assets were almost Rs 10 trillion of loans including advances of whose terms have been restructured, gross bad loans and written-off accounts which rose to 14.5% of banking sector loans at the end of December 2015.

The Insolvency and Bankruptcy Code which has now been passed by both the Lok Sabh and the Rajya Sabha is said to be the "biggest economic reform" that will promote jobs, make availability of credit

“The new code aims at speedy winding up of insolvent companies, relocating capital profitably and lowering the Non-Performing Assets. Considering the bad-loan crisis in the banking sector, the Insolvency and Bankruptcy code will prove to be a powerful reform that will be beneficial to all the sectors of the society.”

and ensure timely resolution of financial distress of companies. Easy exit option for sick firms and insolvents will help improve doing business in India and the process of claim by the creditors will encourage financial institutions to extend credit facilities thus strengthening the financial markets with increased availability of credit for business.

The intention behind the introduction of the new law is to encourage entrepreneurship, availability of credit, and balance the interests of all stakeholders by strengthening and modifying the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner and for maximization of value of assets and matters of such persons connected therewith or incidental thereto.

According to a report from Nomura, before the introduction and implementation of the New Insolvency and Bankruptcy Code,, it took an average of 4.3 years to resolve insolvency in India and the recovery rate of debt was very low as compared to other countries. India ranked 136 in the World Bank's resolving insolvency ranking. China ranks 55 in the World Bank's resolving insolvency ranking and it takes 1.7 years to resolve insolvency.

The new law introduces a time limit on the bankruptcy process which will help India improve its World Bank insolvency ranking.. In the case of a default, the time-limit is 180 days, within which the resolution has to be completed, which can be extended by 90 days by the adjudicator, depending on the process.

The new code aims at speedy winding up of insolvent companies, relocating capital profitably and lowering the Non- Performing Assets. Considering the bad-loan crisis in the banking sector, the Insolvency and Bankruptcy code will prove to be a powerful reform that will be beneficial to all the sectors of the society. The Insolvency and Bankruptcy Code is set to introduce a unified framework to replace the current collection of separate laws drafted in piecemeal fashion across overlapping jurisdictions; reduce threshold for creditors to invoke the Insolvency Resolution Process (IRP); introduce third-party Insolvency Professionals

(IP) as intermediaries to oversee the IRP, replacing the debtor's existing management and operate the company as a going concern upon initiation of an IRP; give creditors overriding authority to approve terms of any restructuring package; and limit duration of IRP to maximum of 180 days, after which a company will be automatically liquidated.

FAST TRACK CORPORATE INSOLVENCY RESOLUTION PROCESS

The aim of the Insolvency and Bankruptcy code is to conclude the procedure within half of the default time period specified under the Code. The person or entity seeking the fast relief will have onus on the process at set-off and that person or entity that sets-off the Fast-track process must support that the case is fit for the Fast-track. Therefore, whosoever fills the application for fast track process under Chapter IV (Section 55) of the Insolvency and Bankruptcy Code will have to file the application along with the proof of the existence of default as evidenced by records available with an information utility or such other means as may be specified by the Board to establish that the corporate debtor is eligible for fast track corporate insolvency resolution process.

PROCEDURE IN BRIEF

- The fast track corporate insolvency resolution process shall be completed within a period of ninety days (90) from the insolvency commencement date and there can be only one extension of forty-five days (45). The adjudicatory authority will have the power to extend the process only if an application is filed by the resolution professional on the instructions of the creditors by a resolution passed at a meeting with seventy-five percent votes of the committee of creditors.
- The application can be filed in respect of corporate debtors with assets and income below a level or corporate debtors with such class of creditors or such amount of debt, which will be notified by the Central Government after enforcement of the I&B Code. Central government is at liberty to include such other category of corporate persons to have application of the fast track process by notification.
- The process of registration is similar to that of the default process of insolvency. Fast-track corporate insolvency resolution process and the procedure for conducting a corporate insolvency resolution process are more or less similar under this Code. Interim Resolution Professional is in charge of collection of claims, monitoring the entity and the creation of a creditors committee. Once the creditors committee is formed, the Resolution Professional verifies the submitted liabilities. The Resolution Professional has the same responsibilities as in default procedure but the only difference is that the Resolution Process is for a shorter time period.
- The NCLT under Chapter II, Section 7 of the Insolvency and Bankruptcy Code appoints the Resolution Professional to administer the IRP, whose main function is to take over the management of the corporate borrower and operate its business as a going concern under the broad directions of a committee of creditors.
- Resolution Professional identifies the financial creditors and

constitutes a creditors committee. The Operational creditors are allowed to attend meetings of the committee but are not given the voting power. Each decision of the creditors committee requires a 75% majority vote.

- Decisions of the creditors committee are binding on the corporate debtor and all its creditors. The creditors committee considers the proposals for the revival of the debtor and decides whether to proceed with a revival plan or liquidation within a period of 180 days (subject to a one-time extension by 90 days). Meanwhile, anyone can submit a revival proposal, but it must necessarily provide for payment of operational debts to the extent of the liquidation waterfall.
- Under the Code, a corporate debtor may be put into liquidation in the following scenarios:
 - (i) If 75% majority of the creditor's committee resolves to liquidate the corporate debtor at any time during the insolvency resolution process;
 - (ii) If the creditor's committee does not approve a resolution plan within 180 days (or within the extended 90 days);
 - (iii) If the NCLT rejects the resolution plan submitted to it on technical grounds; or
 - (iv) If the debtor contravenes the agreed resolution plan and an affected person makes an application to the NCLT to liquidate the corporate debtor.
- Once the NCLT passes an order of liquidation, a moratorium is imposed on the pending legal proceedings against the corporate debtor, and the assets of the debtor (including the proceeds of liquidation) vests in the liquidation estate.
- Any person who initiates the insolvency resolution process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, then the adjudicating authority may impose upon such person a penalty which shall not be less than Rs 1 lakh, but may extend to Rs 1 crore.

DEADLINE SET UNDER INSOLVENCY AND BANKRUPTCY CODE 2016

- Control shifts from the shareholders/promoters to a committee of creditors. When a corporate entity defaults on its debt, who have 180 days (extendable by 90 days in deserving cases) to evaluate proposals from various players about resuscitating the company or taking it into liquidation.
- A fast track insolvency resolution process is provided for corporates and LLPs. It is an enabler for start-ups and small and medium enterprises (SMEs) to complete the resolution process in 90 days (extendable to 45 days in deserving cases).
- Applications for fast track corporate insolvency resolution process can be made in respect of the following corporate debtors, namely:—
 - (a) Corporate debtor with assets and income below a level as may be notified by the Central Government; or
 - (b) Corporate debtor with such class of creditors or such amount of debt as may be notified by the Central Government; or such other category of corporate persons as may be notified by the Central Government.

These applications for fast track corporate insolvency resolution

‘Insolvency Professionals’ are class of regulated persons who are the first tower of strength of the Institutional infrastructure. They play an important role in the smooth working of the bankruptcy process. They are regulated by ‘Insolvency Professional Agencies’.

process can be filed by a creditor or corporate debtor as the case may be, along with—

- (a) the proof of the existence of default as evidenced by records available with an information utility or such other means as may be specified by the Board; and
- (b) such other information as may be specified by the Board to establish that the corporate debtor is eligible for fast track corporate insolvency resolution process. Manner of initiating fast track corporate insolvency resolution process.

ADJUDICATING AUTHORITY UNDER THE CODE, 2016

The National Company Law Tribunal is the adjudicating authority for Corporates, whereas for Individuals and Partnerships Firms, the Debt Recovery Tribunal constituted under sub-section (1) of section 3 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 is the Adjudicating Authority.

The National Company Law Appellate Tribunal acts as an Appellate Authority against the orders passed by National Company Law Tribunal.

No civil court or authority has the jurisdiction to entertain any suit or proceedings in respect of any matter on which National Company Law Tribunal or the National Company Law Appellate Tribunal has jurisdiction under this Code.

Any person aggrieved by an order of the National Company Law Appellate Tribunal can file an appeal to the Supreme Court on a question of law arising out of such order under this Code within forty-five days from the date of receipt of such order.

From June 1 2016, the National Company Law Tribunal (NCLT) is the adjudicating Authority for companies and limited liability partnerships, and the Debt Recovery Tribunal (DRT) for individuals and partnership firms which will be adequately strengthened so as to achieve world class functioning of the bankruptcy process. Fast track insolvency resolution process will help start-ups and small and medium enterprises (SMEs) to complete the resolution process in 90 days (extendable to 45 days in deserving cases).

INSTITUTIONAL INFRASTRUCTURE - WHO WILL BE

BENEFITTED AND HOW IS IT GOING TO AFFECT THE MARKET?

'Insolvency Professionals' are class of regulated persons who are the first tower of strength of the Institutional infrastructure. They play an important role in the smooth working of the bankruptcy process. They are regulated by 'Insolvency Professional Agencies'. A new industry of 'Information Utilities' is the second tower of strength of the institutional infrastructure, where Information utilities store facts about lenders and terms of lending in electronic databases and eliminate delays and disputes about facts when default does take place.

Adjudication of institutional infrastructure is the third tower of strength. The NCLT is the forum where firm insolvency is heard and DRTs is the forum where individual insolvencies are heard. These institutions, along with their Appellate bodies, viz., NCLAT and DRATs are adequately strengthened so as to achieve world class functioning of the bankruptcy process.

The fourth pillar of institutional infrastructure is a regulator viz., 'The Insolvency and Bankruptcy Board of India'. This body will have regulatory over-sight over the Insolvency Professional, Insolvency Professional agencies and information utilities.

CONCLUSION

With the implementation of the Insolvency and Bankruptcy code, the problem of delay will be overcome since the quick disposal of cases have maximized the recovery amount because of the strict timelines within which the case has to be disposed off. The specialized Insolvency Professionals help in guiding through the process. The benefits of the Insolvency and Bankruptcy code will help in improving the stressed assets easily and speedily thereby enabling the higher flow of capital in the economy. Moreover, it will help the companies to wind up failed businesses and bring India on a par with developed nations in terms of resolving bankruptcy issues.

The perspective of the new law is to boost entrepreneurship and innovation. Some business enterprises will always fail, but their failure will now be handled promptly and smoothly without any delay. Entrepreneurs and financiers are able to move on, instead of being burdened with the wrong business decisions of the past. The Insolvency and Bankruptcy Code is an exhaustive reform, which will prove to be a break-through to the functioning of the credit market. The passing of this Code and implementation of the same will give a big boost to ease of doing business in India and help India to become one of the world's best insolvency regimes.

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APPOINTMENT

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Information Utilities – Provider of Level Playing field in Insolvency and Bankruptcy Process



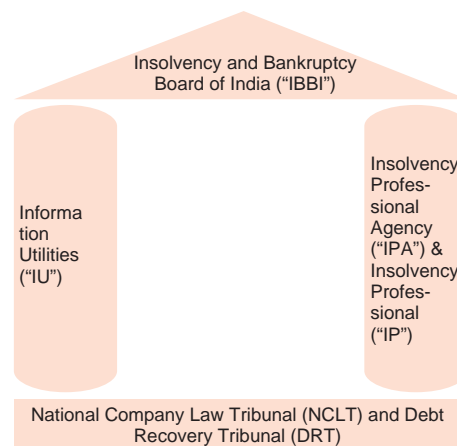
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INTRODUCTION

The Insolvency and Bankruptcy Code, 2012 (“Code”), envisages formation of two new industries, viz: Information Utilities (“IU”s) and Insolvency Professionals (“IP”s), both being positioned as competitive industries. These two industries can be construed to be the two pillars in the porch way to the edifice of insolvency resolution, and liquidation process under the Code. This article is about the IUs and how they would provide a level playing field in the insolvency resolution process.



Under the present scheme of things, financial information about non-corporate borrowers is available only with the income-tax department and is not publicly accessible even under the Right to Information Act, 2005. The ‘information utilities’ contemplated under the Insolvency and Bankruptcy Code will help to overcome this deficiency. This article examines how information utilities will provide a level playing field in insolvency proceedings.

STRUCTURE OF THE ENTITIES INVOLVED UNDER THE CODE

At the base of the structure are the two adjudicating bodies National Company Law Tribunal (“NCLT”) and the Debt Recovery Tribunal (“DRT”), the IUs and the IPs are the pillars, with the Insolvency and Bankruptcy Board of India (“IBBI”) playing a very important role of regulating the two new players and also by making regulations with the objective of (a) high recovery rates; (b) low delays from start to end; and (c) creating the perception of swift bankruptcy process, “...including mechanism for time bound disposal of the assets of the corporate debtor or debtor” [clause (r) of sub-section (1) of section 196]. Figure below represents the entities involved.

PROVISIONS IN THE CODE ON IUS

The Code offers very little information in

terms of the role of the IUs. In Chapter V of the Code in Sections 209 to 216, the broad framework for formation, governance, and core services of IUs (i.e) accepting information submission, storing and publishing such information, is legislated. These are enabling provisions to facilitate the development of the IUs as an industry that will develop over a period of time.

The power to licence every IU is vested with the IBBI, which will also exercise powers to regulate them, including the manner of collecting and storing of information, and for providing the access of such data.

One gets an insight into the IUs under only on a perusal of the Report of the Bankruptcy Law Reforms Committee (“BLRC”), which recommended the enactment of the Code and also drafted the draft Code to be considered by the Parliament.

Under the present system, not all information about a borrower is available in public domain, which can be accessed by the persons who are concerned about the solvency of the borrower. This creates an asymmetry of information, and such asymmetry, acts a barrier during negotiations between the borrower and the lenders, and thereby delaying the swiftness in the process of insolvency resolution or in the decision making of liquidation of the borrower.

NEED FOR INFORMATION UTILITIES

The 2015 Doing Business Report of the World Bank, ranked India, at 137 of the 189 economies, in resolving insolvency, as it identified that it took 4.3 years as the average time taken in winding-up a business that is unable to pay its debts, at a cost of 9% of the assets, and yet resulting in only recovering 16.89 paise to every rupee lent (25.7 cents to every dollar), as compared to Singapore being ranked first in the ease of doing business, where it takes 0.8 years, at a cost of 3% of the assets, and yielding a recovery of 89.7 cents to every dollar. The BLRC, identified that one of the reasons for this delay, was the non-availability of accurate and undisputed set of facts about existing credit, collateral that has been pledged, etc.

The Code envisages a time period of 180 days for insolvency resolution, and if the borrower and the secured lenders do not come up with a deal of restructuring the borrower, within the said 180 days, it results in the commencement of liquidation of a corporate borrower, and in case of a non-corporate borrower it is a declaration of bankruptcy. Hence, the importance on availability of reliable information in the hands of all the players concerned, that would enable an informed decision to be taken by the creditors committee that will be constituted by the Insolvency Professional under section 21 of the Code.

The BLRC, envisages that the IUs will be the storehouse of all information that will be necessary during an insolvency resolution process (“IRP”), and the looks at them as a vehicle that will leapfrog India in the IRP.

LEVERAGING INFORMATION TECHNOLOGY

Since, the IUs will be a competitive industry, there will be multiple players acting as IUs, and hence, information relating to a single borrower may be available with multiple IUs. As envisaged by the BLRC, all IUs will have to use the same Application Programming



Interfaces (“APIs”), which will enable third party software development, which software can be used to query all IUs, and assemble the information available with all IUs about one borrower in real time.

FILING WITH THE IUS BY FINANCIAL CREDITORS

Sub-section (2) of section 215 of the Code, makes it mandatory for all financial creditors to a borrower to file financial information and also information relating to the assets in respect of which a security interest in created. The report of the BLRC states that the filing of financial information and information about the assets, would have to be done by an electronic means, with the borrower co-signing the information in the format to be specified by IBBI. Such filing has to be done at the time of initiation of the financing and every time there is a modification to such financing.

The information to be filed will pertain to the amount of liability under the financing arrangement, and also details of the assets that are pledged as security against secured loans.

While, this appears to be a duplication of filing, in case of a company, as the Companies Act, 2013 already requires filing of such information with the registrar of companies, it needs to be seen whether the online filing system of the Ministry of Corporate Affairs (MCA21), will in itself be made an IU under the Code – which would then eliminate the duplication of the same activity.

However, in case of an individual and partnership, such information is being filed by the relevant banking and financial institutions with the Central Registry of Securitisation Asset Reconstruction and Security Interest (CERSAI), pursuant to Section 23 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). While this information is accessible by general public on payment of a small fee, the search of the information is based on the property that is secured and not based on the borrower entity or identification. But, the access to this information is limited to those hitherto was not required to be filed anywhere, will be required to be filed with the IUs, once they are constituted after the notification of the relevant provisions of the Code.

FILING WITH IUS BY OPERATIONAL CREDITORS

Section (3) of section 215, makes the filing of information with the IUs for an operational creditor as an optional one. The BLRC envisages that the operational creditors will have an incentive to file information about liabilities with the IUs when a borrower approaches insolvency. The incentive for an operational creditor to file details of liabilities with an IU, is that if he/it can provide the proof of the existence of default as evidenced by records available with an information utility, then he/it is eligible to file for a fast track insolvency resolution process before the adjudicating authority.

Section 8 of the Code, empowers an operational creditor to trigger IRP. In order to trigger the IRP, an operational creditor will be required to serve a notice of demand to the debtor by filing it with the IU, and if the amount involved is less than a threshold limit to be specified by the IBBI, the IU will in turn serve the notice to the debtor electronically. Where the demand is above the threshold, the service of the demand notice is to be done by the creditor, and the evidence of the service is also to be filed with the IU.

The debtor on receipt of the notice, will then have the option to either dispute the notice in court or to pay up the amount, before a specified time period. If neither of the two is done, then the filing done by the operational creditor will act as an evidence of default, and thereby becoming eligible to trigger the IRP.

LEVEL PLAYING FIELD

Under the present system, not all information about a borrower is available in public domain, which can be accessed by the persons who are concerned about the solvency of the borrower. This creates an asymmetry of information, and such asymmetry, acts a barrier during negotiations between the borrower and the lenders, and thereby delaying the swiftness in the process of insolvency resolution or in the decision making of liquidation of the borrower.

Under the present system, financial information and information about the secured loans obtained by corporate borrowers are available with the Ministry of Corporate Affairs (“MCA”) acting as a central repository of such information, but such information is not available in respect of a non-corporate borrowers, which constitutes the bulk of the businesses that is carried out in India. Also, in a dispute relating to inability to pay debts, or for recovery of debts, disputes about the security and also the amount owed takes up many years to be resolved in the courts.

The IUs, recording information from the creditors of a borrower – both financial and operational, about liabilities, collateral obtained for the secured loan and also recording instances of default, coupled with financial information about the borrower, in effect will have in their repository, all information required to all stakeholders of a borrower.

With all information required in decision making being available with the IUs, and accessible by the stakeholders,

either on a need basis or in public domain, in effect creates a level playing field, and removing all information asymmetry, thereby enabling the creditors committee of the borrower to take appropriate decisions, be it on the methodology to restructure the financing to the borrower to make him/it a viable business, or on the solvency or otherwise of a borrower.

CONCLUSION

Under the present scheme of things, financial information about non-corporate borrowers is available only with the income-tax department, and is not publicly accessible even under the Right to Information Act, 2005. With the BLRC recommending that the existing repositories of information needs to be leveraged and where necessary suitable amendments is to be made to the enactment under which such repository is constituted, it is to be seen how financial information about non-corporate borrowers will be made accessible by the IBBI, in case of bankruptcy of such borrowers.

The IUs, as envisaged by the BLRC, is an initiative that does not have any parallel in any other economy. While the possibility to learn from any previous experience and correct any deficiency does not exist, the opportunity to create something new brings about a lot of excitement, and the matters envisaged in the BLRC, together with the drafting instructions in its report, should pave way for creation of world class information availability in today’s wired world where information is king. CS

APPOINTMENT

Required Company Secretary

Seshasayee Properties Private Limited, a Non Banking Financial Company (NBFC) engaged in the business of investment, finance and allied activities. The incumbent should be an ACS with 2 – 3 years of relevant working experience in an NBFC of repute. Apply with confidence within 15 days stating age, qualification, experience and details of salary drawn and expected to: -

The Director, Seshasayee Properties Private Limited, Industry House, 1st Floor, 159, Churchgate Reclamation, Mumbai – 400 020.

Position of Secured Creditor in the Winding up and in the Liquidation of Corporate Debtor



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INTRODUCTION

The provisions relating to winding up of companies contained in the Companies Act, 1956 (1956 Act) were seldom correctly understood and applied in real situations. This has resulted in the stakeholders of the company in winding up not getting proper share in the distribution of the assets realised by the liquidator. Callous attitude of the stakeholders also contributed to inequitable distribution of the dividend by the liquidator.

inclusive) of the Code have come into force. Sections 245 to 255 of the Code are intended to amend as many as eleven other enactments.

The amendments effected to these eleven enactments are yet to come into force. The changes made to the 2013 Act have been taken into account while considering the position of secured creditor in the case of winding up of a corporate person.

The Code has opened up new opportunities for insolvency professionals, though the expertise in relevant areas is

The Insolvency and Bankruptcy Code has opened up new opportunities for insolvency professionals, though the expertise in relevant areas is yet to be prescribed by the Insolvency and Bankruptcy Board under the Code. Hence, a correct understanding of the provisions of the Companies Act, 2013 Act and the Code will be of immense advantage to the Insolvency Professionals when the Code becomes operational.

Consequent upon the enactment of the Insolvency and Bankruptcy Code, 2016 (Code), which will now govern the whole gamut of insolvency except in the circumstances mentioned in Section 271 of the Companies Act, 2013 (2013 Act) as amended by the Code, will to a great extent rectify the situation. While the circumstance relating to passing of a special resolution by the company to be wound up by the Tribunal was frequently resorted to by the companies, the circumstances narrated in Clauses (b) and (c) were seldom formed the basis for winding up a company. The circumstance relating to just and equitable that the company should be wound up by the Tribunal would continue to be dealt with by 2013 Act.

The Code has been brought into force partially by the issue of notification in the Official Gazette dated 05.08.2016. Pursuant to this notification, the provisions of Sections 188 to 194 (both

yet to be prescribed by the Insolvency and Bankruptcy Board under the Code. Hence, a correct understanding of the provisions of 2013 Act and the Code will be of immense advantage to the Insolvency Professionals when the Code becomes operational.

The term secured creditor not only means a bank or a financial institution or any consortium of group thereof but also includes (i) debenture trustee appointed by any bank of financial institution, (ii) securitisation company or a reconstruction company whether acting as such or managing a trust set up by such securitisation company or reconstruction company for the securitisation or reconstruction, as the case may be, and (iii) any other trustee holding securities on behalf of a bank or financial institution in whose favour security interest is created. All these entities are now to acclimatize themselves with their position in winding up of a corporate debtor or in

the liquidation of such debtor.

SECURED CREDITOR

The 2013 Act does not define a “creditor” or a “secured creditor”, which terms have relevance in the winding up of a corporate person. The enactments referred to section 2 (95) of 2013 Act do not assist in obtaining a decipherable definition. The Provincial Insolvency Act, 1920 (slated to be repealed pursuant to section 243 of the Code) contained the definition of these two words. Being a piece of analogous legislation, it is appropriate to have regard to the definitions contained therein. “Creditor”, as defined in section 2 (1) (a), “includes a decree-holder “debt” includes a judgment-debt, and “debtor” includes a judgment-debtor”. As per section 2(1) (e), “secured creditor” means a person holding a mortgage, charge or lien on the property of the debtor or any part thereof as a security for a debt due to him from the debtor”. Definition of “secured creditor” contained in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), is not of much assistance, as the definition in that Act is with reference to the entity to be treated as a secured creditor for the purposes of that Act.

SECURED CREDITOR IN WINDING UP OF A COMPANY UNDER 1956 ACT

Section 529 of the 1956 Act dealt with the options available to a secured creditor and the consequences of such options. In terms of proviso to section 529 (1), by a fiction of law, a *pari passu* charge was created in favour of workmen to the extent of workmen’s portion. A secured creditor had the option of either realising his security or relinquishing his security for the general benefit of the creditors. If a secured creditor preferred to proceed to realise his security, (a) the liquidator could represent the workmen and enforce the *pari passu* charge; (b) the amount realised by the liquidator by enforcing the charge was to be applied rateably for the discharge of workmen’s dues; and (c) so much of the amount of debt that could not be realised by the secured creditor or the amount deducted towards the workmen’s dues out of the security, whichever was less, would have ranked *pari passu* with the workmen’s dues under section 529A. It should be understood that a secured creditor of an insolvent company which was being wound up had only a right over the particular property or asset of the company offered to the secured creditor as a security and did not extend on the assets of the company not forming part of the security.

The effect of sections 529 and 529A of 1956 Act was that the secured creditor had a right to realise the amount due to him out of the security obtained by him and if the amount realised was shared with the workmen’s dues to the extent of the money so shared or the balance amount of debt outstanding, whichever was less, would rank *pari passu* with the workmen’s dues under section 529A.

Sub-section (2) of Section 529 of 1956 Act permitted all creditors, secured and unsecured, of the insolvent company to

Section 53 of the Code overrides the Central and State Laws for the time being in force. This departure is beneficial particularly to the secured creditors. Earlier there were numerous occasions when priority of payment of crown debts was claimed in preference over the dues of the secured creditor. Some of the State Governments like Rajasthan, Madhya Pradesh and others amended the respective State Sales Tax Acts providing overriding priority to the dues under the Act. In view of the non-obstante clause such claims under the Code do not command any priority for payment and will be paid by the liquidator after the payment of financial debts owed to unsecured creditors.

come under the winding up and to prove for and receive dividends out of the assets of the company. But so far as secured creditors were concerned, they had the option either to relinquish their security in which case they like any unsecured creditor would only be entitled to prove for and receive the dividends out of the assets of the company or to realise the security instead of relinquishing the security in which case they had to pay to the liquidator only expenses for the preservation of the security until they realize the security by appropriate proceedings other than the winding up proceedings. The non-obstante opening words of Section 529A were intended to give precedence to the overriding preferential payments in contrast to the preferential payments as contemplated under Section 530 of the Act. This non-obstante language had even greater significance as it, in no uncertain terms, provided that Section 529A would have effect notwithstanding anything contained in any other provision of the Act or any other law for the time being in force. Thus, the provisions were exceptions to all other laws in force.

Relinquishment must be by virtue of a specific act and a conscious decision on behalf of the secured creditor. It was held by the Supreme Court that mere filing proceedings before a special forum to save limitation without taking any effective steps to realize the security, would not necessarily mean that

the secured creditor has stood outside the winding up proceedings.

The provisions of section 530 of 1956 Act did not impact the rights of the secured creditor.

SECURED CREDITOR IN WINDING UP OF A COMPANY UNDER 2013 ACT

There is not much of a change in the position of a secured creditor under 2013 Act, except that priority for the payment of the workmen's dues relating to wages and salary (which were enumerated under sub-clause (i) and (ii) of clause (b) of the Explanation to section 326 of 2013 Act) which are payable for a period of two years preceding the winding up order or such other period as may be prescribed, has been expressly conferred. Such payment has to be made within a period of thirty days of sale of assets and shall be subject to such charge over the security of the security of secured creditors.

The non-obstante clause stands omitted from section 326 of 2013 Act. This may revive claims relating to priority of dues conferred for various dues in diverse enactments, including any law made by the Parliament or State Legislature in a winding up proceeding. By the insertion of section 327 (7), sections 326 and 327 of 2013 Act have been made inapplicable in cases of liquidation under the Code. Hence the position of secured creditor under liquidation is not the same as in the 2013 Act in the case of winding up.

SECURED CREDITOR IN LIQUIDATION UNDER THE CODE

Section 52 of the Code contains provisions relating to the position of secured creditor in liquidation proceedings. Section 53 of the Code deals with the distribution of assets of corporate person in liquidation.

In terms of section 52, a secured creditor has the option to relinquish his security interest and receive proceeds from the sale of assets by the liquidator or realise the security. If the secured creditor chooses to realise the security, he has to inform the liquidator and identify the asset over which he has the security interest. The liquidator after due verification may permit the secured creditor to realise only such security interest.

The secured creditor has the freedom to enforce, realise, settle, compromise or deal with the secured assets in accordance with the law applicable to the security interest being realised and apply the proceeds to recover the dues to him. In case the secured creditor encounters any resistance from the corporate debtor or any person connected therewith in taking possession of, selling or otherwise disposing off the security, the secured creditor is permitted to make an application to the Adjudicating Authority (National Company Law Tribunal) to facilitate him to realise such security interest in accordance with the law for the time being in force. The

Adjudicating Authority may pass order permitting a secured creditor to realise the security in accordance with the law. If the amount realised in excess of the amount due to the secured creditor, he shall account to the liquidator for the surplus and tender the surplus to the liquidator. The secured creditor is entitled to deduct the costs from the proceeds of any realisation and transfer such amounts to the liquidator to be included in the liquidation estate. In case of inadequacy in the amount realised to satisfy his dues in full, the balance amount due to the secured creditor shall become debts to be paid *pari passu* with crown debts.

Section 53 starts with a non-obstante clause. The provisions of section 53 override any law enacted by the Parliament or any State Legislature for the time being in force. The distribution of the amounts realised by the liquidator shall be made within such specified period and in such manner as may be specified. The distribution shall take place in the following manner and order: -(i) Insolvency resolution process costs and liquidation costs shall be paid in full; (ii) The workmen's dues for the period of 24 months preceding the liquidation commencement date and the debts owed to a secured creditor in the event he has relinquished security to the liquidator shall be paid *pari passu*; (iii) wages and any unpaid dues owed to the employees other than workmen for the period of 12 months preceding the liquidation commencement date; (iv) financial debts owed to unsecured debtors; (v) (a) amount due to Central Government and the State Government in respect of the whole or any part of the period of two years preceding the liquidation commencement date; and (b) debts owed to the secured creditor for any amount remaining unpaid (or unadjusted) following the enforcement of security interest; (vi) any remaining debts and dues; (vii) preference shareholders, if any; and (viii) equity shareholders or partners, as the case may be.

Contractual arrangements between recipients with equal ranking, if likely to disrupt the order of priority, shall be disregarded by the liquidator. The fees payable to the liquidator shall be deducted proportionately from the proceeds payable to each class of recipients and the balance amount alone shall be distributed. The dues ranking *pari passu* shall be paid equally or proportionately if the amount is inadequate to make payment in full. Workmen's dues shall have the meaning as given in the Explanation to section 326 of 2013 Act.

Section 53 of the Code overrides the Central and State Laws for the time being in force. This departure is beneficial particularly to the secured creditors. Earlier there were numerous occasions when priority of payment of crown debts was claimed in preference over the dues of the secured creditor. Some of the State Governments like Rajasthan, Madhya Pradesh and others amended the respective State Sales Tax Acts providing overriding priority to the dues under the Act. In view of the non-obstante clause such claims under the Code do not command any priority for payment and will be paid by the liquidator after the payment of financial debts owed to unsecured creditors.



Limiting the priority to workmen's dues for a period of 24 months preceding the liquidation commencement date and the dues of the secured creditor to the extent of the amount recovered by realisation of security have made available sufficient amount for defraying the dues of others. Under the Code employees other than workmen will also stand a chance to be paid whole or part of their wages and unpaid dues for a period of 12 months preceding the liquidation commencement date.

Secured creditor who has realised his security and still has a balance amount to be recovered has been placed below the financial debts due to unsecured creditors in the order of priority. All debts payable on a contingency and all claims against the company, present and future, certain or contingent, ascertained or sounding only in damages shall be paid before making any payment to preference shareholders.

Recovery of amounts due to the Central Government or State Government has been restricted to the whole or part of the period of two years preceding the liquidation commencement date. The Code thus aims at equitable distribution of the assets realised by the liquidator of a corporate debtor.

The position of secured creditor having different ranking charges requires some consideration. It is a common practice among the lenders (banks or financial institutions) to cede a *pari passu* charge or a second charge or a residual charge in favour of other lenders. The property when sold the proceeds would be appropriated towards the charge holders as per their *inter se* ranking. This position has been recognised by the Transfer of Property Act, 1881. Neither the 2013 Act nor the Code recognises such distribution. Hence the secured creditor must endeavour to sell the secured assets by standing outside the winding up or liquidation of a corporate person.

CONCLUSION

The Code has made explicit provisions relating to secured creditor and the options available to them. The areas of disputes amongst the various persons entitled to share the realisation of the assets of the corporate debtor have been

considerably reduced, if not eliminated altogether.

The secured creditor should note that mere filing a recovery application before the Debts Recovery Tribunal would not tantamount to enforcing security interest. He should take measures under the SARFAESI Act so as to demonstrate his intention of remaining outside the winding up or liquidation proceedings and realising his security.

Section 52 of the Code confers an option to the secured creditor to make an application to the Adjudicating Authority if he faces resistance from the corporate debtor or any person connected therewith in taking possession of, selling or otherwise disposing off the security. This option is in addition to the provisions of section 14 of the SARFAESI Act entitling him to seek the help of the Metropolitan Magistrate or District Magistrate for taking possession of the secured assets. The Adjudicating Authority as well as Metropolitan Magistrate or District Magistrate is to act in accordance with the law. As per the decisions of the Supreme Court, such authority shall have to enquire and decide the claim relating to tenancy on the secured assets from any person claiming to be a tenant. The language of section 52 (5) implies that a secured creditor standing outside the winding up and enforcing his security interest may also approach the Adjudicating Authority.

Keeping the pros and cons in view, a secured creditor may well assess approaching either of the Authorities in his endeavour to realise the secured asset.

Under Section 52 (5), a secured creditor can approach the Adjudicating Authority for selling or otherwise disposing off the security, whereas such powers cannot be exercised by the Metropolitan Magistrate or District Magistrate under section 14 of SARFAESI Act. Thus the Adjudicating Authority exercises greater powers than a Metropolitan Magistrate or District Magistrate under SARFAESI Act.

A secured creditor is entitled to receive the proceeds from the sale of secured assets even if he relinquishes his security interest to the liquidator. The Secured Creditor, therefore, should take a well considered decision whether or not to relinquish the security. Much in this regard depends upon the efficiency of the liquidator.

One drawback which requires rectification pertains to the fee payable to the liquidator. As per section 53 (3) of the Code, the fee payable to the liquidator shall be deducted proportionately from the proceeds payable to each class of recipients under sub-section (1) and the proceeds to the relevant recipient shall be distributed after such deduction. It implies that the entire fees cannot be recovered out of the realisation of the sale of assets; but it is linked to distribution to each class and recovery in proportion to the payment made. The ambiguity in this case will arise in the case of inadequacy of sale proceeds to discharge entire dues mentioned in section 53 (1). As proportionate recovery has been contemplated, the liquidator may not be able to recover his entire fees. It would have been a comfort to the liquidator if clause (a) also covers the fees payable as it depends on the percentage of recovery made. CS

Winding up of Companies under the Insolvency and Bankruptcy Code, 2016



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THE CODE

The provisions relating to insolvency and bankruptcy of companies have been scattered in the Sick Industrial Companies (Special Provisions) Act, 1985, the recovery of Debt Due to Banks and Financial Institutions Act, 1993, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) and the Companies Act, 1956. Liquidation of companies is handled by the High Courts. The Provincial Insolvency Act, 1920 provided for the law relating to insolvency

05.05.2016 and it was passed by Rajya Sabha thereafter. On assent being given by the President on 28.05.2016, it has become the Insolvency and Bankruptcy Code, 2016(31 of 2016 dated 28.05.2016), hereinafter referred to as “the Code”.

INSOLVENCY AND LIQUIDATION OF CORPORATE PERSONS TO BE GOVERNED EXCLUSIVELY BY THE CODE

The Companies Act, 1956 and now the Companies Act, 2013 contain provisions for winding up of companies on various

The Insolvency and Bankruptcy Code, 2016 has made drastic changes with regard to winding up of companies. The Code has also shifted the provisions regarding voluntary winding up of companies from the Companies Act to the Code with some modifications, particularly doing away with members' voluntary winding up and approval of creditors compulsory for voluntary winding up of corporate debtors. These provisions have been discussed in this article to give a layman's understanding of them.

as administered by courts having jurisdiction outside the Presidency-towns and the Presidency Towns Insolvency Act, 1909 governed the law relating to insolvency in presidency towns. With the objective to consolidate and amend the laws relating to the reorganization and insolvency resolution of corporates, partnership firms and individuals in a time bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credits and balance the interests of all shareholders and to have an effective and adequate framework of insolvency and bankruptcy, “the Insolvency and Bankruptcy Code” was introduced in Lok Sabha on 21.12.2015. Thereafter, it was referred to Joint Committee of Parliament which submitted its report on 28.04.2016. The Lok Sabha passed the legislation on

grounds including inability of companies to pay their debts. Now, the Code has deleted the provisions in the Companies Act regarding winding up of companies on the ground of inability to pay their debts and those relating to voluntary winding up of companies and detailing the requirements for insolvency resolution of corporate persons and voluntary winding in the Code itself. Accordingly, the Code shall exclusively be governing the insolvency resolution and liquidation of corporates. The Companies Acts will continue to govern winding up of companies on various other grounds excluding inability to pay debts. The Code has provided for insolvency resolution and liquidation of not only companies but also for insolvency resolution and winding up of companies, limited liability partnerships and other entities incorporated with limited

* Retired ICLS Officer.

‘ The resolution professional shall conduct the entire corporate insolvency resolution process and manage the operations of the corporate debtor during the corporate insolvency resolution process period. It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor including the continued business operations of the corporate debtor. While taking decisions involving financial aspects etc. the resolution professional shall obtain approval of the Committee of Creditors. ’

liability under any other law for the time being in force also. Whereas Part II of the Code deals with Insolvency resolution and liquidation of corporate bodies , Part III of the Code regulates insolvency resolution and bankruptcy of individuals and partnership firms by providing for the following:-

- I. Fresh start process for debts upto Rs.35,000 only subject to certain conditions (under DRT through Resolution Professional);
- II. Insolvency resolution process for individuals and partnership firms (under DRT through Resolution Professional);
- III. Bankruptcy order on failure of insolvency resolution process (Insolvency professional to act as Bankruptcy Trustee under DRT)

TWO TYPES OF LIQUIDATION PROCESSES FOR CORPORATE PERSONS

Part II of the Code deals with insolvency and liquidation of corporate persons. Corporate person means a company within the meaning of section 2 (20) of the Companies Act, 2013, a limited liability partnership as defined in section 2(1)(n) of the Limited Liability Partnership Act, 2008 or any other person incorporated with limited liability under any law for the time being in force. Any financial service provider, however, is excluded from the scope of the Code. ‘Financial service provider’ means a person engaged in the business of providing financial services in terms of authorization issued or registration granted by a financial sector regulator, such as Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory Authority and such other regulatory authority as may be notified by the Central Government. The provisions of Part II shall apply where there has been default in payment of debt of Rs.1 lakh or more when whole or any part or instalment of the amount of debt has become due and payable and is not repaid by a debtor or the corporate debtor who owes debt to

any person, as the case may be. Part II provides for the following two types of liquidation processes for corporate persons namely (i) Corporate insolvency resolution-cum-liquidation process through National Company Law Tribunal (NCLT); and(ii) Voluntary liquidation of corporate persons.

CORPORATE INSOLVENCY RESOLUTION-CUM-LIQUIDATION PROCESS

Corporate insolvency resolution process to be initiated first in case of default in payment of debt of Rs.1 lakh or more

In case of default in payment of debt upto Rs. 1 lakh by a corporate person, the only remedy available to the creditor is to file civil suit and obtain decree and get it enforced. In case of default in payment of debt of Rs. 1 lakh and more, civil suit cannot any more be filed; nor can any winding up petition be filed against a corporate person. It would first be necessary to initiate corporate insolvency resolution process in accordance with the extant provisions of the Code before any liquidation proceedings can be initiated against a corporate person.

Persons who can make application to initiate corporate insolvency resolution process

The following persons have been allowed to initiate corporate insolvency resolution process in case of default in payment of debt of Rs.1 lakh or more by a corporate person:-

1. The corporate person itself i.e. the defaulting company incorporated under the Companies Acts or limited liability partnership or the person incorporated with limited liability under any other law for the time being in force.
2. The financial creditor i.e. any person to whom a financial debt is owed and includes a person to whom some debt has been legally assigned or transferred. “Financial debt” means a debt along with interest, if any, which is disbursed against the consideration for the time value of money. “Financial debt” includes (a) Money borrowed against the payment of interest; (b) Any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent; (c) Any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument; (d) The amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed; (e) Receivables sold or discounted other than any receivables sold on non-recourse basis; (f) Any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing; (g) Any derivative transaction entered into in connection with protection against or benefit from the fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account; (h) Any counter-indemnity obligation in respect of the guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution; (i) The amount of any liability in respect of any of the items referred

to in sub-clauses (a) to (h) above.

3. The operational creditor i.e. the person to whom an operational debt is owed or any other person to whom such debt has been legally assigned or transferred. "Operational debt" means a claim in respect of the provision of goods or services including employment or a debt in respect of repayment of dues arising under any law for the time being in force and payable to the Central Government, State Government or any local authority.

Applications for initiation of corporate insolvency resolutions are required to be made to the National Company Law Tribunal(NCLT).

Persons who are not entitled to initiate corporate insolvency resolution

The following persons shall not be entitled to make application to NCLT for initiation of corporate insolvency resolution process :-

- (a) a corporate debtor undergoing a corporate insolvency resolution process; or
- (b) a corporate debtor having completed corporate insolvency resolution process twelve months preceding the date of making of the application; or
- (c) a corporate debtor or a financial creditor who has violated any of the terms of resolution plan which was approved twelve months preceding the date of making application; or
- (d) a corporate debtor in respect of whom a liquidation order has been passed so that finality of the liquidation order is ensured.

For making an application, a corporate debtor includes a corporate applicant in respect of such corporate debtor

Mode of making application to NCLT for initiation of corporate insolvency resolution process

For making application for initiation of corporate insolvency resolution process, the eligible persons will have to take the following steps keeping in view their status as applicants:

Application by financial creditor

- A financial creditor can file application either by itself or jointly with other financial creditor(s) when a default in respect of a financial debt owed not only to the applicant financial creditor, but to any other financial creditor of the corporate debtor is made.
- The application shall be made in prescribed form in prescribed manner and shall be accompanied by prescribed fee.
- The following documents shall be enclosed with the application:-(a) Record of the default recorded with the information utility or such other record or evidence of default as may be specified. ("Information utility" means a person who is registered with the Insolvency and Bankruptcy Board of India as an information utility under section 210 of the Code.)(b) The name of the resolution professional proposed to act as an

interim resolution professional; and(c) Any other information as may be specified by the Insolvency and Bankruptcy Board of India.

- The application is to be made to the National Company Law Tribunal (NCLT) which is designated as the Adjudicating Authority for the purpose.

If the NCLT, within 14 days of receipt of the application is satisfied on the basis of the evidence furnished that a default has occurred and the application is complete and there is no disciplinary proceeding is pending against the proposed professional ,it shall admit the application and within 7 days of the admission of the application communicate the order of admission to the financial creditor and the corporate debtor concerned. The corporate insolvency process shall commence from the date of admission of the application.

Where, however, default is not made or the application is incomplete or any disciplinary proceeding is pending against the proposed professional, NCLT may reject the application within 14 days of the receipt of the application and it shall, within 7 days of rejection of the application communicate the order of rejection to the financial creditor.

Application by operational creditor

- On occurrence of the default, the operational creditor has to deliver a demand notice of unpaid operational debtor or copy of invoice demanding repayment of the amount involved in the default to the corporate debtor in the prescribed form and prescribed manner.
- The corporate debtor must, within 10 days of the receipt of the demand notice or the copy of the invoice as above, bring to the notice of the operational creditor existence of any dispute, if any, and record of the pendency of any suit or arbitration proceeding filed before the receipt of the notice or the copy of the invoice in relation to such dispute. Where the amount of debt has been already paid, the corporate debtor must bring to the notice of the operational debtor the repayment of unpaid operational debt by sending an attested copy of the record of electronic transfer of unpaid amount from the bank account of the corporate debtor or by sending an attested copy of the record that the operational creditor has encashed the cheque issued by the corporate debtor.
- After the expiry of 10 days from the date of delivery of demand notice or the copy of the invoice, if the operational creditor does not receive payment or notice of dispute as above, the operational creditor may file application to NCLT in prescribed form and in prescribed manner and the application has to be accompanied by prescribed fee for initiation of corporate insolvency resolution process.
- The following documents shall be enclosed to the application:- (a) copy of the invoice demanding payment or demand notice delivered by the operational creditor to the corporate debtor;

(b) an affidavit to the effect that there is no notice given by the corporate debtor relating to the dispute of the unpaid operational debt; (c) copy of the certificate from the financial institutions maintaining accounts of the operational creditor confirming that there is no payment of an unpaid operational debt by the corporate debtor; and (d) such other information as may be specified by the Board.

- An operational creditor initiating corporate insolvency resolution process may propose a resolution professional to act as an interim resolution professional.

Within 14 days of the receipt of the application, NCLT shall admit the application if the following requirements are fulfilled:-

- (a) The application is complete.
- (b) There is no repayment of the unpaid operational debt.
- (c) The invoice or notice for payment to the corporate debtor has been delivered by the corporate creditor.
- (d) No notice of dispute has been received by the operational creditor or there is no record of dispute in the information utility.
- (e) There is no disciplinary proceeding pending against any resolution professional proposed, if any.

The decision of admission of the application will be communicated by NCLT to the operational debtor and the corporate debtor. The corporate insolvency resolution process shall commence from the date of admission of the application.

NCLT may reject the application in the following circumstances:-

- (a) if the application is incomplete;
- (b) if there has been repayment of the unpaid operational debt;
- (c) if the creditor has not delivered the invoice or notice for payment to the corporate debtor;
- (d) if the notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility; and
- (e) if any disciplinary proceeding is pending against any proposed resolution professional.

Before rejecting the application, NCLT will have to give notice to the applicant to rectify the defect in his application within 7 days of such notice from NCLT. NCLT shall communicate the decision of rejection of the application to the operational creditor and the corporate debtor.

Application by the corporate debtor

Where a corporate debtor has committed a default, a corporate applicant thereof may file an application to NCLT for initiating corporate insolvency resolution process by taking the following steps:-

- The application shall be filed in prescribed form containing prescribed particulars in prescribed manner and the application shall be accompanied by prescribed fee.
- Corporate debtor shall enclose the following documents to the application:-
 - (a) Its books of account and such other documents relating

to such period as may be specified by the Board;

- (b) The particulars of the resolution professional proposed to be appointed as an interim resolution professional.

The NCLT shall, by an order, admit the application within 14 days of the receipt of the application if it is complete. The corporate insolvency resolution process shall commence from the date of admission of the application.

If the application is incomplete, NCLT may reject the application, but before rejecting the application, NCLT shall give notice to the applicant to rectify the defects in the application within 7 days from the date of receipt of the notice.

Process of corporate insolvency resolution

For completion of the corporate insolvency resolution process the following actions/steps are to be taken under the Code:

Time limit for completion of process

The whole process is to be completed within the time bound period of 180 days. On application of the resolution professional, the period of 180 days may be extended by NCLT by further period not exceeding of 90 days. As per section 55, in respect of the following corporate debtors application can be made for fast track corporate insolvency resolution process:-

- (a) a corporate debtor with assets and income below a level as may be notified by the Central Government; or
- (b) a corporate debtor with such class of creditors or such amount of debt as may be notified by the Central Government; or
- (c) such other category of corporate persons as may be notified by the Central Government.

Where fast track corporate insolvency process is allowed by NCLT, the process has to be completed within a period of 90 days. However, extension of period up to 45 more days may be allowed by NCLT if the request is supported by a resolution of Committee of Creditors by a vote of 75% of the voting share.

Moratorium

On the insolvency commencement date, NCLT shall, by order, declare moratorium for prohibiting all of the following during the corporate insolvency process, namely,-

- (a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority.
- (b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein.
- (c) Any action for foreclosure, recovery or enforcement of any security interest created by the corporate debtor in respect

of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

- (d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

However, the supply of essential goods and services to the corporate debtor as may be specified by the Board shall not be terminated or interrupted during moratorium period. Moratorium may also not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

Appointment of interim resolution professional

Within 14 days from the insolvency commencement date, NCLT shall appoint an interim resolution professional by accepting the professional proposed by the applicant unless disciplinary proceedings are pending against the proposed professional. In that case interim resolution professional will be appointed on the recommendation of the Board. The term of the interim professional shall not exceed 30 days. The interim resolution professional shall manage the affairs of the corporate debtor and the powers of the Board of directors or the partners of the corporate debtor, as the case may be, shall stand suspended. He shall collect and collate all the information regarding the assets and liabilities, finances and operations of the corporate debtor and take control and custody of all its assets and shall also constitute a Committee of Creditors. The management of operations of corporate debtor as going concern shall also vest in the resolution professional. He shall also collect and collate the claims of creditors received pursuant to the public announcement of the initiation of corporate insolvency resolution made by NCLT. No person shall render his services as insolvency professional without being enrolled as a member of an insolvency professional agency and registered with the Insolvency and Bankruptcy Board of India.

Public announcement of initiation of the process and call for submission of claims

Immediately after the appointment of the interim resolution professional, NCLT shall cause a public announcement of the initiation of corporate insolvency resolution process and call for the submission of claims in such manner as may be specified by the Board and containing the information specified in section 15.

Constitution of Committee of Creditors and Appointment of resolution professional

The interim resolution professional shall, after collation of all claims received against the corporate debtor and determination of the financial position of the corporate debtor, constitute a Committee of Financial Creditors of the corporate debtor. Within 7 days of the constitution of the Committee of Creditors, the first meeting of the committee shall be held at which either the interim resolution professional shall be appointed as resolution professional or where someone else is proposed to be so appointed, proposal shall be

sent to NCLT for obtaining confirmation of the appointment of the new resolution professional from the Board. All decisions of the committee shall be taken by a vote of not less than 75% of voting share of the financial creditors.

The resolution professional shall conduct the entire corporate insolvency resolution process and manage the operations of the corporate debtor during the corporate insolvency resolution process period. It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor including the continued business operations of the corporate debtor. While taking decisions involving financial aspects etc. the resolution professional shall obtain approval of the Committee of Creditors.

Preparation of information memorandum and submission of resolution plan

The resolution professional shall prepare an information memorandum in such form and manner containing information required by a resolution applicant to make the resolution plan for the corporate debtor which shall include the financial position of the corporate debtor, all information related to disputes by or against the corporate debtor and any other matter pertaining to the corporate debtor as may be specified by the Board.

The resolution applicant i.e. the person who submits the resolution plan to the resolution professional shall prepare the resolution plan on the basis of information memorandum and submit it to the resolution professional. There are no restrictions as to who can be a resolution applicant, subject to compliance with all applicable laws. Thus even promoters of the corporate debtor may become resolution applicant. This will facilitate proposals from persons interested in commercially viable but insolvent businesses to rescue such entities creating value for all stakeholders in the process, The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan-

- (a) provides for payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the corporate debtor;
- (b) provides for the repayment of the debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount paid to the operational creditors in the event of liquidation of the corporate debtor;
- (c) provides for the management of the affairs of the corporate debtor after approval of the resolution plan;
- (d) implementation and supervision of the resolution plan;
- (e) does not contravene any of the provisions of the law for the time being in force;
- (f) conforms to such other requirements as may be specified by the Board.

The resolution professional shall submit the plan which conforms

to the above requirements to the Committee of Creditors for their approval. The Committee may approve a resolution plan by a vote of not less than 75% of voting share of the financial creditors. The plan approved by the Committee shall be submitted by the resolution professional to NCLT for approval.

Approval of resolution plan by NCLT

If the NCLT is satisfied that the resolution plan as approved by the Committee of Creditors meets the requirements as detailed in the preceding sub-para, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan. Where the resolution plan does not meet the requirements, NCLT shall, by order, reject the same. On approval of the plan, the moratorium order passed by the Tribunal shall cease to have effect and the resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution plan to the Board to be recorded on its database.

Avoidance of preferential transactions, undervalued transactions, transactions to defraud creditors and extortionate credit transactions. (Discussed elsewhere infra)

Failure of the corporate insolvency resolution process would lead to liquidation process

As per section 33 of the Code, NCLT shall order liquidation of the corporate debtor in the following situations:-

- (a) Where NCLT does not receive a resolution plan before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be.
- (b) Where NCLT rejects the resolution plan for the non-compliance of the requirement/criteria specified in section 31.
- (c) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates NCLT of the decision of the Committee of Creditors to liquidate the corporate debtor; or
- (d) Where the resolution plan approved by NCLT is contravened by the concerned corporate debtor.

In the situations mentioned as (a) and (b) above, NCLT on its own motion shall pass the liquidation order and cause a public announcement stating that the corporate debtor is in liquidation to be issued. NCLT shall require such order to be sent to the authority with which the corporate debtor is registered.

Where the corporate debtor contravenes the resolution plan approved by NCLT, any person other than the corporate debtor, whose interests are prejudicially affected by such contravention, may make an application to NCLT for a liquidation order and for issue of public announcement that the corporate debtors is in liquidation and also to direct such order to be sent to the authority with which the corporate debtor is registered. On receipt of the

application if NCLT determines that the corporate debtor has contravened the provisions of the resolution plan, it shall pass a liquidation order as prayed for.

EFFECT OF LIQUIDATION ORDER

The following consequences will follow liquidation order:-

Resolution professional to become liquidator unless ordered to be replaced by NCLT

Where NCLT passes an order for liquidation of the corporate debtor, the resolution professional appointed for the corporate insolvency resolution process shall act as the liquidator for the purposes of liquidation except where the resolution plan submitted by him was rejected by NCLT or for reasons to be recorded in writing, the Board recommends the replacement of the resolution professional. The new resolution professional shall be appointed as liquidator on the recommendation of the Board. The liquidator shall be paid his fees for the conduct of the liquidation process from the proceeds of the liquidation estate in such proportion to the value of the liquidation estate assets as may be specified in regulations by the Board. The liquidation estate shall comprise of the assets of the corporate debtor set out in section 36. The liquidator shall hold the liquidation estate as a fiduciary for the benefit of all the creditors of the corporate debtor. Subject to the directions of NCLT, the liquidator shall have the various powers and duties as specified in section 35 to ensure orderly completion of the liquidation proceedings.

Discharge of board of directors, officers, employees etc of corporate debtor

The order for liquidation shall be deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor, except when the business of the corporate debtor is continued during the liquidation process by the liquidator. On the appointment of a liquidator, all powers of the board of directors, key managerial personnel and the partners of the corporate debtor, as the case may be, shall cease to have effect and shall be vested in the liquidator. The personnel of the corporate debtor shall, however, extend all assistance and cooperation to the liquidator as may be required by him in managing the affairs of the corporate debtor.

Effect on legal proceedings

When a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor. A suit or other legal proceeding may, however, be initiated by the liquidator, on behalf of the corporate debtor, with the prior approval of NCLT. Further, the legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator shall not be affected by the liquidation order.

Secured creditor and liquidation process

A secured creditor in the liquidation proceedings may either relinquish its security interest to the liquidation estate and receive proceeds from the sale of assets by the liquidator or realize its

security interest. Where the secured creditor realizes security interest, he shall inform the liquidator of such security interest and identify the asset subject to such security interest to be realized. Before any security interest is realized by the secured creditor, the liquidator shall verify such security interest and permit the secured creditor to realize only such security interest, the existence of which may be proved either by the records of such security interest maintained by an information utility or by such other means as may be specified by the Board.

A secured creditor may enforce, realize, settle, compromise or deal with the secured assets in accordance with such law as applicable to the security interest being realized and to the secured creditor and apply the proceeds to recover the debts due to it. If in the course of realizing a secured asset, any secured creditor faces resistance from the corporate debtor or any person connected therewith in taking possession of, selling or otherwise disposing off the security, the secured creditor may make an application to NCLT to facilitate the secured creditor to realize such security interest in accordance with law for the time being in force. NCLT, on receipt of the application, may pass such order as may be necessary to permit a secured creditor to realize security interest in accordance with law for the time being in force.

Where the enforcement of the security interest yields an amount by way of proceeds which is in excess of the debt due to the secured creditor, the secured creditor shall account to the liquidator for such surplus and tender to the liquidator any surplus funds received from the enforcement of such secured assets.

The amount of insolvency resolution process costs, due from the secured creditors who realize their security interests shall be deducted from the proceeds of any realization by such secured creditors and they shall transfer such amounts to the liquidator to be included in the liquidation estate.

Where the proceeds of the realization of the secured assets are not adequate to repay debts owed to the secured creditor, the unpaid debts of such secured creditor shall be paid by the liquidator in the order of priority specified in section 53 of the Code.

THE LIQUIDATION PROCESS

The liquidation process starts with the winding up order and ends with the order of dissolution of the corporate debtor. It involves realization of the assets of the entity in liquidation and distribution of the realization proceeds among the creditors and other stakeholders who have claim to share the proceeds and other incidental activities by virtue of the liquidator being the trustee for the stakeholders as discussed hereunder:

Taking possession and control of the liquidation estate of corporate debtor

Section 36 of the Code lists the assets which shall form the liquidation estate and which the liquidator shall hold as fiduciary for the benefit of all creditors. Section 36 also mentions the assets which shall not form part of the liquidation estate. The liquidator has to take into his custody or control all the assets, property,

effects and actionable claims of the corporate debtor and take appropriate measures to protect and preserve the same. He shall have the power to access any information systems for the purpose of identification of the liquidation estate assets relating to the corporate debtor in terms of section 37.

Consolidation, verification, admission/rejection and determination of valuation of claims

The liquidator shall have the power to access any information system for the purpose of admission and proof of claims and identification of assets to be held in liquidation estate. The creditors can also call for financial information of the corporate debtor from the liquidator. Section 38 stipulates a time bound period of 30 days from the date of commencement of the liquidation process for collection of claims by the liquidator. The methods by which the different categories of creditors can submit and prove their claims have also been specified. Financial creditors can prove their claims by providing the record of claim as stored in an information utility. The liquidator shall verify the claims submitted by the creditors within such time as specified by the Board by regulations. He may require any creditor or the corporate debtor or any other person to produce any other document or evidence which he thinks necessary for the purpose of verifying the whole or any part of the claim. After verification, the liquidator may either admit or reject the claim, in whole or in part, as the case may be. Where he rejects a claim, he shall record the reasons for such rejection in writing. The decision of admission or rejection of the claim shall be communicated to the creditor and the corporate debtor within 7 days of such admission or rejection. The value of claims shall be determined by the liquidator in such manner as may be specified by the Board in regulations. A creditor may appeal to NCLT against the decision of the liquidator rejecting the claim within 14 days of the receipt of such decision.

Evaluation and sale/disposal of the assets of corporate debtor

Subject to the directions of NCLT, the liquidator shall have the powers and duties to evaluate the assets and property of the corporate debtor in the manner as may be specified in the regulations by the Board. He can carry on the business of the corporate debtor for its beneficial liquidation as he considers necessary. He shall also have power to sell the immovable and movable property and actionable claims of the corporate debtor in liquidation by public auction or private contract, with power to transfer such property to any person or body corporate, or sell the same in parcels in such manner as may be specified by the Board in regulations.

Avoidance of preferential transactions, undervalued transactions, transactions defrauding creditors and extortionate credit transactions

Sections 44 to 51 provide for avoidance of preferential transactions, undervalued transactions, transactions defrauding creditors and extortionate credit transactions entered into by the corporate debtor within the specified period prior to the liquidation order as discussed hereunder.

Preferential transactions

During the course of corporate insolvency resolution process or the liquidation process it may come to the notice of the resolution professional or the liquidator that any preferential transaction has been made with any person within the period of one year preceding the insolvency commencement date or such transaction was made with a related party within a period of two years preceding the insolvency commencement date, an application may be made by the resolution professional or the liquidator to NCLT for avoidance of such preferential transaction. Section 44 specifies the orders that may be passed by NCLT in relation to the avoidance of a preferential transaction.. The orders are aimed at reversing the effects of the preferential transaction and requiring the person to whom preference is granted to pay back any gains he may have made as a result of such preference. An order of NCLT, however, shall not affect any interest in property which was acquired from a person other than the corporate debtor or any interest derived from such interest and was acquired in good faith and for value or shall not require a person, who received a benefit from the preferential transaction in good faith and for value to pay the liquidator or the resolution professional. Where a person, who has acquired an interest in property from another person other than the corporate debtor, or who has received a benefit from the preference or such another person to whom the corporate debtor gave the preference had sufficient information of the initiation or commencement of insolvency resolution process of the corporate debtor or is a related party, it shall be presumed that the interest was acquired or the benefit was received otherwise than in good faith unless contrary is shown. A person shall be deemed to have sufficient information or opportunity to avail such information if a public notice regarding the corporate insolvency resolution process has been made.

Undervalued transactions

A transaction which was made with any person within the period of one year preceding the insolvency commencement date or a transaction made with a related party within the period of two years preceding the insolvency commencement date shall be considered undervalued where the corporate debtor,-

- (a) Makes a gift to a person; or
- (b) Enters into a transaction with a person which involves the transfer of one or more assets by the corporate debtor for a consideration the value of which is significantly less than the value of the consideration provided by the corporate debtor and such transaction has not taken place in the ordinary course of business.

The liquidator or the resolution professional may make an application to NCLT for declaring such transaction void under section 45 and to reverse the effect of such transaction. The provision is aimed at preventing the siphoning away of corporate assets by the management of the corporate debtor, which has knowledge of the corporate debtor's poor financial condition and may enter into such transaction in the vicinity of insolvency. If the liquidator or the resolution professional does not make such application to NCLT knowingly, disciplinary proceedings can be

ordered by NCLT against them. In that case, a creditor, member or a partner of the corporate debtor, as the case may be, may make an application to NCLT. NCLT may pass order restoring the position as it existed before such transactions and reversing the effects thereof and the order may provide for the following:-

- (a) Require any property transferred as part of transaction, to be vested in the corporate debtor;
- (b) Release or discharge, in whole or in part, any security interest granted by the corporate debtor;
- (c) Require any person to pay such sums, in respect of benefits received by such person, to the liquidator or the resolution professional, as the case may be, as the NCLT may direct; or
- (d) Require the payment of such consideration for the transaction as may be determined by an independent expert.

Transactions defrauding creditors

Section 49 strikes at transactions entered into with the intention of putting the assets of the corporate debtor beyond the reach of, or otherwise prejudicing the interests of a person who is making or may make a claim, against the corporate debtor. As it involves fraud, there is no time limit for challenging such transactions. On application being made, NCLT may order restoring the position as it existed before such transaction as if the transaction had not been entered into and protecting the interests of persons who are victims of such transactions. Third party transactions entered into in good faith may not be affected by NCLT order.

Extortionate credit transactions

Where the corporate debtor has been a party to an extortionate credit transaction involving the receipt of financial or operational debt during the period of two years preceding the insolvency commencement date, the liquidator or the resolution professional, as the case may be, may make an application to NCLT for avoidance of the transaction if the terms of such transaction required exorbitant payments to be made by the corporate debtor. The Board may, in regulations, specify the circumstances in which a transaction shall be covered under the definition of extortionate credit transaction.. Any debt extended by any person providing financial services which is in compliance with any law for the time being in force in relation to such debt, however, shall in no event be considered as an extortionate credit transaction. Where NCLT is satisfied that the terms of a credit transaction required exorbitant payments to be made by the corporate debtor, it shall, by order-

- (a) Restore the position as it existed prior to such transaction;
- (b) Set aside the whole or part of the debt created on account of the extortionate credit transaction;
- (c) Modify the terms of the transaction;
- (d) require any person who is, or was, a party to the transaction to repay any amount received by such person; or
- (e) Require any security interest that was created as part of the extortionate credit transaction to be relinquished in favour of the liquidator or the resolution professional, as the case may be.

‘ If in the course of realizing a secured asset, any secured creditor faces resistance from the corporate debtor or any person connected therewith in taking possession of, selling or otherwise disposing off the security, the secured creditor may make an application to NCLT to facilitate the secured creditor to realize such security interest in accordance with law for the time being in force. NCLT, on receipt of the application, may pass such order as may be necessary to permit a secured creditor to realize security interest in accordance with law for the time being in force. ’

Distribution of assets

In terms of section 53, the proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period and in such manner as may be specified in the regulations by the Board, namely,-

- (a) The insolvency resolution process costs and the liquidation costs paid in full;
- (b) The following debts which rank equally between and among the following:-
 - (i) workmen's dues for the period of 24 months preceding the liquidation commencement date; and
 - (ii) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52 (see para 10.4 supra);
- (c) wages and any unpaid dues owed to employees other than workmen for the period of 12 months preceding the liquidation commencement date;
- (d) financial debts owed to unsecured creditors;
- (e) the following dues shall rank equally between and among the following:-
 - (i) any amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the liquidation commencement date;
 - (ii) debts owed to a secured creditor for any amount unpaid following the enforcement of security interest.
- (f) Any remaining debts and dues;
- (g) Preference shareholders, if any, and
- (h) Equity shareholders or partners, as the case may be.

Any contractual arrangements between recipients with equal ranking, if disrupting the order of priority shall be disregarded.

The fees payable to the liquidator shall be deducted proportionately from the proceeds payable to each class of recipients and the proceeds to the relevant recipient shall be distributed after such deduction. At each stage of the distribution of proceeds in respect of a class of recipients that rank equally, each of the debts will either be paid in full, or will be paid in equal proportion within the same class of recipients, if the proceeds are insufficient to meet the debts in full.

Dissolution of corporate debtor.

Where the assets of the corporate debtor have been completely liquidated, the liquidator shall make an application to NCLT for the dissolution of such corporate debtor and NCLT shall order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly. A copy of an order of dissolution shall be forwarded to the authority with which the corporate debtor is registered within 7 days from the date of such order in terms of section 54.

VOLUNTARY WINDING UP

The Code governs voluntary winding up of companies also

Part II of Chapter XX of the Companies Act, 1956 dealing with voluntary winding up has since been deleted by the Insolvency and Bankruptcy Code, 2016 and a separate provision of section 59 has been made in the Code for dealing with voluntary winding up of corporate persons including companies. This section provides for the initiation of voluntary liquidation proceedings by the corporate debtor which has not defaulted on any debt due to any person A corporate debtor, being a company may choose to be wound up voluntarily under several circumstances including winding up as a result of expiry of period of operation fixed in its constitutional documents or occurrence of an event provided in its constitutional documents for its dissolution.

Requirements/conditions for voluntary winding up

A corporate person i.e. a company or a limited liability partnership or an entity incorporated with limited liability under any other law for the time being in force which intends to liquidate itself voluntarily and has not committed any default may initiate voluntary liquidation proceedings under the provisions of Chapter V of the Code. Chapter V comprises of only one section i.e. section 59 of the Code.

The voluntary liquidation of a corporate person must meet the following conditions and procedural requirements:-

1. Declaration of Solvency to be made by the majority of Directors

Majority of directors of the company/entity must make a declaration verified by an affidavit stating that-

- (i) they have made a full inquiry into the affairs of the company

and they have formed an opinion that either the company has no debt or that it will be able to pay its debts in full from the proceeds of assets sold/ to be sold in the voluntary winding up; and

- (ii) the company is not being liquidated to defraud any person

2. Documents to accompany the declaration

- (i) Audited financial statements and record of business operations of the company for the previous two years or for the period since its incorporation, whichever is later;
- (ii) a report of the valuation of the assets of the company, if any prepared by a registered valuer.

3. General body resolution to be passed within four weeks of making of declaration of solvency

A special resolution of the members of the company in a general meeting requiring the company to be liquidated voluntarily and appointing an insolvency professional to act as liquidator must be passed; or

A resolution of the members of the company in a general meeting requiring the company to be liquidated voluntarily as a result of expiry of the period of its duration, if any, fixed by its articles or on the occurrence of any event in respect of which the articles provide that the company shall be dissolved, as the case may be and appointing an insolvency professional to act the liquidator should be passed.

4. Approval of creditors must be obtained within seven days of general body resolution where the company owes any debt to any person

If the company owes any debt to any person, approval of the resolution for voluntary winding up of the company is required from creditors representing two-thirds in value of the debt of the company within seven days of general body resolution.

5. Registrar of Companies and Insolvency and Bankruptcy Board of India to be notified about the general body resolution within seven days

The company is required to notify the Registrar of Companies and the Insolvency and Bankruptcy Board of India about the general body resolution for voluntary winding up of the company within seven days of such general body resolution or within seven days of the subsequent approval of the general body resolution by the creditors, as the case may be.

6. Liquidation commences from the date of general body resolution

The voluntary liquidation proceedings in respect of the company shall be deemed to have commenced from the date of passing of the general body resolution for voluntary winding up of the company, if the resolution has been approved by the creditors. The provisions of sections 35 to 53 of the Code shall apply to voluntary liquidation proceedings for corporate persons with such

modifications as may be necessary. These sections deal with the following matters:

Section 35 mentions the usual powers and duties of liquidator. The approval of the adjudicating authority i. e. the National Company Law Tribunal would not be required for exercise of the powers and discharge duties by the voluntary liquidator.

Section 36 requires the liquidator to form the liquidation estate in relation to corporate debtor and details the assets to be included in the liquidation estate.

Section 37 details the sources information which may be accessed by the liquidator for the purpose of admission and proof of claims and identification of the liquidation estate assets of the corporate debtor.

Section 38 requires the liquidator to receive, or collect and consolidate the claims of creditors.

Sections 39 to 41 provide for verification, admission or rejection of claims and determination of valuation of claims in such manner as may be specified by the Insolvency and Bankruptcy Board of India.

Section 42 provides for appeal against the decision of the liquidator rejecting a claim to the Tribunal and prima facie this right to appeal may be available against the decision of voluntary liquidator also.

Sections 43 to 51 give detailed requirements for approval of the Tribunal for avoidance by the liquidator of preferential transactions, undervalued transactions, transactions defrauding creditors, extortionate credit transactions entered into by the corporate debtor.

Section 52 allows the secured creditor to realize its interest security to the liquidation estate or to realize its security in the manner specified in this section.

Section 53 lays down the priorities for distribution of assets by the liquidator.

In this connection reference may be made to para 10 supra.

Dissolution of corporate person in voluntary winding up to be ordered by NCLT

Where the affairs of the corporate person have been completely wound up, and its assets completely liquidated, the liquidator shall make an application to NCLT for the dissolution of such corporate person and NCLT shall pass an order on the application that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly. A copy of the dissolution order has to be forwarded, within 14 days from the date of the order, to the authority with which the corporate person is registered i.e. Registrar of Companies concerned in case of company and Registrar of LLP in case of limited liability partnership. CS

Opportunities for Company Secretaries under the Insolvency and Bankruptcy Code, 2016



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INTRODUCTION

Winding up of companies has long been a matter of concern in India. The Companies Act 1956 govern the provisions of winding up of companies but as experience would reiterate, it is a long and cumbersome process with little expertise available on the subject. Many company secretaries do not venture into the field. As is often jokingly said, topics of winding up are left for 'option' during student days, since who would remain ever with a company that is being wound up!

of the Board have been made effective from 19 August 2016.

This Code aims to consolidate and amend the laws relating to the reorganization and insolvency resolution of these entities in India with time being of essence and to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders.

Once effective, this Code shall repeal the Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920

There are many company secretaries who currently act as liquidators in voluntary winding up. The scope for company secretaries will now get widened manifold under the Insolvency and Bankruptcy Code and they can act as Insolvency professionals for all types of winding up, insolvency, bankruptcy – be it for corporates, individuals or firms. They can also appear before the adjudicating authorities and represent their clients.

But time has come when company secretaries – more specifically those in practice – need to prepare for the immense opportunities being opened up. The Insolvency and Bankruptcy Code, 2016 (Code) was introduced in India recently to bring all matters relating to insolvency, liquidation, voluntary liquidation or bankruptcy of companies, LLPs, partnership firms and individuals under a single legislation.

The Insolvency and Bankruptcy Code, 2016 was published in the Official Gazette on 28 May, 2016. It shall come into effect on the date as may be specified by the Central Government by way of notification in the Official Gazette. Certain sections of the Code dealing with establishment of the Insolvency and Bankruptcy Board of India have been made effective from 05 August 2016 and some definitions and other sections also relating to the establishment

and amend eleven other laws including Indian Partnership Act, 1932, Central Excise Act, 1944, Customs Act, 1962, Finance Act 1994, Companies Act, 2013, Limited Liability Partnership Act, 2008, Sick Industrial Companies (Special Provisions) Repeal Act, 2003, Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI), Income- tax Act, 1961 and Payment and Settlement Systems Act, 2007.

APPLICABILITY OF THE CODE

The provisions of this Code apply to:

- any company incorporated under the Companies Act, 2013 or under any previous company law;
- any other company governed by any special Act for the time being in force, except in so far as the said provisions are inconsistent with the provisions of

* Past President, The Institute of Company Secretaries of India.



- such special Act;
- (c) any Limited Liability Partnership incorporated under the Limited Liability Partnership Act, 2008;
 - (d) such other body incorporated under any law for the time being in force, as the Central Government may, by notification, specify in this behalf; and
 - (e) partnership firms and individuals

SCHEME OF THE CODE

The Code provides for establishment of the Insolvency and Bankruptcy Board of India (Board). This Board is a body corporate, having perpetual succession, common seal, can enter into contracts, can sue or be sued and can hold property in its own name. The head office of the Board shall be situated in NCR.

The Board shall, inter alia, have the following powers:

- a. to manage registration of insolvency professional agencies, insolvency professionals, information utilities
- b. to specify eligibility requirements for registration of the above
- c. to levy fees and charges for such registration
- d. to lay down rules and regulations governing the above
- e. to decide the curriculum for examination of the insolvency professionals for their enrolment as members of the agencies
- f. to carry out inspection and investigation of the above persons and pass appropriate orders, to call for any information and records
- g. to monitor performance of the above persons and pass necessary directions
- h. to make model bye laws to be adopted by insolvency professional agencies

The Code provides for establishment of Insolvency Professional Agencies (Agencies). Such Agencies shall be required to register with the Board and obtain a certificate of registration to be able to carry on its activity as an Agency. The Code presently does not stipulate the eligibility criteria of persons

who can act as Agencies, but the Board has powers to regulate the setting up and working of such Agencies. The Board shall specify model bye laws regulating such Agencies. There can be more than one such Agencies registered with the Board.

The Agencies shall have the following functions:

- (a) grant membership to persons who fulfil all requirements or suspend or cancel membership
- (b) lay down standards of professional conduct for its members and monitor their performance
- (c) safeguard the rights, interests and privileges of insolvency professionals
- (d) redress consumer grievances

As provided in the Code, only registered Insolvency Professionals (Professional) shall be allowed to render services under the Code after being enrolled as a member of the Agency. The Professional may choose to obtain membership of any Agency to register with the Board. The Board has the power to specify the category of persons / professionals who are eligible to act as a Professional.

To illustrate and draw a parallel, ICSI may be considered to an Insolvency Professional Agency and members of ICSI who register with ICSI as such, may be considered as Insolvency Professionals.

The code provides for the following adjudicating authorities:

- a. Debt Recovery Tribunal (DRT) dealing with insolvency and bankruptcy of individuals and partnership firms. Appeal from orders of DRT shall lie with the Debt Recovery Appellate Tribunal (DRAT)
- b. NCLT dealing with insolvency, bankruptcy, winding up of companies, LLP, corporate debtors. Appeals from orders of NCLT lie with the NCLAT
- c. Appeals from orders of the Board pertaining to Agencies, Professionals and information utilities shall lie with the NCLAT

The Code is divided into five parts:

Part I - Preliminary

Part II - Insolvency Resolution and Liquidation for Corporate Persons comprising of seven Chapters

Part III - Insolvency Resolution and Bankruptcy for Individuals and Partnership Firms comprising of seven Chapters

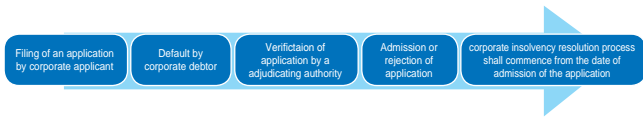
Part IV - Regulation of Insolvency Professionals, Agencies and Information Utilities comprising of seven Chapters

Part V - Miscellaneous

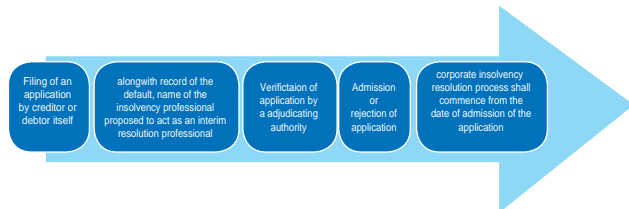
PART II - INSOLVENCY RESOLUTION AND LIQUIDATION FOR CORPORATE PERSONS

Part II deals with matters relating to insolvency and liquidation of corporate debtors where minimum amount of default is Rs. 1 lakh. The creditor/s or the corporate debtor itself may initiate the process as per Chapter II of this Part.

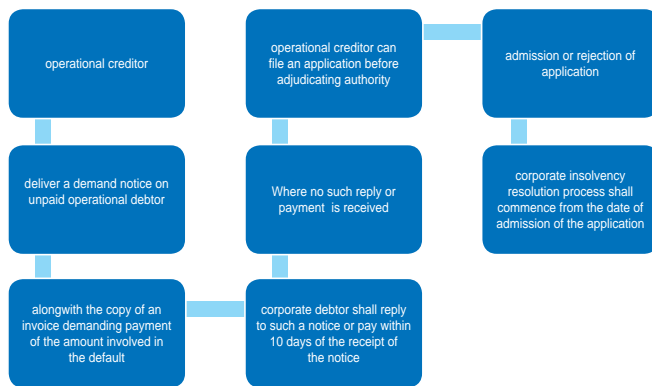
Initiation of corporate insolvency resolution process by corporate applicant.



Initiation of corporate insolvency resolution process by financial creditor:



Initiation of corporate insolvency resolution process by operational creditor:



In each of the steps above CS has a role to play. Drafting / replying Notices, applications, appearances before the authorities, making arguments, convening and conducting meetings of Creditors, drafting of plan for revival / winding up , can be done well by CS.

Time limit for completion of the process

The corporate insolvency resolution process must be completed within a period of 180 days from the date of admission of the application which can be extended by 90 days on an application filed by insolvency professional.

Procedure on admission of application

1. The Adjudicating Authority shall appoint the interim insolvency professional within 14 days of commencement of insolvency. The professional proposed by the creditors shall be appointed as interim professional if no disciplinary proceedings are pending against him.
2. Such interim professional shall be appointed for 30 days.
3. Such professional shall carry out duties / actions and have powers as per section 17, 18, 19, 20, 21.
4. The interim resolution professional may also act as the resolution professional as directed by Adjudicating Authority.
5. The powers and functions of the professional are those that

The resolution professional appointed for the corporate insolvency resolution process acts as the liquidator for the purposes of liquidation. On appointment of a liquidator all powers of the board of directors, key managerial personnel and the partners of the corporate debtor cease to have effect and vest in the liquidator.

are ordinarily carried out by the liquidator.

6. The resolution professional shall also assist the work with the committee of creditors.
7. The resolution plan submitted to the professional shall be approved by the committee of creditors. Such approved plan shall be submitted to the Adjudicating Authority by the professional.
8. If the Adjudicating Authority is satisfied with the plan meeting the requirements, it shall approve the plan which shall be binding on the debtor, its employees, members, creditors, guarantors and other stakeholders.
9. After approving the plan, any moratorium orders passed by the Adjudicating Authority shall cease to have effect.
10. The professional shall hand over all records relating the conduct of the insolvency resolution process and plan to the Board.

Liquidation process

The adjudicating authority may pass an order requiring the corporate debtor to be liquidated in the following cases:

- Non receipt of the resolution plan
- Rejection of the resolution plan for the non-compliance of the requirements specified
- Decision of the committee of creditors to liquidate the corporate debtor
- Resolution plan approved by the Adjudicating Authority is contravened by the concerned corporate debtor or any other person whose interests are prejudicially affected by such contravention.

The resolution professional appointed for the corporate insolvency resolution process acts as the liquidator for the purposes of liquidation. On appointment of a liquidator all powers of the board of directors, key managerial personnel and the partners of the corporate debtor cease to have effect and vest in the liquidator.

The liquidators have the following powers and duties :

- Verifying claims of all the creditors.
- Taking into his custody all the assets, property, effects and actionable claims of the corporate debtor.
- Valuing the assets and property of the corporate debtor



and preparing a report of the same.

- Carrying on the business of the corporate debtor for its beneficial liquidation.
- Selling the immovable and movable property and actionable claims of the corporate debtor in liquidation by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels.
- Drawing, accepting, making and endorsing any negotiable instruments including bill of exchange, hundi or promissory note in the name and on behalf of the corporate debtor.
- Taking out, in his official name, letter of administration to any deceased contributory and doing any other act necessary for obtaining payment of any money due and payable from a contributory or his estate which cannot be ordinarily done in the name of the corporate debtor.
- Obtaining professional assistance from any person or appointing any professional, in discharge of his duties, obligations and responsibilities.
- Inviting and settling claims of creditors and claimants and distributing proceeding.
- Instituting or defending any suit, prosecution or other legal proceedings, civil or criminal, in the name of on behalf of the corporate debtor.
- Investigating the financial affairs of the corporate debtor for determining the undervalued or preferential transactions.
- Taking all such actions, steps, signing, executing and verifying any paper, deed, receipt document, application, petition, affidavit, bond or instrument and for such purpose to use the common seal, if any, as may be necessary for liquidation, distribution of assets and in discharge of his

duties and obligations and functions as liquidator.

- Applying to the Adjudicating Authority for such orders or directions as maybe necessary for the liquidation of the corporate debtor and to reporting the progress of the liquidation process.
- Consulting any of the stakeholders entitled to a distribution of proceeds.
- The liquidator holds the liquidation estate as a fiduciary for the benefit of all the creditors.
- Accessing any information systems for the purpose of admission and proof of claims and identification of the liquidation estate assets relating to the corporate debtor
- Consolidation and verification and determination of the value of all the claim.
- Applying to the Adjudicating Authority for avoidance of preferential transactions, extortionate credit transaction, dissolution of corporate debtor.

Even a glance at the above would make us understand the opportunities ahead. CS need to start absorbing and studying the past and present schemes of Reserve Bank of India, practices prevalent in the Banking Industry for One time settlements, concessions given to stressed assets , BIFR decisions in finalizing revival Schemes and manner in which Operating Agencies (OAs) had worked under SICA.

FAST TRACK INSOLVENCY RESOLUTION PROCESS

The Code also provides for Fast Track insolvency resolution process which may be applicable to certain categories of entities as specified in section 55 of the Code. In such a case, the insolvency resolution process has to be completed within a period of 90 days from the trigger date.

VOLUNTARY LIQUIDATION OF CORPORATE PERSONS

A corporate person (which includes companies as well as LLPs) may put the entity into voluntary winding up by following the provisions of Chapter V of Part II of the Code and also the conditions and procedural requirements that may be specified by the Board.

Procedure for voluntary liquidation

- a. Declaration of solvency from majority of the directors of the company verified by an affidavit
- b. Audited financial statements for last two years and report of the valuation of the assets of the company
- c. Special resolution should be passed within four weeks (Seven days in case company owes any debt to any person, creditors representing two thirds in value of the debt of the company) of a declaration in the general meeting requiring the company to be liquidated voluntarily and appointment of an insolvency professional to act as the liquidator; **or** a resolution of the members of the company in a general meeting requiring the company to be liquidated or any event in respect of which the articles provide that the company shall be dissolved, as the case may be and appointment of an insolvency professional to act as the

- liquidator:
- d. Filing of necessary forms within seven days for intimating the Registrar of Companies about the resolution passed to liquidate the company or the subsequent approval by the creditors.
 - e. Voluntary liquidation proceedings in respect of a company shall be deemed to have commenced from the date of passing of the resolution
 - f. Where the affairs of the corporate person have been completely wound up, and its assets completely liquidated, the liquidator can make an application to the Adjudicating Authority for the dissolution of such corporate person.
 - g. On such application the Adjudicating Authority shall pass an order for dissolution
 - h. A copy of the order is to be forwarded to the authority with which the corporate was registered with fourteen days

Insolvency Resolution and Bankruptcy for Individuals and Partnership Firms

Part III of the Code applies to matters relating to fresh start, insolvency and bankruptcy of individuals and partnership firms where the amount of the default is not less than Rs. 1,000.

A new concept of “fresh start” is introduced in this Chapter. This Code, through this process covers individuals as small as having gross annual income of less than Rs. 60,000 and who are unable to pay their debts. Such a person can make an application to the DRT through a Professional for a fresh start for discharge of his debt. On making such application, the Professional shall examine the application and submit his report to the DRT either recommending acceptance or rejection of the application. On receipt of such report, the DRT shall pass its order within 14 days either accepting or rejecting the application. When the application is accepted, the moratorium period shall commence which shall cease to have effect at the end of 180 days. Any objections received from creditors are to be examined by the professional. Before expiry of the moratorium period, the DRT shall pass orders discharging the debtor from qualifying debts, penal interest, penalties and other sums as provided in the Code.

Any other debtor – either individual or a firm - who has committed a default may also apply to the DRT for initiating insolvency resolution process assisted by a professional. A creditor may also apply under this Part. In this case also, the professional is required to discharge his duties of monitoring the resolution process and submit his report to the DRT upon which the application is either accepted or rejected. The professional then carries on the duties as prescribed in the Code for resolving this inability of the debtor and submitting a repayment plan. He shall also summon the meeting of creditors and get the plan approved from them. Such approved plan is then submitted to the DRT which shall then pass appropriate orders. The professional is also instrumental in implementation and supervision of the repayment plan.

Chapter IV of this Part deals with bankruptcy for individuals

and partnership firms.

A bankruptcy application may be made by a debtor or a creditor. A professional is appointed for the resolution process. Such a professional also acts as a bankruptcy trustee. The trustee has role similar to that of a professional in above cases. Additionally, he also has to play a role in administration and distribution of the estate of the bankrupt.

OPPORTUNITIES FOR COMPANY SECRETARIES

The Code does not specify which persons can act as insolvency professionals. However, it does say that the Board may specify the categories of professionals or persons possessing such qualifications and experience in the field of finance, law, management, insolvency or such other field, as it deems fit. Company secretaries have experience in the field of law, and management. There are many company secretaries who currently act as liquidators in voluntary winding up. The scope has now been widened manifold under the Code. Company Secretaries can act as Insolvency professionals for all types of winding up, insolvency, bankruptcy – be it for corporates, individuals or firms. Further, since the adjudicating authority except for individuals and firms is the NCLT, company secretaries can appear before such authority and represent their clients. This will open new avenues of practice for professionals who would like to work with financial institutions on debt restructuring projects, one time settlements and the like. It will also give a chance to work for the society by helping the poor and marginalized sections.

CONCLUSION

From the above, it can be seen that the Code aims to regulate, streamline and fast-track the process of winding up and liquidation in India. A major cause of concern for companies investing in India has been that getting out or closing down is very difficult. With the ‘Make in India’ initiative of the Government, it is imperative that such concerns of the industry are taken into account and acted upon. Introduction of the Code is one such step in the right direction. If the Code actually is implemented in the manner in which it is drafted, it will make India a business friendly place. Investors will not be concerned over the period it takes to wind up its affairs. Concerns over long and arbitrary recovery procedures will abate. They will have a say in the restructuring and its interests will be protected in time bound manner. Debtors will not be able to run away easily. Since professionals will manage the insolvency and winding up processes, law will be followed in letter and in spirit. The scope of the Code is far reaching. Even persons with annual income of less than a lakh of rupees are covered in the Code. This will include even small and marginal farmers who are indebted and are losing their lives for not being able to repay the debt and interest thereon. This will have a very wide social impact. Thus, the Code is a welcome step in the Indian context. Professionals like company secretaries have immense opportunities under the Code to prove their mettle and contribute in helping the businesses to survive and grow. It is time to diversify into new fields and make an impact.

CS

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RESEARCH CORNER



- A STUDY OF THE SEPARATION OF THE POSITION OF CHAIRMAN AND CEO AND ITS IMPACT ON CORPORATE GOVERNANCE
- ICSI-CCGRT ANNOUNCES UNIQUE ALL INDIA RESEARCH PAPER COMPETITION ON VALUATIONS
- NATIONAL TRAINING PROGRAMME "EMANCIPATE WOMEN PRODIGY TO RULE THE ROOST"



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To make its members, strong cadre of students and general public at large future ready and also to sensitize them in the larger perspective, the Institute :

- is celebrating GST Awareness Month, witnessing activities like organizing of Awareness Programs, GST awareness walks, webinars, seminars, sharing of knowledge material, panel discussions, special issue on GST etc.
- formulated a core group to deliberate on the intricacies of the proposed law and for making submissions to Government
- launched GST Corner, at the Institute's website containing the knowledge material and updates about GST
- joined hands with industry chambers, for workshops and knowledge seminars on GST.



Continuing the effort, the Institute is launching a series of Master Classes on GST through webinars on the subject.

Schedule of Master Classes on GST (2 pm - 4 pm)

Sl. No.	Day & Date	Topic
1.	Friday, 2 September, 2016	GST- An overview and professional opportunities for professionals
2.	Monday, 5 September, 2016	Procedural aspects of GST – Input Tax Credit, Matching Principle, filing of returns, refunds, assessment, etc.
3.	Friday, 9 September, 2016	Constitutional provisions vis-à-vis indirect taxation
4.	Friday, 16 September, 2016	Supply of goods and services under GST regime
5.	Friday, 23 September, 2016	Valuation issues under GST



GST CORNER

Webinar is open to all and can be accessed at the weblink:
<http://webcast.vouchpro.in/icsi190816/>



WEBLINK TO WEBINAR

A Study of the separation of the position of Chairman and CEO and its impact on Corporate Governance



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INTRODUCTION

After the recent financial crisis, listed public companies globally are under pressure from activist shareholders, institutional investors, proxy advisory firms and regulators pertaining to the issue of separating the role of Chairman and Chief Executive Officer (CEO), with a view to achieving independent leadership on the board. Good Corporate Governance encourages the separation of the role of Chairman and Chief Executive Officer in two persons rather one person being the Chairman and Chief Executive Officer. Companies around the globe have during the recent past have started separating the role either voluntarily or through shareholder activism. This article attempts to study specific provision UK, USA, South Africa, Australia and India. The article also analyses the BSE 500, BSE 200, BSE 100, BSE 30, NASDAQ 100 and FTSE 100 companies on the separation of the role of Chairman and Chief Executive Officer.

CHIEF EXECUTIVE OFFICER (CEO) AND CHAIRMAN

The Chief Executive Officer has the executive responsibility for the running of the company's business. While the Chairman has responsibility for the running of the Board, ensuring that the Board meets frequently and that all the directors have access to all the information they

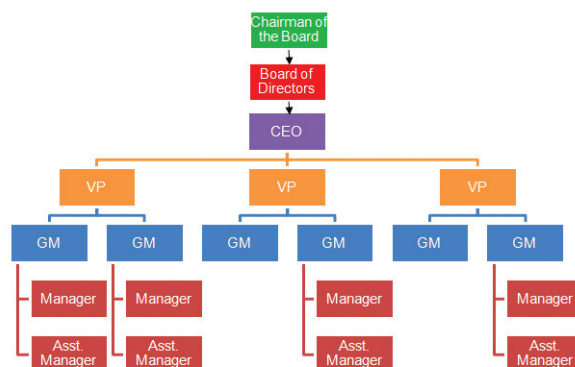
need to make an informed contribution at the board meetings and all directors are given an opportunity to speak at Board Meetings. The CEO manages; the chair oversees management. (Figure 1)

As per UK Combined Code, 2014, the Chairman is responsible for setting the board's agenda and ensuring that adequate time is available for discussion of all agenda items, in particular strategic issues. The Chairman should also promote a culture of openness and debate by facilitating the effective contribution of non-executive directors in particular and ensuring constructive relations between executive and non-executive directors. The Chairman is responsible for ensuring that the directors receive accurate, timely and clear information. The Chairman should ensure effective communication with shareholders.

SHOULD THE POSITION OF CHAIRMAN AND CHIEF EXECUTIVE OFFICER BE COMBINED OR SEPARATED?

Few issues in corporate governance are as contentious as the question of whether the roles of Chairman and CEO should be separated or combined. Does separating the roles really provide better governance, or is it simply window-dressing for shareholders with little impact on board effectiveness?

Different experts on Corporate Governance have different opinion on the separation of the position of Chairman and Chief Executive Officer. Some experts believe that separating the role of CEO and Chairman will have a very positive impact on the Board room performance. Their arguments are that "the very existence of the Board is based on the need for accountability. The board exists to keep



management accountable for the vast discretionary power it wields. Thus, when the Chairman of the Board is also the CEO, it makes accountable to a body led by management. It can mean that the CEO is put in the position of evaluating his own performance." In simple words, the CEO runs the company and the Chairman runs the board, one of whose responsibilities it is to monitor the CEO. If the Chairman and the CEO are one and the same, it is hard for the board to criticize the CEO or to express independent opinions. When the CEO is also the Chairman, there is too great a temptation to tilt things towards protecting CEO's career interest. Separation of the role would lead to more objective evaluation of the CEO and create environment of greater accountability. Another argument in favor of the separation of the role is that a Non-Executive Chairman can serve as a valuable, sound board mentor and advocate to the CEO.

Some experts believe that separating the role CEO and Chairman will have a negative impact on the Board room performance. Their argument is that "the company should be led by one person" and splitting the roles might set up two power centers, which would impair decision making. Stewardship theory which is based on the principle of "unity of command" argues that having clear and unambiguous authority concentrated in one person is essential to effective management. Unity of command creates clear lines of authority to which the management (and the board) can respond more effectively. In an environment where strong, direct, stable, and unconfused leadership is seen as critical to organizational success, this kind of legitimacy is an important signal to stakeholders about who is accountable.

Some corporate governance experts believe that combining the two positions does not mean that the CEO who is also the Chairman will inevitably manipulate his board, but it does give him that opportunity.

In brief, If Roles are combined; it ensures the following positive points:

- Ensures strong & central leadership;
- Unambiguous leadership
- Increases efficiency;
- Superior knowledge of the organization;

If roles are not separated, it may result in following consequences:

- Lack of oversight;
- Unchecked power / Concentration of power;
- Diminishes the independence of a board;
- Board's role is to hire & fire the CEO. Unified role may create conflict of Interest.

LITERATURE REVIEW

Yermack (1996) reported that "firms are more valuable when the CEO and Chairperson's positions are held separately". Fosberg (2004) opined that "Firms where the position of CEO and Chairperson are clearly separated are likely to employ the optimal amount of debt in their capital structure". According to Ehikioya & Benjami (2009) "Firms in which CEO and Chairman of the board are separated, stakeholders are likely to gain confidence on the firms' ability to raise additional capital and hence there are less chances of bankruptcy of the firm".

Research carried out by Coles J.W., McWilliams, V.B. & Sen N. (2001) suggests that CEO as a Chair may impede the board from their duties and responsibilities including assessing and monitoring performance of the management. Such a corporate scenario would create agency costs resulting in ineffective board and reducing overall performance of the corporation. Core, J.E., Holthausen, R.W. & Larcker, (1999) found that CEO duality leads to weak governance structures. Finkelstein & D'Aveni, (1994) suggests that when a Board Chairman is also a CEO, "will gain sufficient controlling power to gain more private benefits". Abdulla (2004) posited that "the firm's managers' ability to determine the board agenda and the flow of information is predicted to be much stronger when the board chairman is also CEO than when the firm adopts a non-dual structure". Brickley et al., (1997) advocated that when the CEO and chairman posts are separated has both costs and benefits, and it is more of a cost to the larger firms than the benefits.

Baliga, Moyer, and Rao (1996) examine companies that announce a separation (or combination) of the chairman and CEO roles. They find no abnormal positive (or negative) stock price reaction to these announcements. They also find no material impact on subsequent operating performance. They conclude that although a combined Chairman / CEO "may increase potential for managerial abuse, it does not appear to lead to tangible manifestations of that abuse." Similarly, Boyd (1995) provides a meta-analysis of studies on Chairman / CEO duality and finds no statistically significant relationship between the independent status of the chairman and future operating performance.

CORPORATE GOVERNANCE NORMS ACROSS THE GLOBE

● Corporate Governance Code, 2014 : UK

UK Corporate Governance Code (formerly the Combined Code) sets out standards of good practice in relation to board leadership and effectiveness, remuneration, accountability and relations with shareholders. The code has incorporated specific provision relating to division of responsibilities between the Chairman and CEO. The main principle and the supporting principle of the Code are:

Section A: Leadership

A.2: Division of Responsibilities

Main Principle

There should be a clear division of responsibilities at the head of the company between the running of the board and the executive responsibility for the running of the company's business. No one individual should have unfettered powers of decision.

Code Provision

A.2.:1 The roles of chairman and chief executive should not be exercised by the same individual. The division of responsibilities between the chairman and chief executive should be clearly established, set out in writing and agreed by the board.

● King's Report on Corporate Governance, 2009 : South Africa

The King Committee on governance issued the King Report on Governance for South Africa – 2009 (the "Report") and the King Code of Governance Principles – 2009 (the "Code"), together referred to as "King III" on 1 September 2009. The King Code of Governance stipulates the following provisions for the separation of the role of Chairman and CEO:

Principles:

The Board should elect a chairman of the board who is an independent non-executive director. The CEO of the company should not also fulfill the role of chairman of the board.

Recommended Practice:

1. The members of the board should elect a chairman on an annual basis.
2. The chairman should be independent and free of conflict upon appointment.
3. A lead independent director should be appointed in the case where an executive chairman is appointed or where the chairman is not independent or conflicted.
4. The appointment of a chairman, who is not independent, should be justified in the integrated report.
5. The role of the chairman should be formalised.
6. The chairman's ability to add value, and his performance against what is expected of his role and function, should be assessed every year.
7. The CEO should not become the chairman until 3 years have lapsed.
8. The chairman together with the board, should consider the number of outside chairmanships held.
9. The board should ensure a succession plan for the role of the chairman.

● The Corporate Governance Principles and Recommendations, 2014: Australia

The ASX Corporate Governance Council Principles and Recommendations ("Principles and Recommendations") were introduced in 2003. The corporate governance code has been amended in 2007, 2010 and 2014. These Principles and Recommendations set out recommended corporate governance practices for all entities listed on the Australian Securities Exchange (ASX). ASX Corporate Governance principles and recommendations provide the following principles and recommendations pertaining to the separation of the role of Chairman and CEO.

Principle 2: Structure the board to add value

A listed entity should have a board of an appropriate size, composition, skills and commitment to enable it to discharge its duties effectively.

Commentary:

A high performing, effective board is essential for the proper governance of a listed entity. The board needs to have an appropriate number of independent non-executive directors who can challenge management and hold them to account, and also represent the best interests of the listed entity and its security

holders as a whole rather than those of individual security holders or interest groups.

The board should be of sufficient size so that the requirements of the business can be met and changes to the composition of the board and its committees can be managed without undue disruption. However, it should not be so large as to be unwieldy.

Recommendation 2.5

The chair of the board of a listed entity should be an independent director and, in particular, should not be the same person as the CEO of the entity.

Commentary:

The chair of the board is responsible for leading the board, facilitating the effective contribution of all directors and promoting constructive and respectful relations between directors and between the board and management. The chair is also responsible for setting the board's agenda and ensuring that adequate time is available for discussion of all agenda items, in particular strategic issues.

Having an independent chair can contribute to a culture of openness and constructive challenge that allows for a diversity of views to be considered by the board.

Good governance demands an appropriate separation between those charged with managing a listed entity and those responsible for overseeing its managers. Having the role of chair and CEO exercised by the same individual is unlikely to be conducive to the board effectively performing its role of challenging management and holding them to account.

If the chair is not an independent director, a listed entity should consider the appointment of an independent director as the deputy chair or as the "senior independent director", who can fulfill the role whenever the chair is conflicted. Even where the chair is an independent director, having a deputy chair or senior independent director can also assist the board in reviewing the performance of the chair and in providing a separate channel of communication for security holders (especially where those communications concern the chair).

The role of chair is demanding, requiring a significant time commitment. The chair's other positions should not be such that they are likely to hinder effective performance in the role.

OECD Corporate Governance Principles, 2015

First published in 1999, the OECD Corporate Governance Principles have since become an international benchmark for policy makers, investors, corporations and other stakeholders worldwide. The Code has framed six Principles to help policymakers evaluate and improve the legal, regulatory, and institutional framework for corporate governance, with a view to support economic efficiency, sustainable growth and financial stability. The following principle provides for the separation of the role of Chairman and CEO of a company.

Principle VI : The responsibilities of the board

The corporate governance framework should ensure the strategic guidance of the company, the effective monitoring of management by the board, and the board's accountability to the company and the shareholders.

The board should be able to exercise objective independent judgement on corporate affairs.

In order to exercise its duties of monitoring managerial performance, preventing conflicts of interest and balancing competing demands on the corporation, it is essential that the board is able to exercise objective judgement. In the first instance, this will mean independence and objectivity with respect to management with important implications for the composition and structure of the board. Board independence in these circumstances usually requires that a sufficient number of board members will need to be independent of management.

In countries with single tier board systems, the objectivity of the board and its independence from management may be strengthened by the separation of the role of chief executive and Chair. Separation of the two posts is generally regarded as good practice, as it can help to achieve an appropriate balance of power, increase accountability and improve the board's capacity for decision making independent of management. The designation of a lead director is also regarded as a good practice alternative in some jurisdictions, if that role is defined with sufficient authority to lead the board in cases where management has clear conflicts. Such mechanisms can also help to ensure high quality governance of the enterprise and the effective functioning of the board.

The Chairman or lead director may, in some countries, be supported by a company secretary. In the case of two tier board systems, consideration should be given to whether corporate governance concerns might arise if there is a tradition for the head of the lower board becoming the Chairman of the Supervisory Board on retirement.

Securities and Exchange Commission (SEC) Rules, 2010 : USA

Although in the USA, there is no regulatory requirement for separation of roles of the Chairman and CEO. Securities and Exchange Commission (SEC) Rules requires all listed companies to disclose the following information pertaining to the Board leadership structure:

Board Leadership Structure:

SEC rules, 2010 require disclosure about:

1. A company's board leadership structure, including whether the company has combined or separated the chief executive officer and chairman position, and why the company believes its structure is the most appropriate for the company.
2. In certain circumstances, whether and why a company has a lead independent director and the specific role of such director.

**CORPORATE GOVERNANCE NORMS IN INDIA
CLAUSE 49 OF THE LISTING AGREEMENT**

Consequent to the enactment of the Companies Act, 2013, Securities and Exchange Board of India (SEBI) revamped Clause 49 of the listing agreement in April, 2014. One of the major changes that have been incorporated under the non-mandatory requirements of Clause 49 is about the separation of the posts of Chairman and CEO.

Non Mandatory Provisions:**Separate posts of Chairman and CEO**

The company may appoint separate persons to the post of Chairman and Managing Director/CEO.

COMPANIES ACT, 2013

Companies Act, 2013 has incorporated Section 203, which provides for the separation of the role Chairman and Chief Executive Officer / Managing Director.

As per Section 203 (1) read with Rule 8 of Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, every listed company and every other public company having a paid-up share capital of ten crore rupees or more shall have the following whole-time key managerial personnel's:

- (i) Managing director, or Chief Executive Officer or manager and in their absence, a whole-time director;
 - (ii) Company secretary; and
 - (iii) Chief Financial Officer:
- Provided that an individual shall not be appointed or reappointed as the chairperson of the company as well as the managing director or chief executive officer of the company at the same time unless
- (a) the articles of such a company provide otherwise; or
 - (b) the company does not carry multiple businesses:

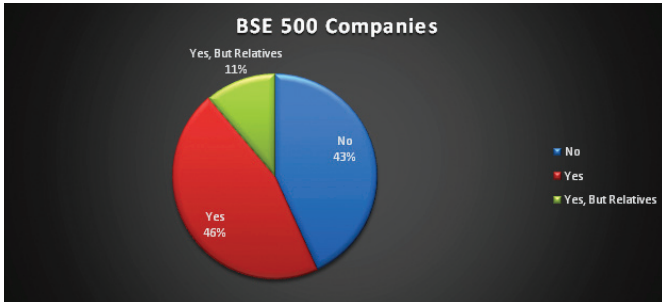
**REPORT OF THE COMMITTEE TO REVIEW GOVERNANCE
OF BOARDS OF BANKS IN INDIA**

RBI constituted a committee under the chairmanship of P.J. Nayak to Review the Governance of Boards of Banks in India on 20th January, 2014. The Committee submitted its report to RBI on May 12, 2014. One of the recommendation of the report is to separate the position of bank Chairman and CEO.

Recommendation 5.11: The positions of bank Chairman and CEO should be separated during Phase 3 of the transition process.

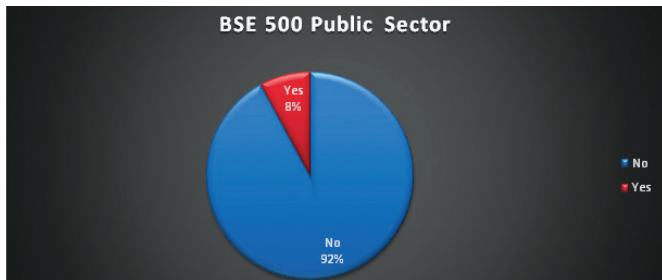
**ANALYSIS OF LISTED COMPANIES IN INDIA:
BASED ON THE SEPARATION OF THE ROLE OF
CHAIRMAN AND CEO****BSE 500 Companies**

Analysis: Out of BSE 500 companies, 46% of the companies have separated the role of Chairman and CEO between two individuals, while 43% of the companies have not separated the role. Though 11% of the companies have separated the role, but the two individuals who occupy the position of Chairman and



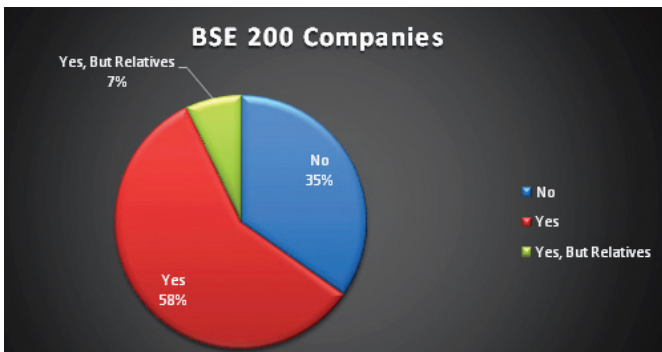
CEO are relatives.

BSE 500 Government Companies



Analysis: Out of Government companies, which are among the BSE 500 companies, only 8% of the companies have separated the role of Chairman and CEO between two individuals, while 92% of the companies have not separated the role. This shows that the majority of the public sector companies, which are listed on BSE, have not separated the role.

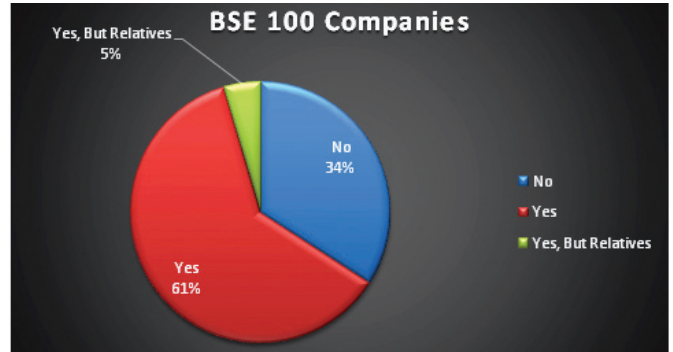
BSE 200 Companies



Analysis: Out of BSE 200 companies, 58% of the companies have separated the role of Chairman and CEO between two individuals, while 35% of the companies have not separated the role. Though 7% of the companies have separated the role, but the two individuals who occupy the position of Chairman and CEO are relatives.

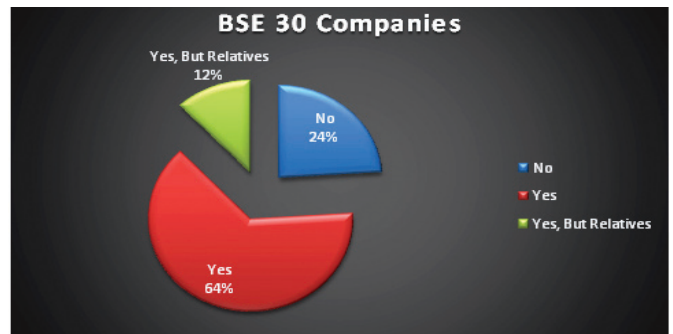
BSE 100 Companies

Analysis: Out of BSE 100 companies, 61% of the companies have separated the role of Chairman and CEO between two individuals, while 34% of the companies have not separated the role. Though 5% of the companies have separated the role, but the two individuals who occupy the position of Chairman and



CEO are relatives.

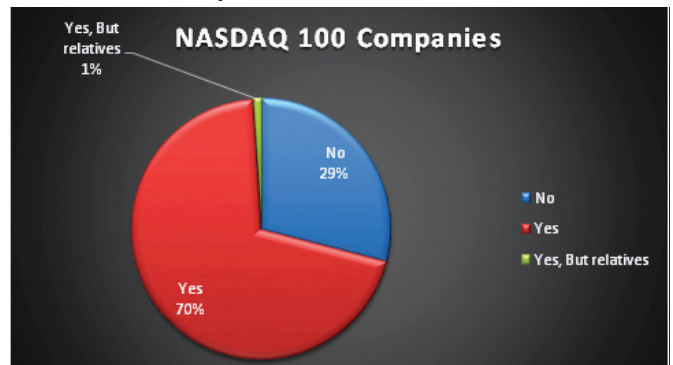
BSE 30 Companies



Analysis: Out of BSE 30 companies, 64% of the companies have separated the role of Chairman and CEO between two individuals, while 24% of the companies have not separated the role. Though 12% of the companies have separated the role, but the two individuals who occupy the position of Chairman and CEO are relatives. A comparative study of BSE 500, BSE 200, BSE 100 & BSE 30 companies portrays that the top 30 companies are better in terms of separation of the role of Chairman and CEO.

ANALYSIS OF LISTED COMPANIES IN USA AND UK: BASED ON THE SEPARATION OF THE ROLE OF CHAIRMAN AND CEO

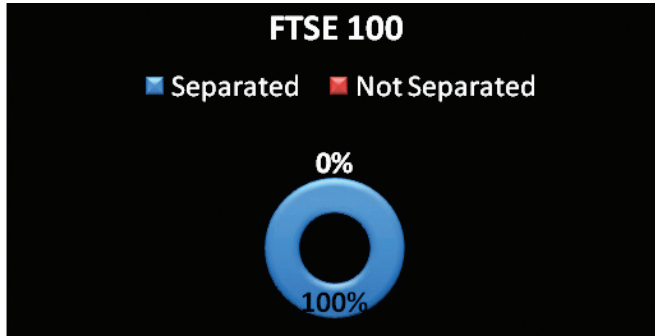
NASDAQ 100 Companies



Analysis: Out of NASDAQ 100 companies, 70% of the companies have separated the role of Chairman and CEO

between two individuals, while 29% of the companies have not separated the role. Though 1% of the companies have separated the role, but the two individuals who occupy the position of Chairman and CEO are relatives.

FTSE 100 Companies



Analysis: Out of FTSE 100 companies, 100% of the companies have separated the role of Chairman and CEO between two individuals. Hence, Companies listed in UK are most compliant in term of the separation of the position of Chairman and CEO.

IMPACT OF THE SEPARATION ON RETURN ON EQUITY (ROE)

To understand whether the separation of the position of Chairman and CEO impacts the Return on Equity (ROE), the study compared the separation of the position in BSE 500 companies in the Year 2009-10 with 2014-15. The study measured the changes in the Return on Equity (ROE) of those companies which had separated the position of Chairman and CEO from 2009-10 to 2014-15. To examine the impact on ROE, the following hypothesis was evaluated.

H1 – There is no impact of separation of position of Chairman and CEO on ROE

Ho – There is an impact of separation of position of Chairman and CEO on ROE

Paired Samples Test

	Paired Differences					t	df	Sig. (2-tailed)
	Mean	Std. Deviation	Std. Error Mean	95% Confidence Interval of the Difference				
				Lower	Upper			
Pair 1 ROE 1-ROE 5	4.175	31.929	5.397	-6.793	15.143	.774	34	.445

Results

To evaluate the hypothesis, a Paired sample T-test was conducted. Paired Sample T-test shows that the difference in ROEs between the Year 2009-10 and Year 2014-15 is not significantly impacted by separation of role of Chairman and MD / CEO.

CONCLUSION

Traditionally, in most of the companies globally, role of the CEO and Chairman was played by the same individual. It was believed that the executive under such a structure would possess multiple perspectives as well as the power to quickly enact corporate initiatives. After various scams and scandals were unearthed, the regulators across the globe have recommended the separation of

the position of Chairman and CEO. Slowly the trend in almost all the countries is towards the separation of the role voluntarily. As critics have come to believe that not separating the role allows little transparency into the CEO's actions, and as such these can go unmonitored, paving the way for conflicts of interest. With a single executive holding both titles, it has been argued that the company's entire decision-making process lies in the hands of one person, with little in the form of checks and balances. Though the fact is that there is no conclusive evidence linking the separation of the positions of CEO and Chairman to the firm's performance, but, few studies in the past have found that companies with separate CEOs and Chairman consistently outperform those companies that combine the role. With the provisions incorporated under the Companies Act, 2013 and Clause 49 of the listing agreement, recommending the Indian listed companies to separate the role, hopefully Indian public listed companies will take a lead to separate the role more vigorously in the near future.

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 Clause 49 of the listing Agreement between company and the stock exchanges, (www.sebi.gov.in)
 Annual Reports, 2015 of BSE 500 Companies, NASDAQ 100 Companies, FTSE 100 Companies

APPOINTMENT

NEELANCHAL HOLDINGS PVT. LTD.

(A Non Banking Finance Company)
 104 Harsha House, Karampura Commercial
 Complex, New Delhi - 110 015
 Requires

COMPANY SECRETARY

A young dynamic male with experience of 1 to 2 years

Meritorious and dedicated in secretarial matters, compliance of Corporate Laws, with analytical vision & writings, as per RBI directions, guidelines, understanding and knowledge of Accounts, Audit and capability of handling commercial correspondence will be preferred.

Interested candidate can email their C.V.

**With Photograph to:
 neelanchalpvtltd@gmail.com
 Mob.:09810772787**



PCH- 4

ICSI-CCGRT

ANNOUNCES

Unique

All India Research Paper Competition On Valuations



ICSI-CCGRT is pleased to announce **unique “All India Research Paper Competition on “Valuations”** with an objective of creating proclivity towards research among its Members, both in employment and practice.

The purpose of research is to identify specific questions and try to find out a comprehensive and definitive answer. Since research in all disciplines and subjects, must begin with a clearly defined goal, this study is also designed keeping those objectives in mind.

Prologue

With the growth of business activities, the valuation of tangible

and intangible assets have gained paramount significance. Since, every business organization deals with both tangibles and intangibles, it is imperative to be conversant with the valuation process. Further, with the passage of time the Mergers & Acquisitions both within India and cross-border have soared, thereby, triggering the need for espousing the valuations of tangible and intangibles. Since there are various models / approaches for undertaking valuations, depending upon the sector / industry to which a company belongs and keeping in view the regulatory structure or framework, one cannot ignore the necessity of developing an in-depth understanding on valuations.

Objectives:

- a) To have an overview of valuations
- b) To comprehend the approaches for valuation of tangibles and intangibles
- c) To understand the Accounting Standards (India Accounting Standards, US GAAP and IFRS) applicable in valuations
- d) To ascertain the impact of valuations on Mergers & Acquisitions
- e) To discuss case studies, where valuations have made or marred the Merger & Acquisition deals.
- f) To comprehend the bottlenecks in valuation of tangible / intangible assets.
- g) To identify the grey areas in valuations
- h) To understand the process / methodology embraced by corporate houses in developed economies for valuation of tangibles and intangibles and takeaways for corporate houses registered in developing countries

Themes on which Research Papers are invited

- Genesis of Valuations- Its Evolution, Growth and Importance.
- Significance of Intangibles, nature & its forms and valuation models / approaches
- Accounting Standards (Indian, US GAAP, IFRS and other developed countries accounting standards) in valuation of tangibles / intangibles.
- The probable loopholes or lacunae in valuation of tangible / intangible assets.
- Valuation Models- Their industry / sector wise usage and hurdles faced in using the models.
- Indian Companies Act, 2013 and Corporate Laws of other foreign lands on Valuations.
- Cases of Valuations pertaining to Cross-Border Mergers & Acquisitions.
- Tax angles relating to Valuation of tangibles / intangibles.
- Valuation procedures during winding up of the company.
- Cases of failed Mergers & Acquisitions, wherein, valuations have played the spoiled sport.

Research Paper / Manuscript Guidelines

- Original papers are invited from Company Secretaries in employment & practice, Academicians, Research Scholars and other Professionals.
- The paper must be accompanied with the author's name(s), affiliations(s), full postal address, email ID, and telephone/fax number along with the title of the paper on the front page.
- Full text of the paper should be submitted in MS Word using Times New Roman, font size 12 on A4 size paper in 1.5 spacing, with a maximum of 5000 words.

- The text should be typed double-spaced only on one side of A4 size paper in MS Word, Times New Roman, 12 font size with one-inch margins all around.
- The author/s' name should not appear anywhere else on the body of the manuscript to facilitate the blind review process. The research paper should be in clear, coherent and concise English.
- Tables / Exhibits should be numbered consecutively in Arabic numerals and should be referred to in the text as Table 1, Table 2 / Exhibit 1, Exhibit 2 etc.
- All notes must be serially numbered. These should be given at the bottom of the page as footnotes.
- The following should also accompany the manuscripts on separate sheets: (i) An abstract of approximately 150 words with a maximum of five key words, and (ii) A brief biographical sketch (60-80 words) of the author/s describing current designation and affiliation, specialization, number of books and articles in refereed journals, membership number of ICSI and other membership on editorial boards and companies, etc.
- The research papers should reach the Competition Committee on or before 31st of October, 2016 by 12 noon (IST).
- Participants should email their research papers on the following email id: ccgrt@icsi.edu

Further Information for Authors / Participants

- The decision of the Reviewing Committee will be final and binding on the participants.
- The Institute of Company Secretaries of India reserves the right to publish or refer the selected papers for various publications viz; Souvenirs, Books, Study materials published by the institute or in any seminar / conference / workshop / Research Programs conducted by institute either on its own or jointly with other organizations and also in regular course of activities of ICSI. Further, the authors whose papers will be selected will receive Four Program Credit Hours (PCH).
- ICSI reserves all intellectual property rights including in particular copyright, trade mark, design and other intellectual rights. The authors are not entitled for any remuneration or compensation or royalty. The participants / authors shall submit the Declaration Form to the institute at the time of submission of paper.
- The papers will be scrutinized by an Expert Committee.
- For any query / assistance, kindly contact at: ccgrt@icsi.edu+91-22-41021515/1501
- 4 PCH will be awarded to the authors, whose research papers will be selected.

CS Ahalada Rao VChairman, Research Committee
ICSI**CS Ashish Garg**Chairman, Core Committee
GST, ICSI**CS Ashish Doshi**Chairman, ICSI-CCGRT
Management Committee

Announces National Training Programme Exclusive for Women Empowerment

"Emancipate Women Prodigy to Rule the Roost"

Hosted by ICSI-Hyderabad Chapter

PCH-6

Themes:

- Enterprising – Entrepreneurial Skills
- Women Directors – Opportunities & threats
- Transforming & Transcending Professionals
- Leadership and Organisational skills
- Women Prodigy to Rule the Roost
- Appreciation of Listing Regulations
- Regulatory Expectation from Directors

The successful participants will be awarded with training completion certificate as referred under SEBI (LODR) Regulations as required for the Directors Training Programme

Friday & Saturday | 7-8 October 2016

Venue: Ramoji Film City (RFC), Hyderabad

Registration Fee

Details	Delegate Fee	APS ***
*Residential	5000	4000
** Non Residential	4000	3000
Accompanying Spouse	4000	4000
Children	3000	3000

* Includes: One Night Stay in Double occupancy, 2 Days Lunch, 1 Day Dinner & Breakfast and Delegate kit.

** Includes: 2 Days Lunch, 1 Day Dinner & Breakfast and Delegate kit.

*** Annual Participation Scheme (APS) of Hyderabad Chapter

Note: 1. The program will be commenced on 7 October 2016 at 9:30 AM and concludes on 8 October 2016 at 2.00PM
2. The successful participants will be awarded with training completion certificate as referred under SEBI (Listing Obligations And Disclosure Requirements) Regulations as required for the Directors Training Programme.

Mode of Payment			
Cash	Accepted at Chapter Premises		
Cheque/DD Favouring	"Hyderabad Chapter of Company Secretaries"		
Online Payment			
Beneficiary Name	Hyderabad Chapter of SIRC of the ICSI		
Name of the Bank & Branch ICICI Bank, Khairtabad	Account No. 000801203504	IFSC Code ICIC0000008	MICR Code 500229002
Upon making online payment, you are requested to send an e-mail to hyderabad@icsi.edu immediately specifying the Name of the participant, Membership No, Bank name and Transaction reference number.			

CS Ahalada Rao V
Council Member, ICSI &
Program Director

CS Ramakrishna Gupta
Secretary, ICSI-SIRC &
Program Coordinator

CS S. Kavitha Rani
Secretary, ICSI-Hyd. Chapter &
Program Convener

CS Mahadev Tirunagari
Chairman, ICSI-Hyd. Chapter &
Program Facilitator

Is Corporate Governance – Not related to common man?

Is Corporate Governance – Restricted only to Listed Companies?

Is Corporate Governance Effective – If so, then why these many scams &

Let's join hands for emulating the solutions for the above in



**1ST GLOBAL CONGRUENCE
TO PROMULGATE
INTERNATIONAL CORPORATE GOVERNANCE DAY**

Thursday & Friday 8 - 9 December 2016

Commencing on 8th December 2016 at 11:30 AM &

Concludes on 9th December 2016 at 6:00 PM

at

HYDERABAD INTERNATIONAL CONVENTION CENTRE

Near Hitec City, P.O. Bag 1101, Cyberabad Post Office, HYDERABAD - 500 081

Tel: +91 40 6682 4422

Chairman Corporate Laws and Governance Committee	Programme Director	Programme Coordinator
CS Vineet K Chaudhary <i>Council Member, ICSI</i>	CS Ahalada Rao <i>Council Member & Chairman Core Committee on ICGC & ICGD</i>	CS Mahadev Tirunagari <i>Chairman, ICSI Hyderabad Chapter</i>

President's Message

Dear Professionals Colleagues,

Global industry across all sectors is experiencing extraordinary transformation. Globalization is driving radical changes across the global markets - deregulation, increased competition, convergence of traditional business models are transforming us all into one global village. Good corporate governance is one such important aspect of globalization, which transcends boundaries and is evolving day in and day out. There are significant developments in corporate governance practices worldwide such as role of independent directors, diversity, board practices and sustainability indicating the enhanced focus of stakeholders, independent audit committee, executive compensation, fraud reporting etc., which needs to be further analysed.

With the current global changes and with the objective to re-iterate and create further sensitization with respect to adoption of good governance practices, the Institute has conceptualised the idea of having a day declared as "International Corporate Governance Day". "International Corporate Governance day" shall serve as a platform to discuss and enumerate the possible methods and procedures for the adoption by corporates beyond the horizons of the respective countries.

As an important initiative, and to profess and create international consensus for "International Corporate Governance Day", the Institute is hosting its first ever Global Congruence to promulgate International Corporate Governance Day. The Congruence will be held on 8th - 9th December, 2016 in the city of Hyderabad, India.

Your participation will not only add to the fruitful deliberations, but also give you an opportunity for mutual exchange of ideas and views and sharing of experience with corporate governance stalwarts from across the world.

I urge upon professionals, academicians, Corporate governance experts, people from industry to join the movement and make the event of Global Congruence a grand success.

Looking forward to meet you at Global Congruence. We value your esteemed presence!

Regards,

CS Mamta Binani
President
president@icsi.edu

International Corporate Governance Code

All nations have vivid procedures and norms for corporate governance matters. In spite of all the governance norms, the corporate world is witnessing scams and scandals. This implies that there is still some gap to bridge in order to have an effective and efficient corporate world instead of following the norms. The true intent of Corporate Governance has to be imbibed in the DNA of Corporate.

The challenge before us is to create a system of governance that promotes, supports and sustains economic development which is now presently limited to listed entities, but needs to be extended to all unlisted companies, firms, societies and all business forms. The emphasis on governance reforms is growing around the world.

International Corporate Governance Code shall cater to the needs of present era seamless corporate world which is transcending boundaries beyond the country of its business establishment. The Code seeks to have universally acceptable Corporate Governance norms which are applicable to all types of entities.

International Corporate Governance Day

Governance is such an important aspect, without which none can achieve harmony in the working patterns and further to this it has to evolve day in and day out in accordance with the changing requirements both internally and externally.

“International Corporate Governance Day” is a symbolic representation of systematic procedures, processes, stakeholder engagement and value creation for the society which shall bring various international practices together for collective growth and development.

An International day will create awareness and is an occasion for celebrating determination towards global promotion of Corporate Governance and its recognition beyond the horizons of the respective countries and also would bring significance to the concept in terms of common understanding.



1st Global Congruence to promulgate International Corporate Governance Day

As an important initiative, and to profess and create international consensus for “International Corporate Governance Day” and to make this a reality, there is a necessity to bring all the nations together at one platform. Hence, the Institute is hosting its **first ever Global Congruence to promulgate International Corporate Governance Day**. The Congruence will be held on 8th – 9th December, 2016 in the city of Hyderabad, India.

To discuss the corporate governance challenges, this congruence will have the participation from prominent representatives from various categories of global investors, global stakeholders and regulatory bodies across the world as under:

- | | |
|--|--|
| 1. Organizations working in corporate governance | 2. Governments of various countries |
| 3. Corporate houses across the globe | 4. Various statutory regulators |
| 5. Professionals | 6. Academicians from various Universities and Educational institutions |
| 7. Researchers | |

The cohesive discretion lies with the United Nations to declare a day as International Corporate Governance day, wherein the involvement and representation of all nations are required to carry forward this noble thought.

Objectives of the Congruence

1. Provide a framework for international cooperation and create synergies for the design and implementation of joint or individual assistance projects
2. Raise global awareness for the need to promote better corporate governance, increase visibility for reforms efforts and provide a vantage point for progress assessment
3. Promote comparative empirical and analytical work to advance our understanding of Corporate Governance and its impact on economic performance

Benefits of Having A Day Declared As The International Corporate Governance Day

Countries:

- International Visibility for every nation which is following best corporate governance practices
- The countries will get relationship with various foreign Industrial bodies and companies
- Because of the corporate Governance ecosystem stability, all companies from each country will tend to establish their place of business in other countries
- International Capital flows will grow, further leading to international financial stability
- Corporate Governance models will be established and these models can be utilized in the local bodies/authorities

Corporate Houses:

- Improved relations between various foreign Industrial bodies, financial institutions and other companies
- Industries globally will gain confidence of Investors and stakeholders because of its involvement in Corporate Governance and prevention of frauds and are looked upon as a more stakeholder vigilant Industrial house
- World becomes a play field for all business houses as they all would like to do business with good and ethical companies irrespective of their location
- Standardize the corporate functioning as well as make them highly effective and accountable
- Make management of the corporate aware of their work, internal processes and work with full commitment
- Enhance the growth and development of corporate both nationally and internationally through good corporate governance measures
- Can stand up as a stalagmite among the entire pool of corporates taking the role of a torchbearer for others

Organisations/Regulators:

- A common consensus about the varied policies and procedures to be adopted by the corporate institutions across the world can be achieved
- A common platform is available to share the thoughts and experiences in relation to the corporate governance issues
- A think tank for the entire globe will come into existence for appraising the Corporate Governance matters which will work like a proper guidance note for the entire world

Stakeholders:

- Better norms for shareholder protection and transparency in corporate Affairs
- Can achieve open and accountable administration in corporations
- Better returns for their investments

Common Man:

- Indirect benefit because all the welfare activities taken by the government is dependent on the taxes paid by the corporate and a well governed company is a true asset to the government and a loyal tax payer
- Creation of employment opportunities

Indicative -Sessions

Technical Session I**Evolving of modern governance models from ancient practices**

The speakers will deliberate on the ancient practices used to be followed in various countries and their linkage with governance with following sub themes:

- Significance of the measures / activities followed in olden days relating to governance - Importance of Corporate Governance – a new paradigm shift from the olden days
- Gaps to be filled in to strengthen Corporate Governance in various countries.
- Business ethics in ensuring Corporate Governance.
- Various dimensions of Corporate Governance.

Technical Session II**Corporate Governance: robust fortification tool**

The Speakers will deliberate on how the governance can be used as a tool to restrict or eradicate the scams with following sub themes:

- Innovative Governance Solutions
- Cases of violation of corporate governance.
- Corporate governance should work as self-regulation or to be regulated by a regulator – Various international scenarios
- Scope to extend the corporate governance to various forms of business entities like unlisted companies, firms, societies, trusts etc

Technical Session III**Corporate Governance: Fostering Posterity & Prosperity**

The Speakers will deliberate of the importance of Corporate Governance in fostering the economies of various countries with following sub themes:

- Corporate Governance – Technological advancements
- Corporate Governance – Improves operational efficiency, Instrument of competitive strategies
- Corporate Governance – Tool for Economic stability of the nation
- International Corporate Laws and Corporate Governance.
- Sustainability – An essential pillar of governance

Technical Session IV

Universally accepted International Corporate Governance Code: A prerequisite of good governance

The speakers will deliberate on the necessity of having a universally accepted International corporate governance code with following sub themes:

- Convergence of uniform Corporate Governance model in various jurisdictions
- Lessons to be learnt from Global Economic Crisis from the perspective of Corporate Governance.
- Corporate Governance through the eyes of Secretarial Standards issued by ICSI
- Concept of proposing a day as an "International corporate governance day" - various benefits by observing a day internationally allocated towards Corporate Governance
- Revolutionizing International Corporate Governance Day

The above mentioned are only indicative themes and sub-themes, apart from the above, we also invite your suggestion on the themes and sub themes for the Global Congruence. The suggestions may reach us by 30 October 2016 at icgc@icsi.edu, globalcongruence@icsi.edu. Based on the receipt of suggestions final brochure shall be circulated again.

ICSI also invites International Research Papers for its Global Congruence on International Corporate Governance Day on or before **30 October 2016**. For details visit www.icsi.edu

FEE STRUCTURE: (INR)

Categories	On or Before 15 September 2016	On or Before 15 October 2016	On or Before 15 November 2016	On or Before 08 December 2016
Professionals (CS/CA/CMA/Advocates)	2500	3000	3500	4000
Students *	1250	1500	1750	2000
Research Scholar*	3500	4000	4500	5000
Other delegates (Industry/Others)	4500	5000	5500	6000

*Separate kit will be provided for the Students/Research Scholars

**Apart from the above, a separate discount is available for Congruence Partners and also on group bookings containing 3 or more participants in all the above categories.

FEE DETAILS

Cash Accepted at : #6-3-609/5, Anandnagar Colony, Khairatabad, Hyderabad – 500004

Cheque/DD Favouring : 'Hyderabad Chapter of SIRC of the ICSI' payable at Hyderabad

ONLINE PAYMENT

Name of the Account : Hyderabad Chapter of SIRC of the ICSI

Name of the Bank & Branch : ICICI Bank, Khairatabad

IFSC Code : ICIC0000008 / MICR Code - 500229002



**THE INSTITUTE OF
Company Secretaries of India**

IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

Headquarters

ICSI House, 22, Institutional Area, Lodi Road, New Delhi -110 003

tel 011-45341000 fax +91-11-24626727

email info@icsi.edu Website www.icsi.edu

AWARENESS/TRAINING PROGRAMME ON ANTI SEXUAL HARASSMENT AT WORK

It is Mandatory, not Optional

Every employer, employing 10 or more employees, has to constitute an Internal Complaints Committee as stipulated by Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 (SHWW Act) and amongst four, one member should be a person familiar with the rules relating to sexual harassment of women at workplace. Also, creating awareness and orientation of the members of the committee by the employers is a statutory requirement under section 19(c) of the SHWW Act.

**WHAT THEY DON'T TEACH
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LEGAL WORLD



- CANARA BANK V. NUCLEAR POWER CORPORATION OF INDIA & ORS [SC]
- WEXFORD FINANCIAL INC PANAMA V. BHEL[SC]
- TAMILNADU TERMINATED FULL TIME TEMPORARY LIC EMPLOYEES ASSOCIATION V. S.K. ROY, THE CHAIRMAN, LIC[SC]
- PEPSU ROADWAYS TRANSPORT CORPORATION V. S.K.SHARMA & ORS [SC]
- INDUSTRIAL PROMOTION & INVESTMENT CORPORATION OF ORISSA LTD V. NEW INDIA ASSURANCE CO. LTD & ANR [SC]
- ELECTROTHEM (INDIA) LTD V. PATEL VIPULKUMAR RAMJIBHAI & ORS [SC]



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Landmark judgement

CS : LMJ: 11/09/2016

CANARA BANK v. NUCLEAR POWER CORPORATION OF INDIA & ORS [SC]

Civil Appeal No.3206 of 1995

J.S.Verma, S.P.Bharucha & K.S.Pariipooran, JJ.[Decided on 06/03/1995]

Equivalent Citations: 1995 SCC. Supl (3) 81; JT 1995 (3) 42; (1995) 84 Comp CAS 70;1995 SCALE (2)162.

Companies Act, 1956- Section 10E- jurisdiction of CLB- share market scam- transfer of shares by notified person- jurisdiction of special court- whether CLB has jurisdiction- Held, No.

Brief facts:

Canara Bank (the appellant) had made an application before the CLB seeking relief against the Nuclear Power Corporation of India Ltd. (the first respondent), which had refused to register in its books in the name of the Canara Bank bonds of the Nuclear Power Corporation purchased by the Canara Bank. The Standard Chartered Bank (the fourth respondent) had also claimed ownership of the said bonds. The Canara Bank alleged that it had acquired the said bonds from the Andhra Bank Financial Services Ltd. (the third respondent) through one Hiten P. Dalal, (the second respondent) who had acted as a broker. Hiten P. Dalal is a person notified under the provisions of Section 3(2) of the Special Court Act and was, as the application of the Canara Bank before the CLB showed, involved as a broker in the transaction relating to the said bonds. The application of the Canara Bank was pending disposal before the CLB when, on 25th January, 1994, the Special Court Act was amended by the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994, and Section 9-A was introduced.

Canara Bank and the Nuclear Power Corporation took the stand that the application of the Canara Bank stood transferred to the Special Court by virtue of the provisions of Section 9-A (2) of the Special Court Act. The Standard Chartered Bank (Stanchart) contended that the CLB retained the jurisdiction to deal with the application. The CLB held that it was not a court within the meaning of the Companies Act nor was it a civil court. Its jurisdiction was, therefore, unaffected by the provisions of Section 9-A (2) of the Special Court Act.

Decision: Appeal allowed.

Reason:

As to what are courts and tribunals, the leading decision is M/s. Harinagar Sugar Mills Ltd. v. Shyam Sundar Jhunjhuwala & Ors, (1962) 2 S.C.R. 339, delivered by a Constitution Bench of this Court. In Kihoto Hollohan v. Zachillhu & ors. (1992) Suppl 2 S.C.C. 651, the observations in the case of Harinagar Sugar Mills case (supra) were quoted with approval and it was said that where there was a lis - an affirmation by one party and denial by another, the dispute involved the rights and obligations of the parties to it and the authority was called upon to decide it, there was an exercise of judicial power. That authority was called a tribunal if it did not have all the trappings of a court.

In the case of Harinagar Sugar Mills case (supra) this court was called upon to decide whether an order of the Central Government under Section 111 of the Companies Act, as it then read, was appealable under Article 136 of the Constitution. Article 136 empowers this court to grant special leave to appeal from any judgment, decree determination, sentence or order in any cause or matter passed or made by "any court or tribunal" in the territory of India. The connotation of the words "court" and "tribunal" was determined in the judgment in the context of Article 136. The argument was that the Central Government, acting under Section 111 of the Companies Act, as it then read, was exercising administrative authority. The court held that it was exercising judicial authority.

The majority judgment relied upon the provisions of Section III for so holding. Hidayatullah, J., concurring held that "all tribunals were not courts though all courts were tribunals. The word "courts" was used to designate the tribunals that a State established to administer justice. They were fixed and permanent and could try any suit or cause within their jurisdiction. They went under the compendious name of "Courts" of Civil Judicature".

A large number of administrative tribunals had come into existence with the growth of civilisation and the problems of modern life. They acted in a judicial manner but they were not part of the ordinary courts of civil judicature. What distinguished them had never been successfully established. When the Constitution spoke of "courts" in Article 136 and other Articles, it contemplated courts of civil judicature but not tribunals other than such courts. This was the reason both expressions were used in Articles 136 and 226. The judgment is, therefore, determinative in deciding whether a tribunal is subject to the jurisdiction of this court under Article 136 or of the High Court under Article 227, but it does not hold that a "Court" is only a court of civil judicature in the ordinary hierarchy of courts.

In our view, the word "court" must be read in the context in which it is used in a statute. It is permissible, given the context, to read it as comprehending the courts of civil judicature and courts or some tribunals exercising curial, or judicial, powers. In the context in which the word "court" is used in Section 9A of the Special Court Act, it is intended to encompass all curial or judicial bodies which have the jurisdiction to decide matters or claims, *inter alia*, arising out of transactions in securities entered into between the stated dates in which a person notified is involved.

The occasion for enacting the Special Court Act must not be lost sight of. The Statement of Objects and Reasons of the Bill to replace the Amendment Ordinance has already been quoted. Having regard to the enormity of the "scam" and its vast ramifications, Parliament

thought it was necessary that all the matters of claims arising out of transactions in securities entered into between the stated dates in which a person notified was involved should be brought before and tried by the same forum. That forum had been invested with the jurisdiction to try persons accused of offences relating to transactions in securities entered into between the stated dates. It was also required to give directions to the Custodian in regard to property belonging to persons notified which stood attached under the provisions of the Special Court Act. The object of amending the Special Court Act invest the Special Court with the power and authority to decide civil claims arising out of transactions in securities entered into between the stated dates in which a person notified was involved has already been stated. In these circumstances, it is proper to attribute to the word "court" in Section 9A (1) of the Special Court Act, not the narrower meaning of a court of civil judicature which is part of the ordinary hierarchy of courts, but the broader meaning of a curial body, a body acting judicially to deal with matters and claims arising out of transactions in securities entered into between the stated dates in which a person notified is involved.

Now, under Section 111 of the Companies Act as amended with effect from 31st May, 1991, the CLB performs the functions that were therefore performed by courts of civil judicature under Section 155. It is empowered to make orders directing rectification of the company register, as to damages, costs and incidental and consequential orders. It may decide any question relating to the title of any person who is a party before it to have his name entered upon the company's register; and any question which it is necessary or expedient to decide. It may make interim orders. Failure to comply with any order visits the company with a fine. In regard to all these matters it has exclusive jurisdiction (except under the provisions of the Special Court Act, which is the issue before us). In exercising its function under Section 111 the CLR must, and does, act judicially. Its orders are appealable. The CLR, further, is a permanent body constituted under a statute. It is difficult to see how it can be said to be anything other than a court, particularly for the purposes of Section 9A of the Special Act.

We shall assume that a shareholder whose name the company has refused to enter in its register would be put to some difficulty in deciding whether he should approach the Special Court or the CLB, but that is no reason to interpret the provisions of Section 9A in a manner that would defeat its intendment and adversely affect the public interest. In any event, the time taken in approaching the CLB in a matter that should have been filed before the Special Court would not be of any consequence for there is no time limit within which the Special Court has to be approached; and it is most unlikely that the Special Court would be approached unless the shareholder were sure that his claim fell within Section 9A (1).

As has been pointed out, sub-sections(2) and (3) of Section 111 of the Companies Act term the pleading that the person aggrieved has to file before the CLE an 'appeal', sub-section (4) requires the person aggrieved to apply, sub- section (5) speaks of it as an 'appeal' or an 'application', subsection (7) as an 'application ' and sub-section (10) as an 'appeal or application' which shall be made by a "petition in writing". The words "appeal" and "application" in the context of the provisions of Section 111 have, therefore the same meaning and it is, plainly, an original application that is made. The shareholder does not resort to a superior court to review the decision of an inferior court or tribunal. The fact, therefore, that Section 9A(2) of the Special Court Act speaks of the transfer of 'every suit', claim

or other legal proceeding (other than an appeal) does not exclude the "application" or "appeal" made under the provisions of Section 111of the Companies Act from the purview of Section 9A(1) of the Special Court Act.

The appeal is allowed. The judgment and order of the CLB under appeal is set aside. The application of the Canara Bank pending before the CLB shall stand transferred to the Special Court constituted under the provisions of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.



LW: 54:09:2016

[WEXFORD FINANCIAL INC PANAMA v. BHEL\[SC\]](#)

Arbitration Petition (Civil) No.19 of 2015

[T.S. Thakur, R. Banumathi & Uday Umesh Lalit \[Decided on 13/07/2016\]](#)

Arbitration and Conciliation Act, 1956 – section 11- disputes over the payment of agency commission- Supreme Court appoints arbitrator.

Brief facts:

The petitioner-company is engaged in providing liaison services to companies in public as well as in private sector within and outside the country including procurement of contracts from Government agencies for its clients and providing facilitation of pre and post contractual obligations and activities agreed upon by the parties. The company claims a small percentage of the value of the contract towards its fee for the Agency services rendered to its clients. The petitioner had entered into two contracts with the Respondent BHEL with respect to two overseas projects. The petitioner was to receive 1.1% of the value of these projects as its service fee.

The Respondent defaulted and failed to pay the agency fee and certain disputes arose between them due to which the petitioner has, approached the Supreme Court for appointment of an arbitrator and for reference of the disputes for adjudication to him.

The respondent-company opposed the grant of any relief to the petitioner *inter alia* on the ground that the notice for arbitration served upon the respondent is not a proper one and that the claim made by the petitioner is barred by limitation. The respondent's further case is that the main service which the petitioner was obliged to provide under the Service Provider Agreement was to ensure that there was an amicable settlement of the disputes between the respondent and the client and that the bank guarantee provided by the respondent for US \$ 15.7 million to MGIC was returned to it. The petitioner having failed to fulfil that obligation under the agreement was not entitled to claim any amount from the respondent.

Decision: Petition allowed.

Reason:

The material facts are not in dispute. That a Service Provider Agreement was executed between the parties is admitted. That Article 7 of the said agreement provides for settlement of the dispute in relation to the agreement by way of arbitration is also not in dispute. That disputes have actually arisen between the parties in relation to the agreement is also evident from the averments made in the pleadings. The only method for determination of such disputes is by way of arbitration. Whether or not the petitioner has provided the services envisaged under the agreement and, if so, whether the said services were adequate and satisfactory are matters that can be examined only by the Arbitrator. So also the question whether the claim made by the petitioner is time barred cannot be examined in the present proceedings and shall have to be left open to be raised before the Arbitrator. There is, in that view, no gain saying that the present petition Under Sections 11(5) and 11(12) shall have to be allowed with appropriate directions, particularly when this Court is concerned primarily with the question whether an arbitration agreement exists between the parties and if so whether the disputes falling within the scope of the agreement have arisen for determination. Our answer to both these questions being in the affirmative, the petitioner has made out a case for appointment of an Arbitrator and for reference of the disputes for adjudication to him/her.

In the result, we allow this petition, and appoint Ms. Justice Rekha Sharma, former Judge of the High Court of Delhi as a Sole Arbitrator for adjudication of the disputes that have arisen between the parties in relation to the Service Provider Agreement executed between them.



LW: 55:09:2016

TAMILNADU TERMINATED FULL TIME TEMPORARY LIC
EMPLOYEES ASSOCIATION v. S.K. ROY, THE
CHAIRMAN, LIC[SC]

Contempt Petition (C) No. 459 of 2015 in Civil Appeal No. 6950 of 2009 along with batch of review petitions.

V. Gopala Gowda & C. Nagappan, JJ. [Decided on 09/08/2016]

LIC directed to pay backwages and compensation to all badly workmen whose services were terminated in 1988.

Brief facts:

These Review Petitions arise from the impugned judgment and order

dated 18.03.2015 passed by this Court in Civil Appeal No. 6950 of 2009 and connected appeals, whereby it was held that the Award passed by Central Government Industrial Tribunal, New Delhi (CGIT) in I.D. No. 27 of 1991 is legal and valid and the same be restored and implemented by the Life Insurance Corporation of India (hereinafter referred to as the "LIC") by absorbing the concerned workmen in the permanent posts. It was further held that the Corporation would be liable to pay all consequential benefits including monetary benefits taking into consideration the revised pay scale in the cases of those workmen who had attained the age of superannuation.

Decision: Impugned judgement modified.

Reason:

The learned Attorney General further submits that as on 31.03.2015, LIC had 55,427 Class III employees and 5,190 Class IV employees. If LIC is directed to consider the absorption of the workmen to the advertisement, then the number of Class III employees will increase by 11.14% and Class IV employees by 56.65% and the same will affect the employee's ratio in addition to the increase in its financial burden and that the same will be contrary to the interests of the policyholders. The learned Attorney General estimates the financial liability for implementing the order of this Court at approximately Rs.7087 crores, with the annual liability at around Rs.728 crores per year and that this will be a huge financial burden for LIC to bear.

On the other hand, the learned counsel appearing on behalf of the respondents-workers submit that it becomes clear from a perusal of the Review Petitions filed by LIC that it is trying to re-agitate the case on merits.

For the limited purpose of modifying the relief granted in the Civil Appeal only with regard to the Back wages, we directed Mr. Ashok Panigrahi, the learned counsel appearing on behalf of the review petitioner-LIC to submit a document containing the pay scales indicating the basic pay and other emoluments payable to the concerned workmen. The same were furnished with the periodic revisions in the years 1992, 1997, 2002, 2007 and 2012, without furnishing the other component figures which would be the gross salary of the different classes of workmen in the present dispute. These periodic revisions of pay of basic salary, along with other component figures comprising the gross salary including Dearness Allowance, House Rent Allowance etc. etc., as applicable, must be accounted for while computing the amount due to the workmen towards the back wages.

The temporary and badli workers of LIC, who are entitled for regularisation as permanent workmen in terms of the impugned judgment and order dated 18.03.2015 passed by this Court, by applying the terms and conditions of the modified award dated 26.08.1988 passed by Justice Jamdar, are held to be entitled to full back wages as well. However, keeping in mind the immense financial burden this would cause to LIC, we deem it fit to modify the relief only with regard to the back wages payable and therefore, we award 50% of the back wages with consequential benefits. The back wages must be calculated on the basis of the gross salary of the workmen, applicable as on the date as per the periodical revisions of pay scale as stated supra. The computation must be made from the date of entitlement of the workmen involved in these cases, that is, their absorption, till the age of superannuation, if any concerned workman has attained the age of superannuation as per the regulations of the review petitioner-LIC, as applicable to the concerned workman.

With the above modifications to the judgment and order sought to

be reviewed, these review petitions are disposed of in the terms as indicated above. Since the judgment and order is passed in favour of workmen and their dispute is being litigated for nearly twenty five years, the directions contained in the judgment and order dated 18.03.2015 with the above modifications shall be complied with by the review petitioner-LIC within eight weeks of the receipt of the copy of this order.

LW: 56:09:2016

PEPSU ROADWAYS TRANSPORT CORPORATION v.
S.K.SHARMA & ORS [SC]

Civil Appeal No. 4703 of 2009

Shiva Kirti Singh & R. Banumathi, JJ.[Decided on 08/08/2016]

Transfer of employees from PEPSU roadways PEPSU corporation- workmen retired after taking all retiral benefits in 1991- pension scheme revised in 1992- retired workmen claimed benefits under the pension scheme also- whether tenable-Held, No.

Brief facts:

The respondents who were the employees of PEPSU Roadways were transferred to PEPSU Road Transport Corporation (hereinafter referred to as the 'Corporation'), due to the take-over of PEPSU Roadways by the corporation, on the prevailing terms and conditions till the approval of new terms and conditions by the Corporation. The respondents got promotions etc. and continued to serve the Corporation till they all retired between 1989 and 1991. Much after the retirement of the respondents, the Corporation framed PRTC Employees Pension/Gratuity and General Provident Fund Regulations, 1992 (hereinafter described as 'Regulations of 1992'). Under these Regulations, for the first time pension was introduced in the Corporation. Soon after the enforcement of Regulations of 1992 the respondents who had already received their retiral benefits, filed a writ petition claiming that they continued to be employees of the State in the department of PEPSU Roadways till PEPSU State was reorganized and from 01.11.1956, the date of reorganization they became employees of State of Punjab with right to pension as available to Government servants.

The Single Judge allowed the writ petition on the premise that the respondents had simply been transferred from the parent department to serve in the Corporation and therefore they continued to be Government servants because there was no order passed for their absorption in the Corporation.

The Letters Patent Appeal preferred by the appellants was dismissed by the judgment and order dated 24.04.2006 which is under challenge in this appeal.

Decision: Appeal allowed.

Reason:

The main controversy in this case is whether the claim of the respondents, a group of twenty one employees of PEPSU Roadways that in spite of transfer of that department to the Corporation they continue to be actually Government servants and therefore entitled to retiral benefits instead of CPF is acceptable or not. In this controversy, a judgment of this Court though rendered

in slightly different factual matrix is substantially relevant and helpful. In D.R. Gurushantappa v. Abdul Khuddus Anwar & Ors (1996) 3 SCC 325, an issue arose in the context of election of the Mysore Legislative Assembly as to whether the respondent was holding office of profit under the Government. The respondent no. 1 of that case was initially a Government servant but subsequently the Government concern where he was working was taken over by a company registered under the Indian Companies Act, 1956. The shares of the company were fully owned by the Government but after the Government undertaking was taken over by the company, the employees were no longer governed by the Mysore Civil Services Regulations, their conditions of service came to be determined by the standing orders of the company. The first contention against respondent no. 1 was that since he was initially a Government servant, even after the concern was taken over by the company he would continue to be in the service of the Government. While dealing with this issue in paragraph 3, this Court rejected the contention in the following words:

"3. So far as the first point is concerned, reliance is placed primarily on the circumstance that, when the concern was taken over by the Company from the Government there were no specific agreements terminating the Government service of Respondent 1, or bringing into existence a relationship of master and servant between the Company and Respondent 1. That circumstance, by itself, cannot lead to the conclusion that Respondent 1 continued to be in government service. When the undertaking was taken over by the Company as a going concern, the employees working in the undertaking were also taken over and since, in law, the Company has to be treated as an entity distinct and separate from the Government, the employees, as a result of the transfer of the undertaking, became employees of the Company and ceased to be employees of the Government."

In the facts of the case, we have no hesitation to hold that the High Court erred in allowing the writ petition and second appeal of the respondents and in dismissing the Letters Patent Appeal of the appellants. The judgments on which the respondents have relied upon for advancing the submission that they cannot lose the status of a Government servant till they are absorbed in the Corporation after offering an option in favour of such absorption is entirely misconceived and inapplicable in the facts of the present case. The stand of the respondents could have been acceptable had there been no decision of the PEPSU State as evidenced by the letter of Chief Secretary dated 16.10.1956 which finds mention and reiteration by way of admission by the Corporation in order dated 30.11.1956. There can be no such belated challenge to the decision of PEPSU State whereby PEPSU Roadways, one of the departments came into and merged with the Corporation lock, stock and barrel before the merger of PEPSU with Punjab on 01.11.1956. Hence, the provisions of the States Reorganization Act ceased to have any significance in the matter because the respondents ceased to be employees of State Government of PEPSU prior to 01.11.1956. They accepted such merger and alteration of their service conditions without any protest. Since 1957, under the Regulations of the Corporation they participated and contributed to the scheme of CPF and obtained the benefits of retirement from the Corporation between 1985 and 1991 without any protest. The High Court clearly erred in ignoring such conduct of the respondents, the effect of the Chief Secretary's letter dated 16.10.1956 containing decision of PEPSU State and its acceptance

by the Corporation reflected by the order dated 30.11.1956. The High Court further erred in relying upon law which is applicable when there is no merger of Government concern with the private concern but only individual employees are transferred on deputation or on Foreign Service to other organizations/services. The ordinary rules providing for asking of option or issuance of letters of absorption depend upon nature of stipulations which may get attracted to a case of deputation. There may be similar stipulations in case of merger by transfer. But if there are no such stipulations like in the present case then the transferee concern like the Corporation has no obligation to ask for options and to issue letters of options to individual employees who become employees of the transferee organization simply by virtue of order and action of transfer of the whole concern leading to merger. No doubt in case of any hardship, the affected employees have the option to protest and challenge either the merger itself or any adverse stipulation. However, if the employees choose to accept the transition of their service from one concern to another and acquiesce then after decades and especially after their retirement they cannot be permitted to turn back and challenge the entire developments after a gap of decades.

On the basis of laws and facts discussed above, we are constrained to hold that the respondents had accepted to continue as employees of Corporation pursuant to order of merger/transfer of PEPSU Roadways with effect from 16.10.1956 and on completing their service under the Corporation and reaching the age of retirement they were entitled to receive only the benefits of CPF and gratuity as admissible to them under then prevailing regulations of the Corporation. Since they accepted those retiral benefits there is no relationship left between the Corporation and the respondents and in such a situation further claim against the Corporation that it should treat the respondents to be Government servants and adjust their retiral benefits accordingly was totally untenable and wrongly allowed by the High Court. The impugned judgment of the High Court granting relief to the respondents is therefore set aside. The second appeal and the writ petition of the respondents shall stand dismissed. This appeal is accordingly allowed but the parties are left to bear their own costs.

LW: 57:09:2016

INDUSTRIAL PROMOTION & INVESTMENT CORPORATION OF ORISSA LTD V. NEW INDIA ASSURANCE CO. LTD & ANR [SC]

Civil Appeal No. 1130 of 2007

Anil R. Dave & L. Nageswara Rao, JJ. [Decided on 22/08/2016]

Insurance law- claim against theft and burglary- no forcible house braking- whether compensation is payable- Held, No.

Brief facts:

The Appellant exercising its power under Section 29 of the State Finance Corporation Act, 1951, took over the assets of M/s. Josna Casting Centre Orissa Private Limited, which had been insured with Respondent No. 1 for a sum of Rs. 46,00,000/- under the

Miscellaneous Accident Policy, Rs. 60,40,000/- under the Fire Policy and Rs. 46,00,000/- under the Burglary and House Breaking Policy. The seized assets were put to auction by the Appellant, at which point of time it was detected that some parts of the plant and machinery were missing from the factory premises. A claim was lodged with Respondent No. 1 for an amount of Rs. 34,40,650/- under the Burglary and House Breaking Policy. The claim of the Appellant was repudiated by Respondent No. 1 on the ground that the alleged loss did not come within the purview of the insurance policy.

The Appellant filed compensation application No. 45 of 2001 under Section 12-B read with Section 36-A of the Monopolies and Restrictive Trade Practices (MRTP) Act, 1969, which was rejected by the MRTP Commission, New Delhi by its Order dated 17-08-2005. Aggrieved by the said Order, the Appellant has preferred the present Appeal.

Decision:Appeal dismissed.

Reason:

Having considered the submissions made on both sides, we are of the opinion that there is no error committed by the MRTP Commission in rejecting the Claim of the Appellant. It is clear from the facts of the present case that the Appellant has made out a case of theft without a forcible entry. The case of the Appellant is that forcible entry is not required for a claim to be made under the policy. Following the well- accepted principle that a contract of insurance which is like any other commercial contract should be interpreted strictly, we are of the opinion that the policy covers loss or damage by burglary or house breaking which have been explained as theft following an actual, forcible and violent entry from the premises. A plain reading of the policy would show that a forcible entry should precede the theft, and unless they are proved, the claim cannot be accepted.

It is well-settled law that there is no difference between a contract of insurance and any other contract, and that it should be construed strictly without adding or deleting anything from the terms thereof. On applying the said principle, we have no doubt that a forcible entry is required for a claim to be allowed under the policy for burglary/house breaking.

This court in General Assurance Society Ltd. v. Chandmull Jain and Anr., reported in [1966] 3 SCR 500 held that there is no difference between a contract of insurance and any other contract except that in a contract of insurance there is a requirement of uberima fides, i.e., good faith on the part of the insured and the contract is likely to be construed contra proferentes, i.e., against the company in case of ambiguity or doubt. It was further held in the said judgment that the duty of the Court is to interpret the words in which the contract is expressed by the parties and it is not for the Court to make a new contract, however reasonable.

For the aforementioned reasons, we uphold the order of the MRTP Commission and dismiss the Appeal with no order as to costs.

LW: 58:09:2016

ELECTROTHEM (INDIA) LTD v. PATEL VIPULKUMAR RAMJIBHAI & ORS [SC]

Civil Appeal No. 7222 of 2016 (Arising out of SLP (C) No.16860 of 2012)

T.S. Thakur, R. Banumathi & Uday Umesh Lalit, JJ. [Decided on 02/08/2016]

Environment laws- projects- environment clearance- clearance certificate issued without holding public hearing-whether tenable- SC directs of post-clearance public hearing.

Brief facts:

This appeal challenges the judgment and order dated 11.05.2012 passed by the High Court of Gujarat allowing Special Civil Application No.5986/2010 setting aside the Environmental Clearance dated 27.01.2010 and directing that the operations of the entire plant of the Appellant be stopped and that the operations could be continued only after fresh Environmental Clearance was accorded in its favour by the Ministry of Environment and Forests and Union of India.

Environment clearance was accorded to the petitioner without conducting public hearing. The High Court, on a PIL, restrained the petitioner from operating the plant and also ordered to close it down. On appeal to the Supreme Court, the only question for the consideration of the court was whether the Environmental Clearance dated 27.1.2010 can be termed as illegal in the absence of public consultation or public hearing as mandatorily provided by Notifications dated 2006.

Decision: Petition partly allowed.

Reason:

In the affidavit filed on behalf of CPCB it was stated *inter alia* that pursuant to the order dated 22.04.2014 passed by this Court, a joint inspection was carried out as directed and that the industry of the Appellant had complied with most of the recommendations, though there were still certain shortcomings.

The facts on record are clear that while granting Environmental Clearance on 20.02.2008, public consultation/public hearing was undertaken on 12.06.2007. As on that date the status of the project was that the capacity of Pig Iron Plant was to be 350 TPD, Power Plant to be 24 MW, the total cost of the project was 90.00 crores and the total Water requirement was 650 MT/Day. The High Court was absolutely right that after expansion the capacity of the plant was to increase three-fold. The tabular chart given in Environmental Clearance dated 27.01.2010 itself shows the tremendous increase in the capacity. Consequently, the pollution load would naturally be of greater order than the one which was contemplated when the earlier public consultation/public hearing was undertaken on 12.08.2007. Further, the water requirement had also risen from 650 MT/Day to 2165 MT/Day. The increase in pollution load and water requirement were certainly matters where public in general and those living in the vicinity in particular had and continue to have a stake.

Public consultation/public hearing is one of the important stages while considering the matter for grant of Environmental Clearance. The minutes of the meetings held on 9-11 February 2009 show that the request of the Appellant for exemption from the requirement of public hearing was accepted by the Committee. The observations of the Committee suggest that there would be no additional land requirement, ground water

drawl and certain other features. However the water requirement, which is a community resource, was definitely going to be of greater order in addition to the fact that the expansion of the project would have entailed additional pollution load.

It must be stated here that after EIA Notification of 2006 a draft Notification was issued on 09.01.2009 wherein an amendment was suggested in paragraph 7(ii) of EIA Notification dated 14.09.2006 to the effect that in cases of expansion of projects involving enhancement by more than 50% holding of public consultation/public hearing was essential; implying thereby that in cases where expansion was less than 50% public consultation/public hearing could be exempted. Without going into the question whether public consultation/public hearing could be so exempted, it is relevant to note that this idea in the draft Notification was not accepted, after a Committee constituted to advise in the matter had given its report on 30.10.2009 to the contrary. As a result, the final Notification dated 01.12.2009 did not carry or contain the amendment that was suggested by way of draft Notification. Consequently, no exemption on that count could be given when the Environmental Clearance came to be issued on 27.01.2010.

In the case of Lafarge Umiam Mining Private Limited - T.N. Godavarman Thirumulpad Vs. Union of India and Others 2011 (7) SCC 338, public consultation/public hearing was considered and found to be mandatory requirement of the Environmental Clearance process by this Court.

In terms of the principles as laid down by this Court in the case of Lafarge (supra), we find that the decision making process in doing away with or in granting exemption from public consultation/public hearing, was not based on correct principles and as such the decision was invalid and improper.

At the same time, we cannot lose sight of the fact that in pursuance of Environmental Clearance dated 27.01.2010, the expansion of the project has been undertaken and as reported by CPCB in its affidavit filed on 07.07.2014, most of the recommendations made by CPCB are complied with. In our considered view, the interest of justice would be sub-served if that part of the decision exempting public consultation/public hearing is set aside and the matter is relegated back to the concerned Authorities to effectuate public consultation/public hearing. However, since the expansion has been undertaken and the industry has been functioning, we do not deem it appropriate to order closure of the entire plant as directed by the High Court. If the public consultation/public hearing results in a negative mandate against the expansion of the project, the Authorities would do well to direct and ensure scaling down of the activities to the level that was permitted by Environmental Clearance dated 20.02.2008. If public consultation/public hearing reflects in favour of the expansion of the project, Environmental Clearance dated 27.01.2010 would hold good and be fully operative. In other words, at this length of time when the expansion has already been undertaken, in the peculiar facts of this case and in order to meet ends of justice, we deem it appropriate to change the nature of requirement of public consultation/public hearing from pre- decisional to post-decisional. The public consultation/public hearing shall be organized by the concerned authorities in three months from today.

This appeal therefore stands disposed of with the aforesaid modifications. No order as to costs.

4

FROM THE GOVERNMENT



- SPECIAL COURTS FOR SPEEDY TRIAL OF OFFENCES UNDER THE COMPANIES ACT, 2013
- COMPANIES (SHARE CAPITAL AND DEBENTURES) RULES, 2014
- SPOT PRICE POLLING MECHANISM
- ADDITIONAL RISK MANAGEMENT NORMS FOR NATIONAL COMMODITY DERIVATIVES EXCHANGES
- TRADING HOURS/TRADING HOLIDAYS ON COMMODITY DERIVATIVES EXCHANGES
- PRICE DISSEMINATION THROUGH SMS/ELECTRONIC COMMUNICATION FACILITY
- MAINTENANCE AND PRESERVATION OF RECORDS
- MODIFICATION OF CLIENT CODES POST EXECUTION OF TRADES ON NATIONAL AND REGIONAL COMMODITY DERIVATIVES EXCHANGES- CLARIFICATION
- PROGRAMMES SPONSORED BY THE EXCHANGES THROUGH MEDIA CHANNELS
- ANNUAL SYSTEM AUDIT OF STOCK BROKERS / TRADING MEMBERS OF NATIONAL COMMODITY DERIVATIVES EXCHANGES

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Corporate Laws

01

Special Courts for speedy trial of offences under the Companies Act, 2013

[Issued by the Ministry of Corporate Affairs vide Folio No: 01/12/2009:CL-I (Vol.IV)], dated 01.09.2016.]

In exercise of the powers conferred by sub-section (1) of section 435 of the Companies Act, 2013 (18 of 2013), the Central Government hereby, with the concurrence of the Chief Justice of the High Courts of Chhattisgarh, Rajasthan, Punjab and Haryana, Madras and Manipur, designates the following Courts as Special Courts for the purposes of providing speedy trial of offences punishable with imprisonment of two years or more under the Companies Act, 2013, namely:-

Sl. No. (1)	Existing Court (2)	Jurisdiction as Special Court (3)
1.	Sessions Judge, Bilaspur	State of Chhattisgarh
2	Court of Special Judge, (Sati Niwaran), Jaipur	State of Rajasthan,
3	Court of Sessions Judge and 2nd Additional Sessions Judge, S.A.S. Nagar	State of Punjab
4	Court of Sessions Judge and 2nd Additional Sessions Judge, Gurgaon	State of Haryana
5	Court of Sessions Judge and 2nd Additional Sessions Judge, Chandigarh	Union Territory of Chandigarh
6	I Additional District and Sessions Court, Coimbatore	Districts of, Coimbatore Dharmapuri, Dindigul, Erode, Krishnagiri, Namkaal, Nilgiris, Salem and Tiruppur.
7	II Additional District and Sessions Court, Puducherry	Union Territory of Puducherry
8	Sessions Judge, Imphal East	State of Manipur

2. The aforesaid Courts mentioned in column number (2) shall exercise the jurisdiction as Special Courts in respect of jurisdiction mentioned in column number (3).

AMARDEEP SINGH BHATIA
Joint. Secretary

02

Companies (Share Capital and Debentures) Rules, 2014

[Issued by the Ministry of Corporate Affairs vide Circular No: G.S.R. 791(E) F. No. 01/04/2013-CL-V- Part-II, dated 12.08.2016.]

In exercise of the powers conferred by sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Share Capital

and Debentures) Rules, 2014, namely:—

- (1) These rules may be called the Companies (Share Capital and Debentures) Fourth Amendment Rules, 2016.
 - (2) They shall come into force on the date of their publication in the Official Gazette.
- In the Companies (Share Capital and Debentures) Rules, 2014, in rule 18, after Sub-rule (10), the following sub-rule shall be inserted, namely:-
“(11) Nothing contained in this rule shall apply to rupee denominated bonds issued exclusively to overseas investors in terms of A.P. (DIR Series) Circular No. 17 dated September 29, 2015 of the Reserve Bank of India.”.

AMARDEEP SINGH BHATIA

Joint. Secretary

03

Spot Price Polling Mechanism

[Issued by the Securities and Exchange board of India vide Circular No: SEBI/HO/CDMRD/DMP/CIR/P/2016/78, dated 02.09.2016.]

- As per Section 131(4) of Finance Act, 2015 all rules, directions, guidelines, instructions, circulars, or any like instruments, made by the erstwhile FMC or the Central Government applicable to recognized associations under the FCRA would continue to remain in force for a period of one year from the date on which FCRA was repealed (September 29, 2015), or till such time as notified by SEBI, whichever is earlier.
- Erstwhile FMC, from time to time, had prescribed various norms related to “Spot Price Polling Mechanism”. This circular is being issued to consolidate and update such norms prescribed by erstwhile FMC.
- The Commodity Derivatives Exchanges have been using a ‘Spot Price Polling Mechanism’ to arrive at the prevailing spot prices. Transparent discovery of spot prices is a critical factor in smooth running of futures market as the same are used as reference prices for settlement of contracts traded on the exchange platform. To arrive at the prevailing spot prices, the exchanges are polling the spot prices from various spot price polling participants. Some exchanges undertake this activity themselves whereas some have outsourced this work to an external agency.
- In order to maintain the transparency of spot price polling process and dissemination of spot prices arrived at through spot price polling process, the commodity derivatives exchanges are directed to:
 - have a well laid down and documented policy for the spot price polling mechanism.
 - display the spot price polling mechanism adopted for every contract on its website along with following details:

S. No.	Particulars	Details
1.	Details of the contract	
2.	Mechanism of spot price polling	
3.	How spot prices are arrived at	
4.	Whether these prices include or exclude taxes and other levies / costs	
5.	Whether spot prices polling has been outsourced to any external agency and if so, the details thereof.	
6.	Criteria for selection of these polling participants	
7.	Any other information that the Exchange may consider	

- disclose, for every contract, following details with respect to individual spot price polling participants on its website:

Participants	Location	Profession	Price quoted	Time, Date
A1				
A2				

- 4.3.1. The Exchanges may assign a code such A1, A2, A3... etc. for polling participants of a particular contract and reveal his location and price (s) for the day.
- 4.3.2. This information shall be updated on Exchange website every day for every contract traded on the exchange platform.
- 4.3.3. The information shall continue to be displayed even after the expiry of the contract for a period of 3 years.
- 4.4. endeavour in increasing the sample size used for fixing the daily spot prices during the last 15 days of the contract .
- 4.5. review on a monthly basis the prices polled by the participants to identify participants habitually polling unrealistic prices. These participants could be put under watch and subsequently removed from the panel if such instances reoccur despite appropriate communications.
- 4.6. provide a separate feedback window for receiving complaints in this regard. The exchanges shall address such complaints in a time-bound manner. Further the exchanges shall keep the audit trail of all such complaints received and the steps taken for redressal.
5. The provisions of this circular shall come into effect from September 29, 2016 in supersession of all earlier directives issued by erstwhile FMC with regard to matters related to 'spot price polling'.
6. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
7. The Exchanges are advised to:
- to make necessary amendments to the relevant bye-laws, rules and regulations.
 - bring the provisions of this circular to the notice of the stock brokers of the Exchange and also to disseminate the same on their website.
 - communicate to SEBI, the status of the implementation of the provisions of this circular.
8. This circular is available on SEBI website at www.sebi.gov.in under the category "Circulars" and "Info for Commodity Derivatives".

Vikas Sukhwal
Deputy General Manager

04 Additional risk management norms for National Commodity Derivatives Exchanges

[Issued by the Securities and Exchange board of India vide Circular No: SEBI/HO/CDMRD/DRMP/CIR/P/2016/77, dated 01.09.2016.]

- With an objective of streamlining and strengthening the risk management framework across national commodity derivatives exchanges SEBI vide circular CIR/CDMRD/DRMP/01/2015 dated October 01, 2015, had prescribed comprehensive risk management framework for National Commodity Derivatives Exchanges.
- In order to further strengthen the risk management framework of commodity derivatives markets and avoid any systemic risk, it has been decided to prescribe additional norms/modify (to

- the extent specified hereunder) certain existing norms on risk management at National Commodity Derivatives Exchanges. The additional/modified norms are placed at Annexure-I.
- The norms prescribed in this circular shall be implemented by national commodity derivatives exchanges latest by December 1, 2016, except for the norm prescribed for base minimum capital at paragraph 7 of Annexure-I, which shall be complied with latest by April 01, 2017.
- It is emphasized that risk management is primarily the responsibility of exchanges. In cases of excessive market volatility or circumstances where risk element is higher, exchanges are expected to impose higher margins and/or additional margins in the form of special/ ad-hoc or other margins as considered appropriate by the exchanges.
- The exchanges are also advised to:
 - ensure that their risk management framework is in line with the provisions contained in the annexure and take steps to make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the same.
 - bring the provisions of this circular to the notice of their members and also to disseminate the same on their website.
 - communicate to SEBI, the status of implementation of the provisions of this circular.
- This circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
- This circular is available on SEBI website at www.sebi.gov.in.

Shashi Kumar
General Manager

Annexure - I

Additional/modified risk management norms for National Commodity Derivatives Exchanges

- Initial Margins (IM):**
Exchanges shall impose initial margins sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default. Exchanges shall therefore estimate the appropriate Margin Period of Risk (MPOR) for each product based on liquidity in the product and scale up the initial margins, if required. However, the MPOR for all commodity derivatives contracts shall be at least 2 days.
- Delivery Period Margins:**
Delivery period margins shall be higher of:
 - 3% + 5 day 99% VaR of spot price volatility
 - Or
 - 20%
Exchanges may impose higher margins if deemed fit. If extant delivery period margins on certain commodities are higher than that specified above, the extant delivery period margins shall continue.
- Measures in case of repeated shortfall in margin/pay-in:**
In case of repeated margin/pay-in shortfalls beyond a threshold amount by any member in a month, following risk mitigation measures shall be initiated by commodity derivatives exchanges:
 - The member be put in square off mode and required to reduce positions.
 - The member be charged initial margins at a higher rate for the next one month,
Or
The member be subjected to a penal exposure free deposit equal to the cumulative funds/margin shortage over previous one month

- which could be kept with the exchange for the next month.
- c. Exchange shall keep a close watch on such member.
- 4. Concentration margins:**
Exchanges shall impose adequate concentration margins (only on concentrated positions) to cover the risk of longer period required for liquidation of concentrated positions in any commodity. The threshold value for imposing concentration margin may be determined taking into account factors including open interest, concentration and estimated time to liquidation based on prevailing liquidity and possible reduction in liquidity in times of market stress etc. The quantum of concentration margins imposed may vary based on the level of concentration.
- 5. Regaining matched book:**
In the event of a member/client failing to honour pay-in/margin obligations, exchanges may employ the below given alternative tools to liquidate the positions and regain a matched book based on the conditions of market liquidity, volatility, size of position to be liquidated etc. Any tool lower in the list prescribed hereunder may be resorted to only in extremely rare occasions when the exchange reasonably expects that it may not be able to restore a matched book by choosing the alternatives above it and also records the reasons for the same in writing:
- Alternative 1: Liquidation in normal market in orderly manner (with relaxed price limits, if required);
 - Alternative 2: Auction of the positions within a specified price band;
 - Alternative 3: Voluntary tear-up at last mark-to-market price along with compensation (%age of last mark-to-market price equal to twice the daily price limit) and penalty (5%, to be credited to SGF);
 - Alternative 4: Partial tear-up (pro-rata against members/clients having opposite positions) at last mark-to-market price along with compensation (%age of last mark-to-market price equal to thrice the daily price limit) and penalty (5%, to be credited to SGF).
- 6. Spread margin benefit:**
Margin benefit on spread positions shall be entirely withdrawn latest by the start of tender period or Expiry-6th day, whichever is earlier.
- 7. Base Minimum Capital (BMC) for clearing members:**
Clearing members who clear and settle only non-algo trades for other trading members shall have BMC requirement of INR 25 lakhs. Clearing members who clear and settle algo trades shall continue to have BMC requirement of INR 50 lakhs.
- 8. Exchange contribution to SGF:**
Currently exchanges make risk assessment on SGF on quarterly basis and are required to make fresh contribution to SGF in case of any shortfall. This contribution requirement by exchange in any year is currently capped to 5% of the gross revenue (net of Income Tax). The said cap to the contribution requirement is hereby removed and exchanges shall be required to meet the shortfall in full as indicated in quarterly assessments.
- 9. Default waterfall:**
Till clearing and settlement of trades in commodity derivatives are transferred to clearing corporations, the default waterfall of exchanges shall follow the following order:
- Defaulting member's monies (including contribution to SGF)
 - Insurance, if any
 - Exchange resources equal to 5% of SGF
 - SGF resources in the following order:
 - Penalties and investment income on SGF
 - 25% of Exchange contribution to SGF
 - Remaining (non-defaulting members' and exchange) contribution to SGF on pro-rata basis.
 - Remaining exchange resources (excluding INR 100 Crore*)

- Capped additional contribution by non-defaulting members (equal to their required contribution to SGF)
- Any remaining loss to be covered by way of pro-rata haircut to payouts. *INR 100 Crore to be excluded only when remaining exchange resources are more than INR 100 Crore.

05 Trading Hours/Trading Holidays on Commodity Derivatives Exchanges

[Issued by the Securities and Exchange board of India vide Circular No: SEBI/HO/CDMRD/DMP/CIR/P/2016/75, dated 30.08.2016.]

- As per Section 131(4) of Finance Act, 2015 all rules, directions, guidelines, instructions, circulars, or any like instruments, made by the erstwhile FMC or the Central Government applicable to recognized associations under the FCRA would continue to remain in force for a period of one year from the date on which FCRA was repealed (September 29, 2015), or till such time as notified by SEBI, whichever is earlier.
- Erstwhile FMC, from time to time, had prescribed norms related to Trading Hours/Trading Holidays. This circular is being issued to consolidate and update such norms.

Trading Hours

- All Commodity Derivatives Exchanges shall permit trading only from Monday to Friday.
- Trading hours shall be fixed by the Exchange within the time limits as mentioned in the table below:

S. No	Commodity Category	Trade Start Time	Trade End time	
			After Start of US Day light Savings in Spring Season	After End of US Day light Savings in Fall Season
1	Internationally Referencable Non-Agri Commodities	10:00 AM	11:30 PM	11:55 PM
2	Internationally Referencable Agri Commodities*	10:00 AM	09:00 PM	09:30 PM
3	All Other Commodities	10:00 AM	05:00 PM	

*Presently traded internationally referencable Agri commodities are Crude Palm Oil, Cotton, Kapas Soya Oil and Sugar.

- With regard to Muhurat Trading on Diwali (Lakshmi Poojan) day, all National Commodity Derivatives Exchanges shall jointly decide the common trade timing and notify the same to the market under prior intimation to SEBI.
- Exchanges shall ensure that they have necessary risk management system and infrastructure in place commensurate to their trading hours.

Trading Holidays

- With regard to Trading holidays of National Commodity Derivatives Exchanges, all such Exchanges shall jointly decide upon the common holiday list within the broad framework of the Negotiable Instruments Act, 1881 and also taking into consideration Central/State/Local holidays and notify the same to the market well in advance under prior intimation to SEBI.
On such trading holidays, National Exchanges may permit trading of internationally referencable commodities in evening session i.e. post 5:00 PM, in case corresponding international markets are open.
- With regard to Trading Holidays of Regional Commodity Derivatives Exchanges, each Exchange shall decide upon the holiday list within

- the broad framework of the Negotiable Instruments Act, 1881 and also taking into consideration Central/State/Local holidays and notify its holiday list to the market well in advance under prior intimation to SEBI.
9. While finalizing Trading Holidays list, Exchanges shall suitably take into account the views of market participants. Frequent changes in holiday List shall be avoided i.e. once decided, same holidays should be followed every year irrespective of the holidays falling on a working day or a non-working day in that year.
 10. The provisions of this circular shall come into effect from September 29, 2016 in supersession of all earlier directives issued by erstwhile FMC with regard to matters related to Trading Hours/Trading Holidays.
 11. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
 12. Exchanges are advised to:
 - i. to make necessary amendments to the relevant bye-laws, rules and regulations.
 - ii. bring the provisions of this circular to the notice of the stock brokers of the Exchange and also to disseminate the same on their website.
 - iii. communicate to SEBI, the status of the implementation of the provisions of this circular.
 13. This circular is available on SEBI website at www.sebi.gov.in under the category "Circulars" and "Info for Commodity Derivatives".

Vikas Sukhwil
Deputy General Manager

06 Price Dissemination through SMS/Electronic Communication Facility

[Issued by the Securities and Exchange board of India vide Circular No: SEBI/HO/CDMRD/DMP/CIR/P/2016/76, dated 30.08.2016.]

1. As per Section 131(4) of Finance Act, 2015 all rules, directions, guidelines, instructions, circulars, or any like instruments, made by the erstwhile FMC or the Central Government applicable to recognised associations under the FCRA would continue to remain in force for a period of one year from the date on which FCRA was repealed (September 29, 2015), or till such time as notified by SEBI, whichever is earlier.
2. In the past the erstwhile FMC had issued directives regarding price dissemination through SMS in the commodity derivatives. This circular is being issued to consolidate and update such norms.
3. Exchanges shall make efforts for registration of subscribers of Price Dissemination services and disseminate derivatives prices to them on a daily basis. Such direct price dissemination service would provide information to subscribers instantly in an efficient and transparent manner and thus shall be of great benefit to market participants.
4. The Exchanges may provide price dissemination through SMS or any other electronic communication facility (instant messengers, email etc.) for all commodities.
5. The service is to be provided free of cost to the subscribers. However, the expenditure incurred for such price dissemination may be reimbursed from the interest accrued on the Investor Protection Fund (IPF).
6. The provisions of this circular shall come into effect from September 29, 2016 in supersession of all earlier directives issued by erstwhile FMC

- with regard to matters related to 'Price Dissemination through SMS'.
7. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
8. The Exchanges are advised to:
 - i. to make necessary amendments to the relevant bye-laws, rules and regulations.
 - ii. bring the provisions of this circular to the notice of the stock brokers of the Exchange and also to disseminate the same on their website.
 - iii. communicate to SEBI, the status of the implementation of the provisions of this circular.
9. This circular is available on SEBI website at www.sebi.gov.in under the category "Circulars" and "Info for Commodity Derivatives".

Vikas Sukhwil
Deputy General Manager

07 Maintenance and Preservation of Records

[Issued by the Securities and Exchange board of India vide Circular No: SEBI/HO/CDMRD/DMP/CIR/P/2016/74, dated 30.08.2016.]

1. Pursuant to the merger of erstwhile FMC with SEBI, all commodity derivatives exchanges and their members are required to comply with the provisions of Securities Contract (Regulation) Rules, 1957 (hereinafter referred to as SCRR) and SEBI (Stock-Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as Broker Regulations) .
2. In terms of Rules 14 and 15 of SCRR, every recognized stock exchange and its members are required to maintain and preserve the specified books of account and documents for a period ranging from two years to five years. Further, as per regulation 18 of Broker Regulations, every stock broker shall preserve the specified books of account and other records for a minimum period of five years.
3. Further, SEBI vide its circular No. [MRD/DoP/SE/Cir-21/2009](#) dated December 09, 2009 prescribed norms regarding 'Preservation of records'. It has been decided that the provisions of the said circular shall be made applicable for all the commodity derivatives exchanges and their members.
4. The provisions of this circular shall come in force from September 29, 2016.
5. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
6. The Exchanges are advised to:
 - i. to make necessary amendments to the relevant bye-laws, rules and regulations.
 - ii. bring the provisions of this circular to the notice of the stock brokers of the Exchange and also to disseminate the same on their website.
 - iii. communicate to SEBI, the status of the implementation of the provisions of this circular.
7. This circular is available on SEBI website at www.sebi.gov.in under the category "Circulars" and "Info for Commodity Derivatives".

Vikas Sukhwil
Deputy General Manager

[Issued by the Securities and Exchange board of India vide Circular No: SEBI/HO/CDMRD/DMP/CIR/P/2016/73, dated 19.08.2016.]

1. This circular is in reference to the SEBI circular No. SEBI/HO/CDMRD/ DMP/CIR/P/2016/43 dated March 29, 2016 on the captioned subject. In connection with the directives issued under the said circular, following clarifications are issued:
 - (i) **Classification of genuine errors:** The following shall be classified as genuine errors for the purpose of client code modification:-
 - a. Error due to communication and / or punching or typing such that the original client code / name and the modified client code / name are similar to each other.
 - b. Modification within relatives ('Relative' for this purpose would mean as defined under Companies Act, 2013)
 - (ii) **Error Account:**
 - a. Shifting of trades to the 'Error account' of broker would not be treated as modification of client code, provided that trades in 'Error account' are subsequently liquidated in the market and not shifted to some other code.
 - b. Further, broker shall disclose the codes of accounts which are classified as 'Error accounts' to the Exchanges. Each broker should have a well-documented error policy approved by the management of the broker. Exchanges shall periodically review the trades flowing to the error accounts of the brokers.
2. The above clarifications and earlier norms prescribed by SEBI vide Circular dated March 29, 2016 with regard to client code modifications are consolidated and placed as Annexure-A.
3. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992, read with Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
4. This circular is available on SEBI website at www.sebi.gov.in under the category "Circulars" and "Info for Commodity Derivatives".

Vikas Sukhwil
Deputy General Manager

Annexure-A

1. Exchanges may allow modifications of client codes of non-institutional trades only to rectify a genuine error in entry of client code at the time of placing/ modifying the related order in all segments.
2. For this purpose the following shall be classified as genuine errors:
 - a. Error due to communication and / or punching or typing such that the original client code / name and the modified client code / name are similar to each other.
 - b. Modification within relatives ('Relative' for this purpose would mean as defined under Companies Act, 2013)
3. Error Account:
 - a. Shifting of trades to the 'Error account' of broker would not

be treated as modification of client code, provided that trades in 'Error account' are subsequently liquidated in the market and not shifted to some other code.

- b. Further, broker shall disclose the codes of accounts which are classified as 'Error accounts' to the Exchanges. Each broker should have a well-documented error policy approved by the management of the broker. Exchanges shall periodically review the trades flowing to the error accounts of the brokers.
4. If Exchange wishes to allow trading members to modify client codes of non-institutional trades, it shall
 - a. lay down strict objective criteria (in line with the Para '2' above), with the approval of its Governing Board, for identification of genuine errors in client codes which may be modified, and disclose the same to market in advance,
 - b. set up a mechanism to monitor that the trading members modify client codes only as per the strict objective criteria, and
 - c. ensure that modification of client codes is covered in the internal audit of trading members.
 - d. shall not allow proprietary trades to be modified as client trades and vice versa.
 - e. shall levy a penalty and collect from trading members and credit the same to its Investor Protection Fund as under:

'a' as % of 'b'	Penalty as % of 'a'
≤ 5	1
> 5	2

Where

- a = Value (turnover) of non-institutional trades where client codes have been modified by a trading member in a segment during a month.
- b = Value (turnover) of non-institutional trades of the trading member in the segment during the month.
- f. shall undertake stringent disciplinary actions against brokers who undertake frequent client code modifications. If 'a' as % of 'b', as defined above, exceeds 1% during a month, then the Stock Exchange shall conduct a special inspection of the trading member to ascertain whether the modifications of client codes are being carried on as per the strict objective criteria set by the Stock Exchange. Appropriate disciplinary action shall be taken by the Exchange, if any deficiency is observed.

5. Waiver of Penalty
 - a. Exchanges may waive penalty for a client code modification where broker is able to produce evidence to the satisfaction of the exchange to establish that the modification was on account of a genuine error. However, not more than one such waiver per quarter may be given to a broker for modification in a client code.
Explanation: If penalty wavier has been given with regard to a genuine client code modification from client code AB to client code BA, no more penalty waivers shall be allowed to the stock broker in the quarter for modifications related to client codes AB and BA.
 - b. Exchanges shall submit a report to SEBI every quarter regarding all such client code modifications where penalties have been waived.

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Programmes sponsored by the Exchanges through media channels

[Issued by the Securities and Exchange board of India vide Circular No: SEBI/HO/CDMRD/DMP/CIR/P/2016/72, dated 19.08.2016.]

1. As per Section 131(4) of Finance Act, 2015 all rules, directions, guidelines, instructions, circulars, or any like instruments, made by the erstwhile FMC or the Central Government applicable to recognized associations under the FCRA would continue to remain in force for a period of one year from the date on which FCRA was repealed (September 29, 2015), or till such time as notified by SEBI, whichever is earlier.
 2. Erstwhile FMC, from time to time, had prescribed various norms related to "Programmes sponsored by the Exchanges". This circular is being issued to consolidate and update such norms prescribed by erstwhile FMC.
 3. The Exchanges being neutral platforms, either as an institution or through their functionaries, shall not sponsor or associate themselves in any manner with programmes/seminars/workshops/activities etc. at various fora including but not limited to TV/Radio/Social Networks/ Websites or any other media in which the discussions/suggestions are related to the price behaviour, price outlook, trading strategy, buy/sell recommendations, or similar subjects related to commodity derivatives.
 4. Exchanges shall also ensure that the staff members of the Exchanges are not associated with such activities as mentioned above. The Exchanges shall lay down a suitable code of conduct for their executives and other staff members in this regard.
 5. The provisions of this circular shall come into force from the date of the circular in supersession of all earlier directives issued by erstwhile FMC with regard to matters related to 'Programmes sponsored by the Exchanges'.
 6. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
 7. The Exchanges are advised to:
 - i. to make necessary amendments to the relevant bye-laws, rules and regulations.
 - ii. bring the provisions of this circular to the notice of the stock brokers of the Exchange and also to disseminate the same on their website.
 - iii. communicate to SEBI, the status of the implementation of the provisions of this circular.
 8. This circular is available on SEBI website at www.sebi.gov.in under the category "Circulars" and "Info for Commodity Derivatives".
1. Pursuant to Section 131 of the Finance Act, 2015 and Central Government notification F.No. 1/9/SM/2015 dated August 28, 2015, all recognized associations under the Forward Contracts (Regulation) Act, 1952 are deemed to be recognized stock exchanges under the Securities Contracts (Regulation) Act, 1956 with effect from September 28, 2015. This circular applies to National Commodity Derivatives Exchanges (Exchanges) as defined in the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulations, 2015.
 2. Various technological developments and innovations, while bringing efficiency to the markets, may also pose certain risks. In order to bring stability and integrity in the securities market, SEBI vide Circular No. CIR/MRD/DMS/34/2013, dated November 06, 2013, has prescribed stock broker system audit framework and mandated Stock Exchanges to ensure conduct of system audit of its members as per the prescribed framework and monitor the same.
 3. It has been decided to make the provisions of the aforesaid circular applicable to the Brokers / Trading Members of the National Commodity Derivatives Exchanges. The major provisions / framework of System audit for Brokers / Trading members covered are as under:
 - a) Audit Process
 - b) Auditor selection norms
 - c) Terms of Reference (TOR) for Type I, Type II, Type III Brokers
 4. Based on the representations made by stock exchanges on the aforesaid circular, regarding exemption of system audit for Type I Brokers, matter was examined by Technical Advisory Committee (TAC) and it was decided that such brokers may be exempted from system audit and the development of NEAT / BOLT / Exchange provided terminals be included in the scope of Annual System Audit of Exchanges prescribed vide circular dated CIR/MRD/DMS/13/2011 dated November 29, 2011.
 5. In view of above, the provisions relating to Type I Brokers, as mentioned in this circular, shall not be applicable to Type I Brokers. However, such provisions shall be included in the TOR of the Annual System Audit for National Commodity Derivatives Exchanges as prescribed vide SEBI circular dated CIR/CDMRD/DEICE/01/2015 dated November 16, 2015.
 6. The provisions of this circular shall be applicable from financial year 2016-17 onwards. For the financial year 2015-16, the Brokers / Trading Members who have commenced their annual system audit, may follow existing annual system audit framework prescribed by exchanges, if any. However, stock brokers/ trading members who are yet to commence annual system audit should carry out their system audit as per the prescribed framework as mentioned in this circular.
 7. The Exchanges are advised to:-
 - Make necessary amendments to relevant bye-laws/rules for the implementation of this circular.
 - Communicate SEBI, the status of implementation of the provisions of this circular.
 8. The circular is issued in exercise of the powers conferred under section 11(1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
 9. The circular is available on SEBI website at i.e. www.sebi.gov.in.

Vikas Sukhwil
Deputy General Manager

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Annual System Audit of Stock Brokers / Trading Members of National Commodity Derivatives Exchanges

[Issued by the Securities and Exchange board of India vide Circular No: SEBI/HO/CDMRD/DEICE/CIR/P/2016/70, dated 11.08.2016.]

B J DILIP
General Manager

5

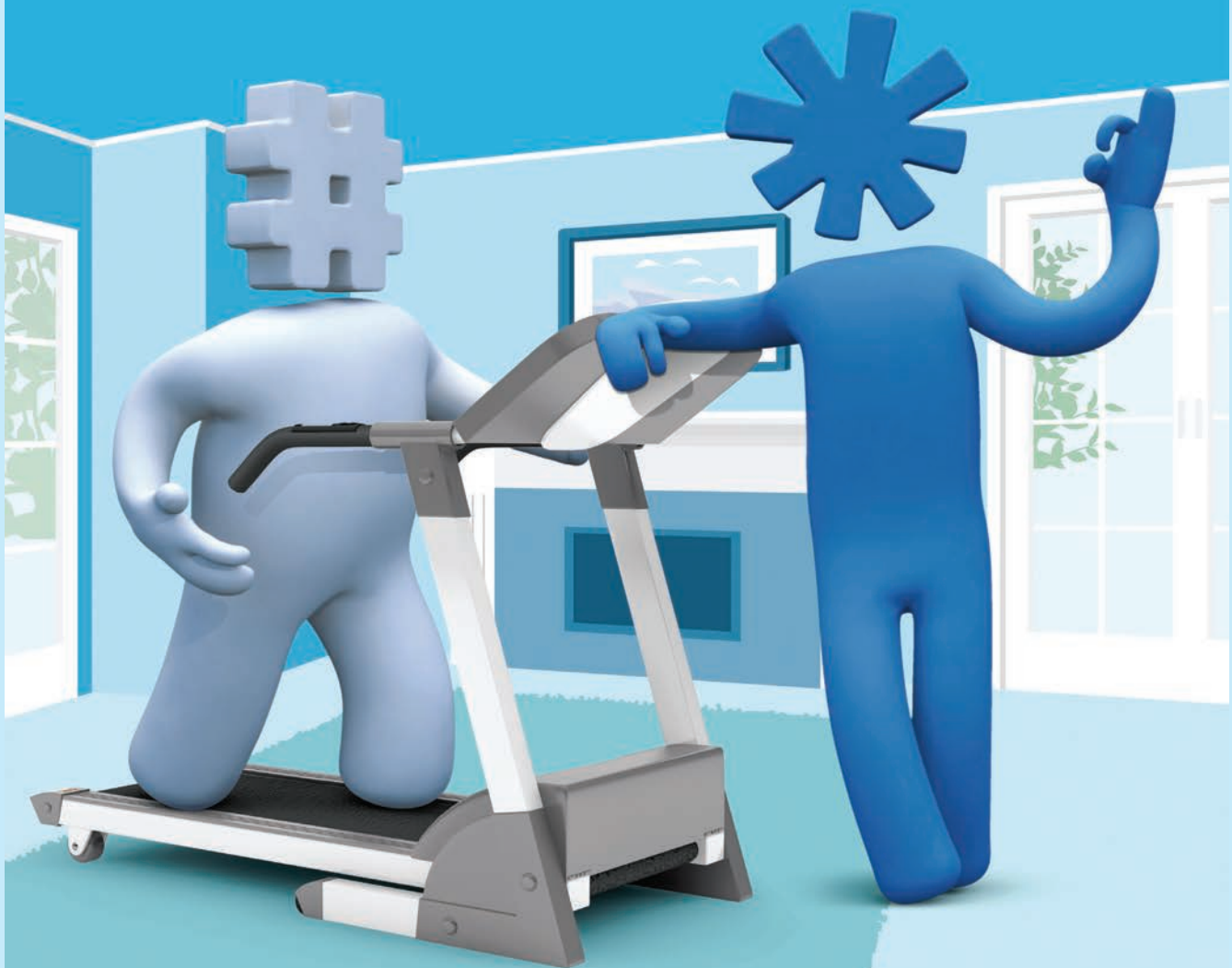
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116 MS. SONIKA MAHESHWARI	ACS - 46089	NIRC	184 MR. VINAYAK L ODUGOUDAR	ACS - 46157	SIRC
117 MR. PRATIK JAIN	ACS - 46090	NIRC	185 MS. FASSEL ANAND	ACS - 46158	SIRC
118 MS. BABITA JAIN	ACS - 46091	NIRC	186 MS. GAYATHRI B S	ACS - 46159	SIRC
119 MS. SANHITA NAGENDRA NADKARNI	ACS - 46092	SIRC	187 MS. ALPHONSA THOMAS	ACS - 46160	SIRC
120 MR. BALAJI M	ACS - 46093	SIRC	188 MR. SURESH NAGAPPA GANACHARI	ACS - 46161	SIRC
121 MR. GANESH BHAT	ACS - 46094	SIRC	189 MS. SAMATA MEGHRAJ JAIN	ACS - 46162	SIRC
122 MR. D ANIL KUMAR	ACS - 46095	NIRC	190 MR. DATTATREY NAGESH DHAGE	ACS - 46163	SIRC
123 MR. DEEPAK VYAS	ACS - 46096	WIRC	191 MR. SAURABH KRISHNA PATHAK	ACS - 46164	WIRC
124 MR. ASHISH POPTANI	ACS - 46097	NIRC	192 MS. AMRAPALI EKNATH UGILE	ACS - 46165	WIRC
125 MR. GAURAV GUPTA	ACS - 46098	NIRC	193 MR. VISHAL KANTIBHAI SONDAGAR	ACS - 46166	WIRC
126 MS. SONIA RAWAT	ACS - 46099	NIRC	194 MR. SANJAY KANHAIYALAL GUPTA	ACS - 46167	WIRC
127 MR. GAGAN ARORA	ACS - 46100	NIRC	195 MS. NIMITA RAJEN DAMANI	ACS - 46168	WIRC
128 MS. NIDHI SHARMA	ACS - 46101	NIRC	196 MS. AMI DHARMENDRA PUROHIT	ACS - 46169	WIRC
129 MR. MOHIT KESARWANI	ACS - 46102	NIRC	197 MS. SHALMALI NITIN MOKASHI	ACS - 46170	WIRC
130 MS. JAYA VERMA	ACS - 46103	NIRC	198 MS. PRATHIBHA BARIKRAO DHONE	ACS - 46171	WIRC
131 MS. STAFFY KAPOOR	ACS - 46104	NIRC	199 MS. NIKITA KANUBHAI GALA	ACS - 46172	WIRC
132 MR. RAJ KUMAR	ACS - 46105	NIRC	200 MR. GAURAV AGRAWAL	ACS - 46173	WIRC
133 MR. V M UNNIKRISHNAN	ACS - 46106	SIRC	201 MS. SHWETA JAIN	ACS - 46174	WIRC
134 MS. SHRUTI RAWAT	ACS - 46107	NIRC	202 MR. ASHWIN BINJWA	ACS - 46175	WIRC
135 MS. SHELLY GUPTA	ACS - 46108	NIRC	203 MR. BABAN TAMRAKAR	ACS - 46176	WIRC
136 MS. SHIBA KUKREJA	ACS - 46109	NIRC	204 MS. DUHITA VIDYADHAR CHAKRADEO	ACS - 46177	WIRC
137 MR. SUMIT KUMAR	ACS - 46110	NIRC	205 MS. KUNJAL KIRAN PAREKH	ACS - 46178	WIRC
138 MR. ASHWINDER SINGH	ACS - 46111	NIRC	206 MS. KOMAL MITHILESH KHETAN	ACS - 46179	SIRC
139 MR. MOHIT BANSAL	ACS - 46112	NIRC	207 MR. MAYANK BHARGAVA	ACS - 46180	WIRC
140 MS. SHIVANI SAXENA	ACS - 46113	NIRC	208 MS. AKANKSHA GUPTA	ACS - 46181	WIRC
141 MR. GOPAL KANDPAL	ACS - 46114	NIRC	209 MR. BALKRISHNA OM PRAKASH TODI	ACS - 46182	WIRC
142 MS. BHUMIKA CHADHA	ACS - 46115	NIRC	210 MS. PAYAL NARENDRA VYAS	ACS - 46183	WIRC
143 MR. RAHUL YADAV	ACS - 46116	NIRC	211 MS. NAMRATA GIRISH VYAS	ACS - 46184	WIRC
144 MR. ARUN KUMAR	ACS - 46117	NIRC	212 MS. KAJAL JAYBHAI SHAH	ACS - 46185	WIRC
145 MS. ANJLI	ACS - 46118	NIRC	213 MS. NAYAN PANDYA	ACS - 46186	WIRC
146 MS. NIKETA SETHI	ACS - 46119	NIRC	214 MS. KARISHMA KAKKAR	ACS - 46187	WIRC
147 MR. LAKSHIT MEHTA	ACS - 46120	NIRC	215 MS. NISHA KRUSHNSINH JADEJA	ACS - 46188	WIRC
148 MS. PALLAVI SHARMA	ACS - 46121	NIRC	216 MS. DISHA VIKRAMBHAI PATEL	ACS - 46189	WIRC
149 MR. RAHUL SHARMA	ACS - 46122	NIRC	217 MS. NAMRATA ROMIL RATHI	ACS - 46190	WIRC
150 MS. EKTA MUNDHRA	ACS - 46123	NIRC	218 MR. SUNASARA ABBASALI RAHIMBHAI	ACS - 46191	WIRC
151 MS. KARISHMA JAIN	ACS - 46124	NIRC	219 MS. RACHANA ROHIDAS NAGVENKAR	ACS - 46192	WIRC
152 MS. SHIVANI GHATALIYA	ACS - 46125	NIRC	220 MS. DHWANI JAGDISH CHHEDA	ACS - 46193	WIRC
153 MS. MANISHA SWAMI	ACS - 46126	WIRC	221 MS. KSHIRSAGAR SRUSHTI PRAMOD	ACS - 46194	WIRC
154 MS. TANVI MALHOTRA	ACS - 46127	NIRC	222 MR. AMBER DURGESH KESHARWANI	ACS - 46195	WIRC
155 MR. AJAY KUMAR JHA	ACS - 46128	NIRC	223 MS. CHITRA SHRIDHAR	ACS - 46196	WIRC
156 MS. VAISHALI MATHPAL	ACS - 46129	NIRC	224 MR. KARMIT HARIBHADRABHAI SHETH	ACS - 46197	WIRC
157 MS. RAVEENA TANDON	ACS - 46130	NIRC	225 MR. KULDEEP DHAPKARI	ACS - 46198	WIRC
158 MS. NIKITA GUPTA	ACS - 46131	NIRC	226 MS. ENA LALWANI	ACS - 46199	WIRC
159 MR. PUNEET VERMA	ACS - 46132	NIRC	227 MS. DEEPTI JAIN	ACS - 46200	WIRC
160 MS. KOMAL KHURANA	ACS - 46133	NIRC	228 MS. SHIKHA KHANDELWAL	ACS - 46201	WIRC
161 MR. GURUPDESH SINGH	ACS - 46134	NIRC	229 MS. PATEL JEEL HARESHBHAI	ACS - 46202	WIRC
162 MS. KRITI AGARWAL	ACS - 46135	NIRC	230 MR. KUSH PRABHAKAR	ACS - 46203	WIRC
163 MS. SWATI AGARWAL	ACS - 46136	NIRC	231 MS. ANSHIKA GOYAL	ACS - 46204	WIRC
164 MR. ANSHUL NENAWATI	ACS - 46137	NIRC	232 MR. ANSHUL JAIN	ACS - 46205	WIRC
165 MR. RAJENDRA GOUR	ACS - 46138	NIRC	233 MS. JASMEET KAUR SALUJA	ACS - 46206	WIRC
166 MS. SHALINI TALWAR	ACS - 46139	NIRC	234 MS. ASHA RAMBAHADUR RATHOR	ACS - 46207	WIRC
167 MR. HIMANSHU AGARWAL	ACS - 46140	NIRC	235 MS. ANKITA THUKRAL	ACS - 46208	WIRC
168 MR. SHIKHAR AGARWAL	ACS - 46141	NIRC	236 MS. PRAJAKTA SANJIV PATIL	ACS - 46209	WIRC
169 MS. DIXIT SANEJA	ACS - 46142	NIRC	237 MS. DIVYA PRITANGIRI GOSWAMI	ACS - 46210	WIRC
170 MS. SANGEETA TAMBOLI	ACS - 46143	NIRC	238 MR. GHETIA DHAVALKUMAR PARESHBHAI	ACS - 46211	WIRC
171 MR. GIRISH NAGAR	ACS - 46144	NIRC	239 MR. ANKIT DUBEY	ACS - 46212	WIRC
172 MS. PRIYANKA RANA	ACS - 46145	NIRC	240 MS. KINARIWALA STUTI KALPESHKUMAR	ACS - 46213	WIRC
173 MR. MANKALA SHARATH CHANDRA	ACS - 46146	SIRC	241 MS. MISHIKA CHHABRA	ACS - 46214	WIRC
174 MS. MANASA MP	ACS - 46147	SIRC	242 MR. MADHAV SRIVASTAVA	ACS - 46215	NIRC
175 MS. ARUNDHATI DINESH	ACS - 46148	SIRC	243 MR. BHARAT M JOSHI	ACS - 46216	WIRC
176 MR. ARANKAL SHIVAKUMAR GURUPADAPPA	ACS - 46149	SIRC	244 MS. NEHA DHANDHANIA	ACS - 46217	EIRC
177 MR. NARASIMHARAJU O R	ACS - 46150	SIRC	245 MS. MONIKA CHORARIA	ACS - 46218	SIRC
178 MS. PRATIMA GOTTUMUKKALA	ACS - 46151	SIRC	246 MS. REENA JOSHI	ACS - 46219	WIRC
179 MS. SHWETA VYAS	ACS - 46152	SIRC	247 MS. SANDHYA RAGHAVAN	ACS - 46220	SIRC

248	MS. SWETA VIPINCHANDRA SAWANT	ACS - 46221	WIRC	315	MS. MEMON AKSHABANU MOHMEDHUSAIN	ACS - 46288	WIRC
249	MR. VEERASH MYSORE JAGADISH	ACS - 46222	SIRC	316	MS. NEHA MAHESHWARI	ACS - 46289	WIRC
250	MR. VENKATESH C	ACS - 46223	SIRC	317	MS. P MANICKAVALLI	ACS - 46290	SIRC
251	MR. SUROJIT BHUMIJ	ACS - 46224	EIRC	318	MR. PUNEET MUNDRA	ACS - 46291	NIRC
252	MS. VRUSHA PATEL	ACS - 46225	WIRC	319	MS. PRITI SAXENA	ACS - 46292	WIRC
253	MS. AKANSHA JAIN	ACS - 46226	NIRC	320	MR. VIKAS BABU SINGH PANWAR	ACS - 46293	WIRC
254	MS. NEHA GUPTA	ACS - 46227	NIRC	321	MS. NITIKA GUPTA	ACS - 46294	EIRC
255	MS. BHAWINI LODHA	ACS - 46228	NIRC	322	MS. PARUL ANUJ DADHIGH	ACS - 46295	WIRC
256	MR. SATNAM SINGH SANGAR	ACS - 46229	EIRC	323	MS. PREETI TAYAL	ACS - 46296	NIRC
257	MS. AASTHA BEHL	ACS - 46230	NIRC	324	MS. AAYUSHI AGRAWAL	ACS - 46297	SIRC
258	MR. NARESH KUMAR	ACS - 46231	NIRC	325	MR. MOHIT SACHDEVA	ACS - 46298	NIRC
259	MS. VARSHA CHIDAMBER PATHAK	ACS - 46232	SIRC	326	MS. AFSAR JAHAN	ACS - 46299	NIRC
260	MS. ISHARATHUNNISA BEGUM	ACS - 46233	SIRC	327	MS. SANSKRITI GAUR	ACS - 46300	NIRC
261	MR. DODDAPANENI SATWIK	ACS - 46234	SIRC	328	MR. PRAVEEN GOPALKRISHNA HEGDE	ACS - 46301	SIRC
262	MR. VIRAL HARESHBHAJ THAKRAR	ACS - 46235	WIRC	329	MS. AAKANKSHA	ACS - 46302	NIRC
263	MS. LOHITA JAGDISHCHANDRA KHAIRNAR	ACS - 46236	WIRC	330	MS. NIDA SIDDIQUI	ACS - 46303	EIRC
264	MR. ABU SUFYAN NISAR AHMED	ACS - 46237	WIRC	331	MR. KUSH KISHOREKUMAR BHATT	ACS - 46304	WIRC
265	MS. SUNAYANA PURI	ACS - 46238	NIRC	332	MR. RONAKKUMAR NARENDRABHAI LALWANI	ACS - 46305	WIRC
266	MS. ANNU AGARWAL	ACS - 46239	EIRC	333	MS. AKANKSHA KOTWANI	ACS - 46306	WIRC
267	MR. AVIJEET PATTANAIAK	ACS - 46240	EIRC	334	MR. KULDEEP SINGH RATHORE	ACS - 46307	WIRC
268	MR. RADHE SHYAM JANGID	ACS - 46241	NIRC	335	MR. DENNIS	ACS - 46308	SIRC
269	MS. RITU KHURANA	ACS - 46242	NIRC	336	MR. SANDEEP AHUJA	ACS - 46309	NIRC
270	MR. GAUTAM KUMAR	ACS - 46243	NIRC	337	MS. GARGI MUKHERJEE	ACS - 46310	EIRC
271	MS. VANYA YADAV	ACS - 46244	NIRC	338	MR. AMIT PODDAR	ACS - 46311	EIRC
272	MS. PRIYANKA KAKHANI	ACS - 46245	NIRC	339	MR. PRIYARUP MUKHERJEE	ACS - 46312	EIRC
273	MS. NIKITA JAIN	ACS - 46246	NIRC	340	MR. SUMIT KUMAR	ACS - 46313	EIRC
274	MR. LOKESH SHARMA	ACS - 46247	NIRC	341	MR. NAVIN KUMAR BHIWANIWALA	ACS - 46314	EIRC
275	MS. SHIPALI GUPTA	ACS - 46248	NIRC	342	MS. AYESHA SIDDIQUE	ACS - 46315	EIRC
276	MR. SIDHANT GOYAL	ACS - 46249	NIRC	343	MR. VIKASH KUMAR	ACS - 46316	EIRC
277	MS. RITU GARG	ACS - 46250	NIRC	344	MS. DEEPA BANSAL	ACS - 46317	EIRC
278	MR. T SRINIVASAN	ACS - 46251	SIRC	345	MR. NAVEEN JAISWAL	ACS - 46318	EIRC
279	MS. SAMAYAMANTULA SAROJINI	ACS - 46252	SIRC	346	MR. SANDEEP KUMAR PODDAR	ACS - 46319	EIRC
280	MR. SURESH CHANDRA NAINWAL	ACS - 46253	NIRC	347	MS. SNEHA KEWAT	ACS - 46320	EIRC
281	MS. MEENAKSHI GUPTA	ACS - 46254	EIRC	348	MR. ANIL YADAV	ACS - 46321	EIRC
282	MS. MONIKA MANNAN	ACS - 46255	NIRC	349	MS. NIKITA KOTHARI	ACS - 46322	EIRC
283	MS. DEEPTI JAYANT NIKAM	ACS - 46256	SIRC	350	MS. KIRAN GUPTA	ACS - 46323	EIRC
284	MS. VIDHI SHYAMSUNDAR JALAN	ACS - 46257	WIRC	351	MS. RASHI NAGORI	ACS - 46324	EIRC
285	MS. ARPITA NAND KUMAR JALNAWALA	ACS - 46258	WIRC	352	MR. VISHAL GARODIA	ACS - 46325	EIRC
286	MS. ITISHREE GARG	ACS - 46259	WIRC	353	MS. PAPIYA BANERJEE	ACS - 46326	EIRC
287	MR. PRAVEEN RAMKISHOR SIKCHI	ACS - 46260	WIRC	354	MS. JYOTI BHARTIA	ACS - 46327	EIRC
288	MR. SONU TIWARI	ACS - 46261	EIRC	355	MS. PRIYANKA RAWAT	ACS - 46328	EIRC
289	MR. SACHIN KUMAR SINGH	ACS - 46262	EIRC	356	MS. BANDANA SAHA	ACS - 46329	EIRC
290	MS. ANKITA RATHI	ACS - 46263	EIRC	357	MR. RITESH KUMAR SINGH	ACS - 46330	EIRC
291	MRS. SHIPRA DEVGUN	ACS - 46264	NIRC	358	MS. PRIYANKA MUNDHRA	ACS - 46331	EIRC
292	MS. POONAM SHARMA	ACS - 46265	NIRC	359	MS. ANJALI RAJ KHATNANI	ACS - 46332	EIRC
293	MR. ABHINAV AGARWAL	ACS - 46266	NIRC	360	MS. PALLAVI SINGH	ACS - 46333	EIRC
294	MS. SUPREET KAUR	ACS - 46267	NIRC	361	MS. NISHU KAKKAR	ACS - 46334	EIRC
295	MS. KIRTIKA BHARDWAJ	ACS - 46268	NIRC	362	MS. RICHA ARORA	ACS - 46335	NIRC
296	MR. DHEERAJ KUMAR PANDEY	ACS - 46269	NIRC	363	MR. RAJESH GAMBHIR	ACS - 46336	NIRC
297	MS. ALISHA WADHWA	ACS - 46270	NIRC	364	MR. HARSH SEHRAWAT	ACS - 46337	NIRC
298	MR. OM PRAKASH SHARMA	ACS - 46271	NIRC	365	MR. MANAN KHERA	ACS - 46338	NIRC
299	MS. RIDHIMA AHUJA	ACS - 46272	NIRC	366	MS. SRIPARNA DAS	ACS - 46339	NIRC
300	MR. JATIN BAJAJ	ACS - 46273	NIRC	367	MR. NIKHIL BHARGAVA	ACS - 46340	NIRC
301	MR. ASHISH KUMAR GUPTA	ACS - 46274	NIRC	368	MS. SHILPI ROY	ACS - 46341	NIRC
302	MS. DOLLY SHARMA	ACS - 46275	NIRC	369	MS. ANKITA NATANI	ACS - 46342	NIRC
303	MS. CHHAVI JASORIA	ACS - 46276	NIRC	370	MS. LAVISHA BANSAL	ACS - 46343	NIRC
304	MR. CHANDER MOHAN AGGARWAL	ACS - 46277	NIRC	371	MS. BHARTI KHANDELWAL	ACS - 46344	NIRC
305	MR. PUSHKAR LAL JAT	ACS - 46278	NIRC	372	MR. PARDEEP KUMAR	ACS - 46345	NIRC
306	MR. NAVEEN KUMAR	ACS - 46279	NIRC	373	MS. KAVITA DHINGRA	ACS - 46346	NIRC
307	MR. PRAVENDRA KUMAR PAL	ACS - 46280	WIRC	374	MS. PREETI BHARDWAJ	ACS - 46347	NIRC
308	MS. ASMI AMEY GADGIL	ACS - 46281	WIRC	375	MS. SONU GOEL	ACS - 46348	NIRC
309	MR. BALAWANT SINGH	ACS - 46282	WIRC	376	MS. BHARTI SHARMA	ACS - 46349	NIRC
310	MR. ANUP VISHWAKARMA	ACS - 46283	WIRC	377	MS. SIDDHI PAREEK	ACS - 46350	NIRC
311	MR. MAKWANA ALPESH SOMJIBHAI	ACS - 46284	WIRC	378	MR. ABHISHEK GOSWAMI	ACS - 46351	NIRC
312	MR. SUMIT SHIVHARE	ACS - 46285	WIRC	379	MS. ANU SHARMA	ACS - 46352	NIRC
313	MS. NIKITA BANSAL	ACS - 46286	WIRC	380	MS. SHAILY GUPTA	ACS - 46353	NIRC
314	MS. HAZLIN BLANY DSOUZA	ACS - 46287	WIRC	381	MS. POOJA JAIN	ACS - 46354	NIRC

382	MS. GULRAJ KAUR	ACS - 46355	NIRC	449	MR. TARUN PRAVIN BANODE	ACS - 46422	WIRC
383	MR. MOHIT SINGH KHARAYAT	ACS - 46356	NIRC	450	MR. ANKIT JAIN	ACS - 46423	WIRC
384	MS. RUSHITA JAIN	ACS - 46357	NIRC	451	MR. MANISH SINGH PAYAL	ACS - 46424	NIRC
385	MS. NITU	ACS - 46358	NIRC	452	MR. GIRISH AGRAWAL	ACS - 46425	WIRC
386	MS. AAKRITI AGARWAL	ACS - 46359	NIRC	453	DR. LAKSHMI MANEAN	ACS - 46426	SIRC
387	MS. ADITI SHARMA	ACS - 46360	NIRC	454	MR. CHANDAN ARORA	ACS - 46427	NIRC
388	MS. ANJALI SINGH	ACS - 46361	WIRC	455	MS. SONAM AGARWAL	ACS - 46428	EIRC
389	MS. ARBINA FATIMA	ACS - 46362	NIRC	456	MR. AVINASH RAJU V	ACS - 46429	EIRC
390	MS. DIVYA AGARWAL	ACS - 46363	NIRC	457	MS. MRINALINI CHAUDHURI	ACS - 46430	EIRC
391	MS. BHUMIKA MAKHIJA	ACS - 46364	NIRC	458	MR. SATISH KUMAR THAKUR	ACS - 46431	EIRC
392	MS. KIRAN SHARMA	ACS - 46365	NIRC	459	MR. ARIJIT GHOSH	ACS - 46432	EIRC
393	MS. ADITI YADAV	ACS - 46366	NIRC	460	MS. KHUSHBOO RUSTAGI	ACS - 46433	EIRC
394	MR. MAHAVEER JAIN	ACS - 46367	SIRC	461	MS. JAYA PATHAK	ACS - 46434	EIRC
395	MR. KANNAN R	ACS - 46368	SIRC	462	MR. ANURAG GUPTA	ACS - 46435	EIRC
396	MR. SIDDHARTH DUBEY	ACS - 46369	SIRC	463	MS. SHALU KATHURIA	ACS - 46436	EIRC
397	MS. J DHANYA	ACS - 46370	SIRC	464	MS. PUJA RATHI	ACS - 46437	EIRC
398	MR. KARTHISWARAN A	ACS - 46371	SIRC	465	MS. HIRAL SANJAY DESAI	ACS - 46438	EIRC
399	MS. NEETHA MURTHY H N	ACS - 46372	SIRC	466	MR. YOGESH KUMAR SHARMA	ACS - 46439	NIRC
400	MR. K SURIYANARAYANAN	ACS - 46373	SIRC	467	MS. RITIKA KHANNA	ACS - 46440	NIRC
401	MS. HITA KISHORBHAI VADGAMA	ACS - 46374	WIRC	468	MS. TRISHNA CHOUDHARY	ACS - 46441	NIRC
402	MR. HARSH KAMAL SANTHARA	ACS - 46375	WIRC	469	MR. PARMA JAIN	ACS - 46442	NIRC
403	MS. URVI MINESH SHAH	ACS - 46376	WIRC	470	MR. ASHISH	ACS - 46443	NIRC
404	MR. KEDAR MUKUL MENDJOGE	ACS - 46377	WIRC	471	MS. MAMTA TIWARI	ACS - 46444	NIRC
405	MS. KHUSHBU RAMLAL SUTHAR	ACS - 46378	WIRC	472	MS. PREETI SINGH	ACS - 46445	NIRC
406	MR. SHREE KRISHNA VIJAY JOSHI	ACS - 46379	WIRC	473	MS. SURABHI GUPTA	ACS - 46446	NIRC
407	MR. SHRIRAM DILIP PADHYE	ACS - 46380	WIRC	474	MS. SANDHYA	ACS - 46447	NIRC
408	MR. DHAVAL NARESH BHAI DARJI	ACS - 46381	WIRC	475	MS. JYOTI KUMARI	ACS - 46448	NIRC
409	MR. AMAR VINOD DEDHIA	ACS - 46382	WIRC	476	MS. KOMAL	ACS - 46449	NIRC
410	MS. DHARA Udit SHAH	ACS - 46383	WIRC	477	MS. KRATI AGARWAL	ACS - 46450	NIRC
411	MR. SHYAMRAO RAMCHANDRA DHARGALKAR	ACS - 46384	WIRC	478	MS. AKANKSHA MODI	ACS - 46451	NIRC
412	MS. PRATHAMA NITIN GANDHI	ACS - 46385	WIRC	479	MS. SHIVANI	ACS - 46452	NIRC
413	MS. JYOTI VINODKUMAR AGARWAL	ACS - 46386	WIRC	480	MS. RIDDHI SHARMA	ACS - 46453	NIRC
414	MS. DIMPLE RAMESHBHAI PIPALIYA	ACS - 46387	WIRC	481	MS. RENU JAIN	ACS - 46454	NIRC
415	MS. SNEHAL SHIVRAJ BOKKE	ACS - 46388	WIRC	482	MS. SONALI JAIN	ACS - 46455	NIRC
416	MR. PARESH PRABHAKAR BELULKAR	ACS - 46389	WIRC	483	MS. SOHALE GUPTA	ACS - 46456	NIRC
417	MS. SHRISHTI NAROTTAM GADIA	ACS - 46390	WIRC	484	MS. ISHRAT GILL	ACS - 46457	NIRC
418	MS. BHAVNA RAMESH FATNANI	ACS - 46391	WIRC	485	MR. VAIBHAV GUPTA	ACS - 46458	NIRC
419	MR. BHARGAV SAMIR VYAS	ACS - 46392	WIRC	486	MS. CHANCHAL GROVER	ACS - 46459	NIRC
420	MS. BHUMIKA VIJAY KUMAR PUNJABI	ACS - 46393	WIRC	487	MS. TRIPTI ARORA	ACS - 46460	NIRC
421	MS. BINITA MAYUR PATEL	ACS - 46394	WIRC	488	MS. TANUSHREE JAIN	ACS - 46461	NIRC
422	MS. SRISHTI SONI	ACS - 46395	WIRC	489	MS. PRIYANKA RANI	ACS - 46462	NIRC
423	MR. ISHAN VINOD TAKALKAR	ACS - 46396	WIRC	490	MS. RAMA SHARMA	ACS - 46463	NIRC
424	MS. BHALALA KHUSHBOO AMITKUMAR	ACS - 46397	WIRC	491	MR. GOPAL DUTTA	ACS - 46464	EIRC
425	MS. PRIYA VIJAY BHAGAT	ACS - 46398	WIRC	492	MS. HARSHIKA AGRAWAL	ACS - 46465	NIRC
426	MR. SURENDRA KUMAR	ACS - 46399	NIRC	493	MR. VINEET KUMAR	ACS - 46466	NIRC
427	MR. SHANKAR S	ACS - 46400	SIRC	494	MS. NEETU JOGANI	ACS - 46467	NIRC
428	MR. JYOTI PRAKASH DAS	ACS - 46401	WIRC	495	MS. SRILAKSHMI BALACHANDRAN	ACS - 46468	SIRC
429	MR. M ASIR RAJA SELVAN	ACS - 46402	SIRC	496	MS. PREETHI S	ACS - 46469	SIRC
430	MR. KUMAR N	ACS - 46403	SIRC	497	MR. K NARESH KUMAR	ACS - 46470	SIRC
431	MR. AMIT SHARMA	ACS - 46404	EIRC	498	MS. ASWATHY RADHAKRISHNAN	ACS - 46471	SIRC
432	MR. NEVIL CHARU AVLANI	ACS - 46405	WIRC	499	MS. A S SUPRIYA	ACS - 46472	SIRC
433	MS. TARVEEN KAUR BEDI	ACS - 46406	NIRC	500	MS. P JAGADEESWARI	ACS - 46473	SIRC
434	MS. SONAL ARVIND VAIDYA	ACS - 46407	WIRC	501	MS. PILLI INDRAJA	ACS - 46474	SIRC
435	MS. ARPITA DEBASINSH MITRA	ACS - 46408	WIRC	502	MR. SIVA KUMAR CHANDALURI	ACS - 46475	SIRC
436	MS. VIJAYLAXMI KEDIA	ACS - 46409	EIRC	503	MR. RAJENDRAN NAIR S	ACS - 46476	SIRC
437	MS. RITA JAGANANI	ACS - 46410	NIRC	504	MR. THADI PRAKUL	ACS - 46477	SIRC
438	MR. HEMANT KUMAR	ACS - 46411	NIRC	505	MS. RADHIKA RADHAKRISHNAN C R	ACS - 46478	SIRC
439	MS. RUCHI VERMA	ACS - 46412	NIRC	506	MS. MANISHA SHANKAR CHINDARKAR	ACS - 46479	WIRC
440	MS. REETIKA AGARWAL	ACS - 46413	WIRC	507	MR. PRASHANT BALASAHEB GAIKWAD	ACS - 46480	WIRC
441	MS. NIHARIKA GUPTA	ACS - 46414	NIRC	508	MS. DAMINI DALAL	ACS - 46481	WIRC
442	MS. PRITI CHHABRA	ACS - 46415	SIRC	509	MR. KETAV PRADEEP PIPALIYA	ACS - 46482	WIRC
443	MS. ARATHI S	ACS - 46416	SIRC	510	MR. MANOJ KUMAR SHIVPRASAD JI KALANI	ACS - 46483	WIRC
444	MR. CECIL SIMON	ACS - 46417	SIRC	511	MR. LAXMAN SHANKAR GAIKWAD	ACS - 46484	WIRC
445	MS. NAMAN VASUDEV PANDYA	ACS - 46418	WIRC	512	MR. ADITYA SANJAY JOSHI	ACS - 46485	WIRC
446	MS. TEENA RATHI	ACS - 46419	NIRC	513	MR. NIKHILRAJIV JOGLEKAR	ACS - 46486	WIRC
447	MS. NIDA BASHIR KHOT	ACS - 46420	WIRC	514	MS. RAVINA DEEPAK ATHWANI	ACS - 46487	WIRC
448	MS. SHARVARI MAHESH KAMAT	ACS - 46421	WIRC	515	MR. JIGAR KANAKCHANDRA TRIVEDI	ACS - 46488	WIRC

516 MS. RADHIKA VIVEK JOSHI	ACS - 46489	WIRC	583 MS. GUNJAN SINGHI	ACS - 46556	EIRC
517 MS. RASHI AGRAWAL	ACS - 46490	WIRC	584 MR. SUMIT JAIN	ACS - 46557	EIRC
518 MS. SUZETTE RUTH PEREIRA	ACS - 46491	WIRC	585 MR. SOURABH CHITLANGIA	ACS - 46558	EIRC
519 MS. DHARA BHARAT UDESHI	ACS - 46492	WIRC	586 MS. SNEHA MURARKA	ACS - 46559	EIRC
520 MR. RAI ANAND JAYPRAKASH	ACS - 46493	WIRC	587 MS. KIRTY AGARWAL	ACS - 46560	EIRC
521 MR. CHENNA KESAVA CHEBROLU	ACS - 46494	SIRC	588 MS. ANKITA PAREEK	ACS - 46561	EIRC
522 MR. SANTOSH KUMAR JAIN	ACS - 46495	SIRC	589 MS. KUNIKA CHAINANI	ACS - 46562	NIRC
523 MS. MEENAKSHI	ACS - 46496	NIRC	590 MR. PRATHAM KHURANA	ACS - 46563	NIRC
524 MS. PRASHASTI TRIPATHI	ACS - 46497	NIRC	591 MS. MAHIMA AGRAWAL	ACS - 46564	NIRC
525 MS. JEYA PACKIAMANI	ACS - 46498	SIRC	592 MS. AVINASH KAUR	ACS - 46565	NIRC
526 MS. VAISHNAVI SUBRAMANIA RAJA	ACS - 46499	SIRC	593 MS. JYOTI RANI	ACS - 46566	NIRC
527 MS. KAMIYA	ACS - 46500	NIRC	594 MS. HIMANI	ACS - 46567	NIRC
528 MS. SHEETAL SANJAY BRAHMBHATT	ACS - 46501	WIRC	595 MR. KAPIL KUKREJA	ACS - 46568	NIRC
529 MS. BHAWNA GUPTA	ACS - 46502	EIRC	596 MR. AMIT KUMAR KATHURIA	ACS - 46569	NIRC
530 MS. CHETNA SOOD	ACS - 46503	NIRC	597 MS. KANIKA GOEL	ACS - 46570	NIRC
531 MS. SWATI MAHESHWARI	ACS - 46504	NIRC	598 MS. NEHA TAHIR	ACS - 46571	NIRC
532 MR. RAJAT KUMAR GOYAL	ACS - 46505	NIRC	599 MS. NEHA VERMA	ACS - 46572	NIRC
533 MR. SAIPRASATH	ACS - 46506	SIRC	600 MS. SHIKHA NIRWAL	ACS - 46573	NIRC
534 MR. P BALASUBRAMANIAN	ACS - 46507	SIRC	601 MS. TANISHA GERA	ACS - 46574	NIRC
535 MR. SHINUMON K S	ACS - 46508	SIRC	602 MR. SAURABH KUMAR GOYAL	ACS - 46575	NIRC
536 MS. ANU GOPI	ACS - 46509	SIRC	603 MS. SHRUTI VERMA	ACS - 46576	NIRC
537 MS. RUBY MISHRA	ACS - 46510	WIRC	604 MS. KAMLA CHOUDHARY	ACS - 46577	NIRC
538 MR. BALAJI MAHADEV VYAVAHARE	ACS - 46511	WIRC	605 MS. PALLAVI CHHABRA	ACS - 46578	NIRC
539 MR. JINESH HIRENBHAI PAREKH	ACS - 46512	WIRC	606 MR. MOHIT SINGLA	ACS - 46579	NIRC
540 MR. THARU RAJESH LAXMAN	ACS - 46513	WIRC	607 MS. ABHISHREE VAJJAPURKAR	ACS - 46580	NIRC
541 MR. KRISHNA MOHAN TP KURPAD	ACS - 46514	SIRC	608 MS. SAMRIDHI AGARWAL	ACS - 46581	NIRC
542 MR. MANOJ KUMAR YADAV	ACS - 46515	WIRC	609 MS. MANEPALLI MANISHA	ACS - 46582	SIRC
543 MS. DEEPIKA KAMLESH TODI	ACS - 46516	WIRC	610 MR. SHANKARANARAYANAN V	ACS - 46583	SIRC
544 MR. JOGAJYOTI PRADHAN	ACS - 46517	EIRC	611 MS. ADIMULAM KALA	ACS - 46584	SIRC
545 MS. ARUNITA CHOUDHURY	ACS - 46518	EIRC	612 MR. GUVVALA BABU REDDY	ACS - 46585	SIRC
546 MS. CHANCHAL GOYAL	ACS - 46519	EIRC	613 MS. SURUCHI JAIN V	ACS - 46586	SIRC
547 MR. MANISH LOYALKA	ACS - 46520	EIRC	614 MS. MARIYAM SHAFFANA R	ACS - 46587	SIRC
548 MS. NEHA DAMANI	ACS - 46521	EIRC	615 MR. VIJU VINCENT K	ACS - 46588	SIRC
549 MR. ANKUR SOMANI	ACS - 46522	NIRC	616 MS. SHREYA K	ACS - 46589	SIRC
550 MR. HIMANSHU MAHENDRU	ACS - 46523	NIRC	617 MR. SANDEEP BALU SHEDBALE	ACS - 46590	WIRC
551 MS. APOORVA MEHTA	ACS - 46524	NIRC	618 MS. MANISHA SONI	ACS - 46591	WIRC
552 MS. BHANVI MANCHANDA	ACS - 46525	NIRC	619 MS. ADITI DIVYESHKUMAR BHAVSAR	ACS - 46592	WIRC
553 MR. LALIT MOHAN	ACS - 46526	NIRC	620 MS. SMRUTI SUDHAKAR DEHERKAR	ACS - 46593	WIRC
554 MS. SONAM KHARBANDA	ACS - 46527	NIRC	621 MS. MEHA BHAGIRATH MURARKA	ACS - 46594	WIRC
555 MS. SURBHI SAXENA	ACS - 46528	NIRC	622 MS. SWATI RAJUBHAI THAKREL	ACS - 46595	WIRC
556 MS. SAAXSHI KOTHARI	ACS - 46529	NIRC	623 MS. BHAKTI SANJAY WAZARKAR	ACS - 46596	WIRC
557 MR. SUNIL MANGLA	ACS - 46530	NIRC	624 MS. ADITI AJIT BHIDE	ACS - 46597	WIRC
558 MS. MEENU KHANDELWAL	ACS - 46531	NIRC	625 MS. RASHMI SHRINIWAS MALU	ACS - 46598	WIRC
559 MR. AMAN JAIN	ACS - 46532	NIRC	626 MS. DIMPY MUKUND THAKKAR	ACS - 46599	WIRC
560 MR. ANKUSH KUMAR GUPTA	ACS - 46533	NIRC	627 MS. NAINA RAJAT KUMAR KANAGAT	ACS - 46600	WIRC
561 MR. GANDHARV KHANDELWAL	ACS - 46534	NIRC	628 MS. HRUCHA MILIND DHAMDHERE	ACS - 46601	WIRC
562 MS. JYOTI SHARMA	ACS - 46535	NIRC	629 MS. SHIVANI KAMLESH SHAH	ACS - 46602	WIRC
563 MR. NARESH KUMAR PUTREUV	ACS - 46536	SIRC	630 MS. CHHAYA LAKHMANI	ACS - 46603	WIRC
564 MS. SRIDEVI SRINIVASAN	ACS - 46537	SIRC	631 MR. SUMIT SAHGAL	ACS - 46604	EIRC
565 MS. SHWETA SUBRAMANIAN	ACS - 46538	WIRC	632 MR. SUMIT SONI	ACS - 46605	EIRC
566 MRS. SWATI KSHITIJ DHEDIA	ACS - 46539	WIRC	633 MS. EKTA KHERIA	ACS - 46606	EIRC
567 MR. ROHIT JAGDISH ASRANI	ACS - 46540	WIRC	634 MR. RAGHAVENDRA HERLE	ACS - 46607	SIRC
568 MS. CHAITALI MUKESHKUMAR PATEL	ACS - 46541	WIRC	635 MR. PRANAV MARU	ACS - 46608	WIRC
569 MR. ANKITKUMAR LAVJIBHAI TANK	ACS - 46542	WIRC	636 MR. HARDIK RAJNIKANT SHAH	ACS - 46609	WIRC
570 MS. ZARANA PANKAJ SONI	ACS - 46543	WIRC	637 MR. ANIKET ABHILASH KHADILKAR	ACS - 46610	WIRC
571 MS. URAVASHI DRAVENDRA KHANNA	ACS - 46544	WIRC	638 MR. JUGAL MUKESH BHAI VAZIR	ACS - 46611	WIRC
572 MR. JITENDRA KUMAR DAYAMA	ACS - 46545	NIRC	639 MR. SANDEEP VERMA	ACS - 46612	EIRC
573 MR. SANJAY JHINGAN	ACS - 46546	NIRC	640 MR. DIPROVAH GHOSH	ACS - 46613	EIRC
574 MR. ANIL SINGH NEGI	ACS - 46547	NIRC	641 MR. GAURAV KUMAR CHAUDHARY	ACS - 46614	EIRC
575 MS. BHANVI CHOUDHARY	ACS - 46548	NIRC	642 MS. NIDHI LOHARUKA	ACS - 46615	EIRC
576 MS. BARBIE SAURABH SINGH	ACS - 46549	WIRC	643 MS. KANIKA BAID	ACS - 46616	EIRC
577 MS. DEEPIKA KHUBSINGH RAIKWAR	ACS - 46550	WIRC	644 MS. SHILPA BAHETI	ACS - 46617	EIRC
578 MS. UDETI SUNIL GAJJAR	ACS - 46551	WIRC	645 MS. APARNA KOTHARI	ACS - 46618	EIRC
579 MS. MANSI UPENDRA MANIAR	ACS - 46552	WIRC	646 MS. SHIBOTOSH DUTTA CHOWDHURY	ACS - 46619	EIRC
580 MR. SAURABH ARVIND KHANORKAR	ACS - 46553	WIRC	647 MR. ARUN KUMAR	ACS - 46620	NIRC
581 MS. SWATI GIDRA	ACS - 46554	EIRC	648 MR. ASIM KUMAR MANDAL	ACS - 46621	NIRC
582 MS. CHINKY AGARWAL	ACS - 46555	EIRC	649 MR. RAJESH	ACS - 46622	NIRC

650	MR. ARPIT BASLAS	ACS - 46623	NIRC	718	MS. LAJJA MANOJ KUMAR MODHA	ACS - 46691	WIRC
651	MS. RAVEENA GAUTAM	ACS - 46624	NIRC	719	MS. K LAKSHMI	ACS - 46692	SIRC
652	MS. SWATI TIWARI	ACS - 46625	NIRC	720	MS. JAMBURI SHAILAJA	ACS - 46693	SIRC
653	MS. KHUSHBU GUPTA	ACS - 46626	NIRC	721	MS. M.S.ANANTHA LAKSHMI	ACS - 46694	SIRC
654	MS. DAKSHITA GARG	ACS - 46627	NIRC	722	MR. ARUN CHIMANLAL NILE	ACS - 46695	WIRC
655	MS. SHRADHA SHARMA	ACS - 46628	NIRC	723	MS. PRIYANKA VITTHAL MUNDRA	ACS - 46696	WIRC
656	MR. VINOD SINGH	ACS - 46629	NIRC	724	MR. PANKAJ RATHI	ACS - 46697	NIRC
657	MR. HARIOM	ACS - 46630	NIRC	725	MR. KUSH KUMAR	ACS - 46698	NIRC
658	MR. HARVINDER SINGH	ACS - 46631	NIRC	726	MR. MEETESH GIRISHBHAI SHIROYA	ACS - 46699	WIRC
659	MS. PAYAL AGGARWAL	ACS - 46632	NIRC	727	MR. SUALEHEEN	ACS - 46700	NIRC
660	MS. KANIKA BHATIA	ACS - 46633	NIRC	728	MS. KARTIKA KANKARIYA	ACS - 46701	NIRC
661	MS. PRATIMA KUMARI SINGH	ACS - 46634	NIRC	729	MS. BABY MARIA SHARON	ACS - 46702	SIRC
662	MR. JATIN BAJAJ	ACS - 46635	NIRC	730	MR. MAULIK JAYENDRAKUMAR MODI	ACS - 46703	WIRC
663	MS. NISHA SINGH	ACS - 46636	NIRC	731	MS. DUVVURI VENKATA PADMAJJA	ACS - 46704	SIRC
664	MS. PARUL SETHI	ACS - 46637	NIRC	732	MR. KAUSHIK NIRANJANLAL GOTHWAL	ACS - 46705	WIRC
665	MS. SHIVANGI MATHUR	ACS - 46638	NIRC	733	MR. SANJAY SADASHIV NAVLE	ACS - 46706	WIRC
666	MS. SADHNA SHARMA	ACS - 46639	NIRC	734	MS. ANURADHA RAMAKANT BELEKAR	ACS - 46707	WIRC
667	MR. SUSHANT BHALLA	ACS - 46640	NIRC	735	MS. RIMA HEMCHANDRA PATIL	ACS - 46708	WIRC
668	MR. KARAN SINGH	ACS - 46641	NIRC	736	MS. ADITI GARODIA	ACS - 46709	EIRC
669	MS. RITIKA AHUJA	ACS - 46642	NIRC	737	MR. RAHUL VERMA	ACS - 46710	NIRC
670	MS. NEHA MITTAL	ACS - 46643	NIRC	738	MS. MANISHA GAHLAN	ACS - 46711	NIRC
671	MS. STUTI TANEJA	ACS - 46644	NIRC	739	MR. RANJEET ROY	ACS - 46712	NIRC
672	MR. AVIRAL BHARGAVA	ACS - 46645	NIRC	740	MS. AANCHAL PRABHAKAR	ACS - 46713	NIRC
673	MR. MOHIT SONI	ACS - 46646	NIRC	741	MR. MAHESH BAWGE	ACS - 46714	SIRC
674	MR. GAURAV SHAH	ACS - 46647	NIRC	742	MS. REETU	ACS - 46715	NIRC
675	MS. TANISHA SHARMA	ACS - 46648	NIRC	743	MS. NEHA PAHWA	ACS - 46716	NIRC
676	MS. NEETIKA MATHUR	ACS - 46649	NIRC	744	MR. RAGHAV TRIPATHI	ACS - 46717	NIRC
677	MS. ISHITA SINHA	ACS - 46650	NIRC	745	MS. RAVEENA	ACS - 46718	NIRC
678	MR. PRAMOD KALRA	ACS - 46651	NIRC	746	MS. SHEETAL	ACS - 46719	NIRC
679	MS. RITU DHYANI	ACS - 46652	NIRC	747	MR. AMIT MOHTA	ACS - 46720	NIRC
680	MS. ANSHIMA	ACS - 46653	NIRC	748	MS. NEHA SHUKLA	ACS - 46721	NIRC
681	MS. RICHA BHATIA	ACS - 46654	NIRC	749	MS. MALVIKA JAGANT	ACS - 46722	NIRC
682	MS. NEHA DUBEY	ACS - 46655	NIRC	750	MR. APOORV SRIVASTAV	ACS - 46723	NIRC
683	MS. SHIKHA MUNJAL	ACS - 46656	NIRC	751	MR. BINNY CHOPRA	ACS - 46724	NIRC
684	MS. SAKSHI MANGLANI	ACS - 46657	NIRC	752	MS. RICHA AGARWAL	ACS - 46725	NIRC
685	MR. VINAY ANAND	ACS - 46658	NIRC	753	MS. MEENU PAPREJA	ACS - 46726	NIRC
686	MS. MEHAK NAYYAR	ACS - 46659	NIRC	754	MS. AAKANSHA DHINGRA	ACS - 46727	NIRC
687	MR. SHOBBIT KUMAR KUSHWAHA	ACS - 46660	NIRC	755	MS. SHILPA B M	ACS - 46728	SIRC
688	MR. JITESH SADHWANI	ACS - 46661	NIRC	756	MR. SHREYAS VILAS PONKSHE	ACS - 46729	WIRC
689	MS. RUPA BISHT	ACS - 46662	NIRC	757	MS. VIDYADEVI VISHWANATH PATTANAYAK	ACS - 46730	WIRC
690	MS. KIRTI SHARMA	ACS - 46663	NIRC	758	MS. KOTHARI MITTALBEN VAIKUNTHBHAI	ACS - 46731	WIRC
691	MS. ASHU DHIMAN	ACS - 46664	NIRC	759	MR. VARUN RAJNIKANT BATRA	ACS - 46732	WIRC
692	MR. NIKHIL SINGH	ACS - 46665	NIRC	760	MR. SAGAR RAJENDRA MODVE	ACS - 46733	WIRC
693	MR. MAYANK PRATAP SINGH	ACS - 46666	NIRC	761	MR. RAHUL KHARBANDA	ACS - 46734	NIRC
694	MS. AARTI JAIN	ACS - 46667	NIRC	762	MS. SUNITA SHARMA	ACS - 46735	NIRC
695	MS. TANVI SARAF	ACS - 46668	NIRC	763	MS. SHUBHI NARESH AGRAWAL	ACS - 46736	WIRC
696	MS. NEELAM JAIN	ACS - 46669	NIRC	764	MR. SATYAVEER	ACS - 46737	NIRC
697	MS. KAJAL JAIN	ACS - 46670	NIRC	765	MS. EKTA BHARGAVA	ACS - 46738	NIRC
698	MS. SHIKHA AGARWAL	ACS - 46671	NIRC	766	MR. HEMANT KUMAR	ACS - 46739	NIRC
699	MR. LOHITH K N	ACS - 46672	SIRC	767	MR. GOPAL	ACS - 46740	NIRC
700	MS. B TARUNI	ACS - 46673	SIRC	768	MR. PRAVEEN KUMAR	ACS - 46741	NIRC
701	MS. SAPNA JAIN	ACS - 46674	SIRC	769	MS. DEEPA SHREE PARIHAR	ACS - 46742	NIRC
702	MS. DEVYANI RAJUBHAI KORPE	ACS - 46675	WIRC	770	MR. ANKIT DAGA	ACS - 46743	NIRC
703	MS. SUPRIYA VIJAY UTEKAR	ACS - 46676	WIRC	771	MR. ADIVENKATARAMA RAJANEDI	ACS - 46744	SIRC
704	MR. SWAPNIL KIRAN THATTE	ACS - 46677	WIRC	772	MS. PRIYANKA I MISSER	ACS - 46745	SIRC
705	MR. MUKESH BHAWAR LAL UNECHA	ACS - 46678	WIRC	773	MS. POOJA KETAN SHAH	ACS - 46746	WIRC
706	MS. SHAH DARSHITA RAMESHBHAI	ACS - 46679	WIRC	774	MR. DIPEN ASHIT DALAL	ACS - 46747	WIRC
707	MS. MEENAKSHI MISHRA	ACS - 46680	NIRC	775	MS. BHASWATI ROY CHOUDHURY	ACS - 46748	EIRC
708	MR. NEELABH KAUSHIK	ACS - 46681	WIRC	776	MS. SUSHMITA CHAKRABORTY	ACS - 46749	EIRC
709	MS. NEELAM MOHANLAL GURBAXANI	ACS - 46682	WIRC	777	MS. SWETA RAMPURIA	ACS - 46750	EIRC
710	MR. GANDHI KARAN BANKIMBHAI	ACS - 46683	WIRC	778	MS. NIHARIKA GUPTA	ACS - 46751	EIRC
711	MS. HETAL TEJASH LODHIYA	ACS - 46684	WIRC	779	MS. PUJA SARAF	ACS - 46752	EIRC
712	MR. SMIT ANADAJI TANK	ACS - 46685	WIRC	780	MS. KHUSBOO PRASAD	ACS - 46753	EIRC
713	MR. MITHAIWALA RAHUL SURENDRABHAI	ACS - 46686	WIRC	781	MR. ANKUR AWASTHI	ACS - 46754	NIRC
714	MS. RASHMI JAGDISHBHAI PATEL	ACS - 46687	WIRC	782	MS. SWATI GARG	ACS - 46755	NIRC
715	MR. NITINBHAI JASHUBHAI MISTRY	ACS - 46688	WIRC	783	MS. TARA RAWAT	ACS - 46756	NIRC
716	MS. PALAK AJAY THAKKAR	ACS - 46689	WIRC	784	MS. YASHIKA ARORA	ACS - 46757	NIRC
717	MS. SONIA OMPRAKASH CHHAJER	ACS - 46690	WIRC	785	MR. MUKESH KUMAR SHARMA	ACS - 46758	NIRC

786	MR. RISUL AGARWAL	ACS - 46759	NIRC	7	A	3960	A S CASTELINO	WIRC	
787	MS. VANDANA JHINJHERIA	ACS - 46760	NIRC	8	A	29671	RENUKA M C	SIRC	
788	MR. ASHUTOSH SHUKLA	ACS - 46761	NIRC	9	A	12198	SUBRATA KUMAR NAG	SIRC	
789	MS. KOMAL ANAND	ACS - 46762	NIRC	10	A	12906	RAJESH SOOD	NIRC	
790	MR. TARUN KUMAR ARORA	ACS - 46763	NIRC	11	A	19225	MADHURI METKAR DALAL	WIRC	
791	MS. JYOTI GARG	ACS - 46764	NIRC	12	A	19966	RITESH CHOUDHRY	NIRC	
792	MR. RAHUL BHATIA	ACS - 46765	NIRC	13	A	37302	MADHUR SINGH	NIRC	
793	MS. POOJA SONI	ACS - 46766	NIRC	14	A	31578	PRIYANKA SHARMA	WIRC	
794	MS. PRIYANKA BANGARI	ACS - 46767	NIRC	15	A	21778	POONAM AGARWAL	EIRC	
795	MS. JUHI MADAN	ACS - 46768	NIRC	16	A	36160	KHUSHBOO VINOD KUMAR SHAH	WIRC	
796	MS. DIVITA SAHAI	ACS - 46769	NIRC	17	A	24710	MONICA PASRICHA	SIRC	
797	MR. JASPREET SINGH MAKKER	ACS - 46770	NIRC	18	F	3331	MANABENDRA SARMA DEVA	EIRC	
798	MR. AJAY AGRAWAL	ACS - 46771	NIRC	19	A	15773	S NANDAKUMARAN	SIRC	
799	MS. SONI	ACS - 46772	NIRC	20	A	27075	AKSHAY SATYAVIJAY RANJANIKAR	WIRC	
800	MR. SACHIN MAVI	ACS - 46773	NIRC	21	A	22370	VIMAL TANK	NIRC	
801	MS. BHARTI KASHYAP	ACS - 46774	NIRC	22	A	38509	KANIKA	NIRC	
802	MS. GARIMA GAUTAM	ACS - 46775	NIRC	23	A	30706	AZEEM TARIQ KHAN	WIRC	
803	MS. SONAL TANEJA	ACS - 46776	NIRC	24	A	37696	RICHA BHOLA	NIRC	
804	MS. ADITI AGARWAL	ACS - 46777	NIRC	25	A	11133	RAJIVE BANSAL	NIRC	
805	MS. NIMISHA DADHICH	ACS - 46778	NIRC	26	A	34504	SUMAN BHANDARI	NIRC	
806	MS. MEGHA SINGH	ACS - 46779	NIRC	27	A	25100	SWATI SHINGHAL	NIRC	
807	MS. KOMAL SARDA	ACS - 46780	NIRC	28	A	33760	TWINKLE SALUJA	NIRC	
808	MS. BHARTI CHUGH	ACS - 46781	NIRC	29	A	31495	MEGHANA EKANATH KASHTA	WIRC	
809	MS. PURNIMA BHASIN	ACS - 46782	NIRC	30	A	12442	G MUTHUKRISHNAN	SIRC	
810	MS. DISHA MAHESHWARI	ACS - 46783	NIRC	31	A	15765	S PADMANABHAN	SIRC	
811	MR. AMAN GUPTA	ACS - 46784	NIRC	32	A	33000	PRATHEMESHWANT APTE	WIRC	
812	MR. YOGI SRIVASTAVA	ACS - 46785	NIRC	33	A	25410	KAJAL GURNANI	NIRC	
813	MS. RICHA SHARMA	ACS - 46786	NIRC	34	A	38669	GHANSHYAM BINANI	EIRC	
814	MS. DISHA SAXENA	ACS - 46787	NIRC	35	A	30820	ARCHANA	NIRC	
815	MS. ELIZABETH MANUEL	ACS - 46788	SIRC	36	A	7729	TARSEM SINGH	F/NIRC	
816	MR. CHANDRA SHEKAR SRIRAMULU	ACS - 46789	SIRC	37	A	5378	MUHAMMAD R MULLICK	F/WIRC	
817	MR. RAVINDRA UTTURE	ACS - 46790	SIRC	38	A	34173	ANSHU BHANDARI	NIRC	
818	MR. DEEPAK KUMAR SAVALGE	ACS - 46791	WIRC	39	A	26940	SAI VINAYAK KHATRI	WIRC	
819	MR. VISHAL BASTIMAL JAIN	ACS - 46792	WIRC	40	A	32466	LALITASHARAN RAMESHCHANDRA PATHAK	WIRC	
820	MS. KHUSHBOO SIDDHARTH SHAH	ACS - 46793	WIRC	41	A	12960	SUSHIL KUMAR RATHI	EIRC	
821	MR. KRUNAL RAJENDRA KUMAR PUROHIT	ACS - 46794	WIRC	42	A	9192	T S JAGADHARINI	SIRC	
822	MS. DHARA MUKESH LAKHANI	ACS - 46795	WIRC	43	F	3217	DEEPAK JAGDISH ACHARYA	F/WIRC	
823	MS. SONAL LALJI NISAR	ACS - 46796	WIRC	44	F	1496	SUNDRAN KATHIRESAN	WIRC	
824	MS. ESHA PRAMOD KULKARNI	ACS - 46797	WIRC	45	F	4419	BIRESWAR CHAKRABORTY	EIRC	
825	MS. DEVANSHI SHAILESH PAREKH	ACS - 46798	WIRC	46	A	14257	G RAJESH	WIRC	
826	MS. DARSHNA RAJESH NEGANDHI	ACS - 46799	WIRC	47	A	17611	ANJU JAIN	F/EIRC	
827	MR. HEMANSHU ROHIT KUMAR UPADHYAY	ACS - 46800	WIRC	48	A	33788	SNEHLATA	NIRC	
828	MR. SHIBLEE SHABBIR KHAN	ACS - 46801	WIRC	49	A	37004	AARTI MAHENDRA KUMAR JAIN	WIRC	
829	MR. PARTH MURALIDHARAN NAIR	ACS - 46802	WIRC	50	A	8855	ARUN VIRMANI	NIRC	
830	MR. SULABH SINGH PARIHAR	ACS - 46803	WIRC	51	A	26911	KIRTI SHARMA	NIRC	
831	MS. ASHIKA ANAND SHETTY	ACS - 46804	WIRC	52	A	29681	KANIKA KHANDELWAL	WIRC	
832	MR. UMESHKUMAR SUDHAKAR VANI	ACS - 46805	WIRC	53	A	32025	KALAVATHI S	SIRC	
833	MR. BHAVIN JAGDISHBHAI WAGHELA	ACS - 46806	WIRC	54	A	13460	C R LAKSHMAN	F/WIRC	
834	MR. JIGAR KANTILAL JAIN	ACS - 46807	WIRC	55	F	1253	A P JAIN	NIRC	
835	MS. ISHITA PRAVIN SHAH	ACS - 46808	WIRC	56	A	9715	V KOTHANDARAMAN	WIRC	
836	MS. DHWANI JAYESH SHAH	ACS - 46809	WIRC	57	A	25422	DIPALI MAYUR PAREKH	WIRC	
837	MR. VRUSHANG PARESHBHAI SHAH	ACS - 46810	WIRC	58	A	16072	SAMTA	NIRC	
838	MS. KHUSHBOO KAMAL DHANUKA	ACS - 46811	WIRC	59	A	23284	VRUSHALI CHINMAY OAK	WIRC	
839	MS. ANKITA VINAYAK JOSHI	ACS - 46812	WIRC	60	A	7836	DINESH KUMAR SARRAF	NIRC	
840	MR. AMIT SINGH	ACS - 46813	NIRC	61	A	14006	BHAGWANDAS N THAKKAR	WIRC	
841	MR. SAMIR DOHA	ACS - 46814	NIRC	62	A	8969	KRIPA DEVI BHAT	SIRC	
842	MR. SONTIMALLI ESWAR REDDY	ACS - 46815	SIRC	63	A	10719	MANOJ KUMAR JAIN	EIRC	
RESTORED*				64	A	31413	V K HARISH BABU	SIRC	
S.	A/F	MEM.	MEM. NAME	PLACE	65	A	26959	NITHYA KAMARAJ	SIRC
NO.		NO.			66	A	12532	MALINI KAPOOR	NIRC
1	A	25122	ABHILASHA TYAGI	NIRC	67	A	17725	DEEPESH PATORIA	WIRC
2	A	21195	RAJ KUMAR MANOCHA	NIRC	68	A	7673	S K SHARMA	WIRC
3	A	16682	AMIT SARAN	NIRC					
4	A	26098	CHESHTA NARANG	NIRC					
5	A	18293	REENA SHARDA	WIRC					
6	A	27902	VISHAKHA PRAKASH BRAHMANKAR	SIRC					

* RESTORED FROM 1/6/2016 TO 31/7/2016

CERTIFICATE OF PRACTICE

ISSUED*

Sl. NO.	NAME	MEMBNO	REGION	COP NO.			
1	SH. PUTTIGE SAMEERDAS	ACS - 6365	SIRC	16586	62	MR. HIMANSHU AGARWAL	ACS - 45355 NIRC 16647
2	MS. POONAM GUPTA	FCS - 8599	NIRC	16587	63	MS. DEEPA	ACS - 45409 NIRC 16648
3	SH. NAVEEN KUMAR SHENOY	ACS - 10817	SIRC	16588	64	MR. MEHTA DEVESH UPENDRA	ACS - 45544 WIRC 16649
4	SH. RAJKISHORE RAM	ACS - 22447	EIRC	16589	65	MS. NAGASHRUTI SHIVANAND LAKKIMARAD	ACS - 45681 SIRC 16650
5	MS. NISHA PATWARI	ACS - 23994	EIRC	16590	66	MS. MITALI CHAKRABORTY	ACS - 45713 WIRC 16651
6	MRS. APARAJITA JOHARI	FCS - 8787	NIRC	16591	67	MS. MEGHNA PIPLANI	ACS - 45447 NIRC 16652
7	MR. ABHISHEK JAIN	ACS - 28201	NIRC	16592	68	MS. SAPNA JAIN	ACS - 28869 NIRC 16653
8	MR. RAMESH KASAPURA CHOWDAIAH	ACS - 29079	SIRC	16593	69	MS. NEHA BANSAL	ACS - 38848 NIRC 16654
9	SH. KIRANA KULIHITALU RAMACHANDRA	ACS - 30325	SIRC	16594	70	MR. ROHIT RAMACHANDRAN	ACS - 45485 SIRC 16655
10	MR. ARCHIT AGARWAL	ACS - 30928	NIRC	16595	71	MR. CHETAN RAJGOPAL BHUTADA	ACS - 45548 WIRC 16656
11	MS. PRAKRITI MEHROTRA	ACS - 33280	WIRC	16596	72	MR. NEERAJ PURI	ACS - 45591 NIRC 16657
12	MS. KAVITA BARFA	ACS - 38921	WIRC	16597	73	MS. NISHA KISHU GIDWANI	ACS - 45729 WIRC 16658
13	MR. ANOOP KUMAR	ACS - 41380	NIRC	16598	74	MR. MARATH SURESH BABU AMAL	ACS - 45743 SIRC 16659
14	MR. RONAK BHARATBHAI LADHAWALA	ACS - 41819	WIRC	16599	75	SH. ANDE MOHAN RAMI REDDY	FCS - 2147 SIRC 16660
15	MR. ABHISHEK GUPTA	ACS - 43089	NIRC	16600	76	MS. MADHUMITA ROY	FCS - 5155 WIRC 16661
16	MS. SWATI SANDEEP NIVALKAR	ACS - 43815	WIRC	16601	77	SH. V S SATYAMOORTHY	ACS - 4946 WIRC 16662
17	MS. NIKITA AGARWAL	ACS - 43941	EIRC	16602	78	MS. PRERNA SINGHANIA	ACS - 42432 EIRC 16663
18	MS. MONIKA JAIN	ACS - 43991	EIRC	16603	79	MR. DIPEN VIJAYKUMAR SHAH	ACS - 43449 WIRC 16664
19	MS. AKANSHA GUPTA	ACS - 45224	NIRC	16604	80	MR. SANDESHA	ACS - 45480 SIRC 16665
20	MS. VAISHALI RISHABH UPADHYAY	ACS - 45291	WIRC	16605	81	SH. BAL KISHAN OJHA	FCS - 1955 NIRC 16666
21	MS. RESHMA AGRAWAL	ACS - 45317	WIRC	16606	82	SH. SANJAY KUMAR AGGARWAL	FCS - 4059 NIRC 16667
22	MS. SHELLY GUPTA	ACS - 45369	NIRC	16607	83	SH. PUNIT KUMAR TRIVEDI	FCS - 8682 NIRC 16668
23	MR. SANDEEP SINGH	ACS - 45393	NIRC	16608	84	MRS. MINU TULSIAN	ACS - 24930 EIRC 16669
24	MS. MANISHA SONI	ACS - 45396	NIRC	16609	85	MR. KOSHAL AGARWAL	ACS - 37508 EIRC 16670
25	MS. PARIDHI PATNY	ACS - 45399	WIRC	16610	86	MS. AMBIKA SHARMA	ACS - 37783 EIRC 16671
26	MR. ANKITKUMAR NILESHBHAI THAKRAR	ACS - 45563	WIRC	16611	87	MS. SHILPA AGARWAL	ACS - 38815 EIRC 16672
27	SH. GAJANAN DATTATRAYA BHAVSAR	ACS - 12479	WIRC	16612	88	MR. ADITYA MOHAN KHANDELWAL	ACS - 41187 EIRC 16673
28	MS. PURVASHI D. ADHVARYU	ACS - 16234	WIRC	16613	89	MS. KRUTIKA MAHESHWARI	ACS - 43984 WIRC 16674
29	MR. MILAN MALIK	ACS - 32559	NIRC	16614	90	MR. DINESH DEVICHANDJI LOHADE	ACS - 44182 WIRC 16675
30	MR. BHARAT HASSANI	ACS - 38724	NIRC	16615	91	MR. HIMANSHU YADAV	ACS - 44654 NIRC 16676
31	MS. HUMA M TAMATGAR	ACS - 44303	SIRC	16616	92	MR. CHANDRASEKARAN KATHIRAVAN	ACS - 45204 SIRC 16677
32	MS. SHIVALI GUJELA	ACS - 44603	NIRC	16617	93	MS. AANCHAL BEDI	ACS - 45290 WIRC 16678
33	MR. SANTHOSHKUMAR REDDY MEDA	ACS - 45045	SIRC	16618	94	MR. RUDHRU KRISHNA	ACS - 45474 SIRC 16679
34	MR. V CHANDRA SEKHAR PATNAIK	ACS - 45479	SIRC	16619	95	MR. VINAY MANGAL AGRAWAL	ACS - 45715 WIRC 16680
35	MR. MIDHUNKUMAR ERUPANATHU MADHU	ACS - 45498	SIRC	16620	96	MS. VIRAL KAUSTUBH JOSHI	ACS - 45763 WIRC 16681
36	MS. TARUNA KUMARI KHOKHAWAT	ACS - 45592	NIRC	16621	97	MS. SNEHA CHOWDHURY	ACS - 45774 EIRC 16682
37	SH. YAYAVARAM SRINIWAS ARUN	FCS - 6940	SIRC	16622	98	MR. ASHISH GROVER	ACS - 45821 NIRC 16683
38	SH. ARVIND HIRALAL GUPTA	FCS - 7861	WIRC	16623	99	MR. KORATTIKKATIL DEEPAK	ACS - 45823 SIRC 16684
39	SH. PAWAN KUMAR	ACS - 4628	NIRC	16624	100	SH. P V V RAGHAVAN	ACS - 17313 WIRC 16685
40	SH. GOPAL SHARMA	ACS - 19384	EIRC	16625	101	MS. SEETA VENKATRAMAN IYER	ACS - 17489 WIRC 16686
41	MS ANITA JENA	ACS - 21496	SIRC	16626	102	MS. ZARNA DHANAL SODAGAR	ACS - 23062 WIRC 16687
42	MS. CHESHTA NARANG	ACS - 26098	NIRC	16627	103	MS. NEHA JAIN	ACS - 23417 NIRC 16688
43	MS. REEMA SACHDEVA	ACS - 26673	NIRC	16628	104	MS. HEMLATA DANGI	ACS - 42855 NIRC 16689
44	MR. NIHIT SRIVASTAVA	ACS - 29273	NIRC	16629	105	MR. NARENDER	ACS - 43952 NIRC 16690
45	MS. RUBI JHA	ACS - 30884	WIRC	16630	106	MR. MILIND MANOHARRAO SATFALE	ACS - 45270 WIRC 16691
46	MR. MUKUL TYAGI	ACS - 33949	NIRC	16631	107	MR. RAHUL VIJAYKUMAR KABARA	ACS - 45508 WIRC 16692
47	MS. ANKITA JAIN	ACS - 34759	NIRC	16632	108	MS. ANKIT NAGPAL	ACS - 45798 NIRC 16693
48	MS. MADHU JAISWAL	ACS - 37136	EIRC	16633	109	MR. AMAR ANANDRAO PATIL	ACS - 45835 WIRC 16694
49	MR. RAHUL MALHOTRA	ACS - 37641	NIRC	16634	110	MR. VIKASH JOSHI	ACS - 44269 EIRC 16695
50	MR. ABHISHEK JAIN	ACS - 37738	WIRC	16635	111	MS. ANSU ELEZABETH THOMAS	ACS - 21879 SIRC 16696
51	MS. ARADHANA GUPTA	ACS - 38918	WIRC	16636	112	MS. RASHMI GUPTA	ACS - 25382 NIRC 16697
52	MR. CHANDER PRAKASH KARWA	ACS - 41709	SIRC	16637	113	MS. KUSHMANJALI SHARMA	ACS - 29483 NIRC 16698
53	MR. RAVI SHANKAR SHARMA	ACS - 42841	NIRC	16638	114	MR. ROHIT DILIP KUDTARKAR	ACS - 28001 WIRC 16699
54	MS. NEHA JAIN	ACS - 43489	EIRC	16639	115	MS. SWATI DHRUV AGGARWAL	ACS - 37760 NIRC 16700
55	MS. RICHA KUMARI	ACS - 44237	NIRC	16640	116	MS. KANIKA	ACS - 38509 NIRC 16701
56	MS. NIRALI MUKESH PATEL	ACS - 44520	WIRC	16641	117	MR. SAMIR JAYESHBHAI MEHTA	ACS - 42362 WIRC 16702
57	MR. AJAY SHARMA	ACS - 44649	NIRC	16642	118	MS. PINKI SHARMA	ACS - 44136 NIRC 16703
58	MS. SARIKA AJAY GUPTA	ACS - 44674	WIRC	16643	119	MR. DINESH SHARMA	ACS - 44736 NIRC 16704
59	MR. MANISH KUMAR	ACS - 45049	NIRC	16644	120	MR. SAGAR MEHRA	ACS - 44744 NIRC 16705
60	MS. TRISHA AMAR ROOPCHANDANI	ACS - 45099	WIRC	16645	121	MS. SHWETA SINGH	ACS - 44864 NIRC 16706
61	MR. SHOBHIT TANDON	ACS - 45353	NIRC	16646	122	MR. MUSAB DASTGIR SHAIKH	ACS - 45255 WIRC 16707
					123	MS. GAURI HAMANT GOKHALE	ACS - 45512 WIRC 16708
					124	MS. SWATI JAIN	ACS - 45674 NIRC 16709
					125	MS. VINISHA JAIN	ACS - 45739 WIRC 16710
					126	MS. ANITHA GOPALA MENON	ACS - 45825 SIRC 16711
					127	MS. SHRADDHA VIVEK BHAGWAT	ACS - 45836 WIRC 16712
					128	MS. PRERNA JAIN	ACS - 45908 NIRC 16713

* ISSUED DURING THE MONTH OF JUNE & JULY, 2016

129	MR. RAKESH HULIHALLI	ACS - 45933	SIRC	16714	196	MR. SANTOSH KUMAR SENAPATI	ACS - 43062	SIRC	16782
130	MR. DHARMARAJAN SENTHIL	ACS - 45934	SIRC	16715	197	MS. RIPTA MUKHERJEE	ACS - 43481	EIRC	16783
131	MR. MANIKIRAN RENDUCHINTALA	ACS - 45969	SIRC	16716	198	MR. NARESHKUMAR SHANKARLAL TRIVEDI	ACS - 43681	WIRC	16784
132	MS. PRIYANKA DINESH JAIN	ACS - 26417	NIRC	16717	199	MS. RASHMI SHARMA	ACS - 44108	NIRC	16785
133	MS. KRISHMA PRANAY KOTHARI	ACS - 32284	WIRC	16718	200	MR. KUNAL SIPPY	ACS - 44904	NIRC	16786
134	SH. ADARSH PAUL SINGH	ACS - 8000	NIRC	16720	201	MS. AKSHI KATARIA	ACS - 45202	NIRC	16787
135	SH. JAY NARAYAN NAIK	ACS - 26297	WIRC	16721	202	MS. PRIYANKA GARG	ACS - 45312	WIRC	16788
136	MS. NAZIA REHMAN	ACS - 29226	NIRC	16722	203	MR. PRABIN K	ACS - 45478	SIRC	16789
137	MS. ASHWINI RAHUL VARTAK	ACS - 29463	WIRC	16723	204	MR. SACHIN KUMAR	ACS - 45590	NIRC	16790
138	MR. AZEEM TARIQ KHAN	ACS - 30706	WIRC	16724	205	MR. ADITYA SONI	ACS - 45810	WIRC	16791
139	MR. ANAND KANKANI	ACS - 36922	WIRC	16725	206	MS. ANKITA KAMLESH	ACS - 45904	NIRC	16792
140	MS. PRIYA TIRTHANI	ACS - 39552	WIRC	16726	207	MR. ANKIT KUMAR	ACS - 45917	NIRC	16793
141	MS. DIVYA GUPTA	ACS - 45062	NIRC	16727	208	MS. NEHA SHARMA	ACS - 46040	NIRC	16794
142	MS. SHAHANA ISTAK KHAN	ACS - 45259	WIRC	16728	209	SH RUPAK KUMAR SINHA	FCS - 7947	NIRC	16795
143	MR. RAVINDER REDDY SURUKANTI	ACS - 45501	SIRC	16729	210	SH. MADHAVAN M K	FCS - 8408	SIRC	16796
144	MS. SNEHAL VILAS KAREKAR	ACS - 45530	WIRC	16730	211	MS. SOWMYA R A PARASURAMAN	FCS - 8431	SIRC	16797
145	MS. MAHUA SINGHA	ACS - 45622	EIRC	16731	212	SH. RAJENDRA KR. CHOTIA	ACS - 17841	EIRC	16798
146	MR. PRADEEP SHARMA	ACS - 45867	EIRC	16732	213	SH. AMITAVA BANERJEE	ACS - 21175	NIRC	16799
147	MR. NITIN KUMAR	ACS - 45968	NIRC	16733	214	MS. KINJAL SATISH TRIVEDI	ACS - 22010	WIRC	16800
148	SH. K VAIDYANATHAN	FCS - 6726	SIRC	16734	215	MR. AKSHAYA KUMAR PRUSTY	ACS - 37230	EIRC	16801
149	MS. SNEHA JAGDISH HOTCHANDANI	ACS - 28769	WIRC	16735	216	MS. ANNIE JAIN	ACS - 30903	SIRC	16802
150	MS. DISHA JIGAR PAREKH	ACS - 29091	WIRC	16736	217	MR. RAHUL BHANUDAS SHINDE	ACS - 32412	WIRC	16803
151	MS. SWATI AGARWAL	ACS - 31723	WIRC	16737	218	MS. MUKTA SHARMA	ACS - 32358	NIRC	16804
152	MS. ALKA JUGALKISHORE GATTANI	ACS - 40269	WIRC	16738	219	MS. NUPUR MIMANI	ACS - 37847	EIRC	16805
153	MS. URVI DEEPAK CHOKSI	ACS - 40620	WIRC	16739	220	MR. VIJAY MAHENDRA YADAV	ACS - 39251	WIRC	16806
154	MR. SASIKANTH VADDADI	ACS - 41128	SIRC	16740	221	MS. AKSHARA PAREEK	ACS - 41780	NIRC	16807
155	MR. VARUN GUPTA	ACS - 41445	NIRC	16741	222	MS. MEENU BHOMIA	ACS - 42439	EIRC	16808
156	MS. AKANSHA	ACS - 41944	NIRC	16742	223	MS. MONA	ACS - 43221	NIRC	16809
157	MS. SHANU GYANCHAND JAIN	ACS - 42408	WIRC	16743	224	MR. DHEERAJKUMAR PANNALAL TIWARI	ACS - 44510	WIRC	16810
158	MR. SACHIN ISHWAR BANAKAR	ACS - 42801	SIRC	16744	225	MS. ANJALI GUPTA	ACS - 44758	NIRC	16811
159	MS. NIKITA AGARWAL	ACS - 43097	NIRC	16745	226	MS. SUVARNA SHREEKRUSHNA JOSHI	ACS - 45141	WIRC	16812
160	MS. NUPUR SHARMA	ACS - 43990	EIRC	16746	227	MR. PRABHAS SINGH	ACS - 45753	NIRC	16813
161	MR. AZHAR ASSIM SHAIKH	ACS - 45954	WIRC	16747	228	MR. SANDEEP KULKARNI	ACS - 45860	SIRC	16814
162	SH DILIP KUMAR OJHA	FCS - 7206	EIRC	16748	229	MR. MANJEET SINGH DHILLON	ACS - 45866	NIRC	16815
163	SH. HARESH RAMNIKLAL KAPURIYA	ACS - 26109	WIRC	16749	230	MS. VARSHA KISHAN CHOITHANI	ACS - 45961	WIRC	16816
164	MR. ARPIT SURI	ACS - 30095	NIRC	16750	231	MS. SHWETA PATHAK	ACS - 46070	NIRC	16817
165	MS. GARVI SANJAY BHAI SHAH	ACS - 42663	WIRC	16751	232	MR. ARANKAL SHIVAKUMAR GURUPADAPPA	ACS - 46149	SIRC	16818
166	MR. MANISH KUMAR TRIPATHI	ACS - 44292	NIRC	16752	233	MR. NARASIMHARAJU O R	ACS - 46150	SIRC	16819
167	MS. DEEPIKA DADHEECH	ACS - 45037	NIRC	16753	234	MR. SUNIL KUMAR KACHAM	ACS - 46155	SIRC	16820
168	MS. KARISHMA JAIN	ACS - 45059	WIRC	16754	235	MR. SAURABH KRISHNA PATHAK	ACS - 46164	WIRC	16821
169	MS. NEELAM TARAWAT	ACS - 45060	NIRC	16755	236	MR. GAURAV AGRAWAL	ACS - 46173	WIRC	16822
170	MR. EMIL ALEX	ACS - 45209	SIRC	16756	237	MR. VEERASH MYSORE JAGADISH	ACS - 46222	SIRC	16823
171	MR. SHEKHAR PAREEK	ACS - 45630	NIRC	16757	238	MR. SURESH CHANDRA NAINWAL	ACS - 46253	NIRC	16824
172	MR. ARVIND KUMAR KUSHWAHA	ACS - 45635	NIRC	16758	239	MS. NAMITA JAISWAL	ACS - 40543	EIRC	16825
173	MR. SAGAR PARMANAND KHATRI	ACS - 45728	WIRC	16759	240	MS. VISHAKHA MAHESH PHADKE	ACS - 37675	WIRC	16826
174	MR. HARDIKKUMAR JAYANTILAL RATANI	ACS - 45766	WIRC	16760	241	MS. PRIYANKA RAJENDRA BAJAJ	ACS - 41409	WIRC	16827
175	MR. KUMAR GAUTAM	ACS - 45780	EIRC	16761	242	SH. VIKRAM BHARAT KUMAR JOSHI	ACS - 16149	WIRC	16828
176	MR. NITIN JAISWAL	ACS - 45981	NIRC	16762	243	MS. MEENA CHOWDHARY	ACS - 41084	EIRC	16829
177	MS. POOJA SONI	ACS - 45801	NIRC	16763	244	MS. PURNIMA SHARMA	FCS - 7706	NIRC	16830
178	MS. HARSHITA SAXENA	ACS - 45932	NIRC	16764	245	MR. SUMIT KUMAR	ACS - 46110	NIRC	16831
179	MS. SHARMILA PARAMBATT	ACS - 42864	SIRC	16765	246	SH. DEEPAK KUMAR GOYAL	ACS - 24424	NIRC	16832
180	MR. BALWANT SINGH	ACS - 43702	EIRC	16766	247	SH. M PAREKH	ACS - 4556	WIRC	16833
181	SH. VINOD H. KANKARIA	ACS - 13190	WIRC	16767	248	SH. MAHEENATH ANANDA	ACS - 4650	SIRC	16834
182	MS. MANISHA LATH	ACS - 15614	EIRC	16768	249	SH. ARUN VIRMANI	ACS - 8855	NIRC	16835
183	SH JITESH JOITARAM PATEL	ACS - 20400	WIRC	16769	250	MS ANUSHA NARASIMHAN	ACS - 20275	SIRC	16836
184	MRS. MONIKA GUJARWASIA	ACS - 20731	WIRC	16770	251	SH. VIJAY A N S	ACS - 22983	SIRC	16837
185	MR. JOBY MATHEW	ACS - 24411	SIRC	16771	252	MRS. RIA KUNAL AHUJA	ACS - 29556	WIRC	16838
186	MS. JAYARAMAN BHUVANESWARI	ACS - 25193	SIRC	16772	253	MR. MUNISH KUMAR	ACS - 43710	NIRC	16839
187	MS. DEEPIKA YATISH MAROO	ACS - 30417	SIRC	16773	254	MS. SWATI AGGARWAL	ACS - 44081	NIRC	16840
188	MS. DEEPTI SHARMA	ACS - 32221	NIRC	16774	255	MS. NIKHITA SETIA	ACS - 44169	NIRC	16841
189	MS. CHANCHAL GARG	ACS - 38457	NIRC	16775	256	MS. SETA NAMRATA JAGDISHBHAI	ACS - 44802	WIRC	16842
190	MS. DOLLY NARESHBHAI JETHWA	ACS - 39228	WIRC	16776	257	MR. VIBHU GAUTAM	ACS - 45411	NIRC	16843
191	MR. JITENDER YADAV	ACS - 40034	NIRC	16777	258	MR. ROHIT MERANI	ACS - 46055	WIRC	16844
192	MS. EKTA GOSWAMI	ACS - 40657	EIRC	16778	259	MR. ABU SUFYAN NISAR AHMED	ACS - 46237	WIRC	16845
193	MR. AASHISH NANGALIA	ACS - 40957	EIRC	16779	260	MS. AVANI BHAGYESH SHARMA	ACS - 32370	WIRC	16846
194	MR. LAVNEESH BAREJA	ACS - 41312	NIRC	16780	261	MR. KAMALJIT SINGH	ACS - 40780	NIRC	16847
195	MS. CHAUHAN URVI ASHWINBHAI	ACS - 43032	WIRC	16781	262	MS. SWEETY VINOD AGRAWAL	ACS - 43025	WIRC	16848

263	MR. KUNAL RAJKUMAR BAJAJ	ACS - 43192	WIRC	16849	331	MR. NIHAR GAURANG SHETH	ACS - 44829	WIRC	16920
264	MS. BHAVYA BANSAL	ACS - 43273	NIRC	16851	332	MR. RAKESH KUMAR PALATASINGH	ACS - 45149	EIRC	16921
265	MR. JAGSIR SINGH	ACS - 45400	NIRC	16852	333	MR. MOHIT SINGH KHARAYAT	ACS - 46356	NIRC	16922
266	MS. POONAM GUPTA	ACS - 45589	NIRC	16853	334	MS. DIPTI HARSHAL BHATT	ACS - 29886	WIRC	16923
267	MS. NIDHI KIRIT SHAH	ACS - 45720	WIRC	16854	335	MS. KAJAL GARG	ACS - 43609	NIRC	16924
268	MS. TEJASWITA KISHOR DHEMBARE	ACS - 45833	WIRC	16855	336	MR. ROHIT RAWAT	ACS - 44932	NIRC	16925
269	MR. VIRAL HARESHBhai THAKRAR	ACS - 46235	WIRC	16856	337	MS. VIJAYA MAHESH RAO	ACS - 44951	SIRC	16926
270	MR. NAVEEN KUMAR	ACS - 46279	NIRC	16857	338	MS. NUPUR CHAKRABORTY	ACS - 45714	WIRC	16927
271	MS. KSHAMA PARAS SHAH	ACS - 42472	WIRC	16858	339	MR. BALAWANT SINGH	ACS - 46282	WIRC	16928
272	MS. SHIVANI LAJPAT JAIN	ACS - 44444	WIRC	16859	340	MR. MANOJ HARSHADBHAI LOTIA	ACS - 45844	WIRC	16929
273	MR. MOHIT BANSAL	ACS - 46112	NIRC	16860	341	SH. SUNDRAN KATHIRESAN	FCS - 1496	WIRC	16930
274	SH. UTTAMI SHETTY	FCS - 8691	WIRC	16861	342	SH. PRASHANT KUMAR KESHWANI	ACS - 21087	WIRC	16931
275	MS. VINI GUPTA	ACS - 23312	NIRC	16862	343	MS. SADHANA RAMNIHOR YADAV	ACS - 27559	WIRC	16932
276	MS. ARTI KUMARI SHARMA	ACS - 28379	WIRC	16863	344	MS. NEEMA NEGI	ACS - 39203	NIRC	16933
277	MS. NIDHI JAYANTIBHAI THAKAR	ACS - 44796	WIRC	16864	345	MR. ABHISHEK BHANDARI	ACS - 42647	NIRC	16934
278	MS. KIRTI DUREJA	ACS - 38334	NIRC	16865	346	MR. MANDAR DEEPAK AWASARE	ACS - 45256	WIRC	16935
279	MS. SUJATA SACHIN TEMKAR	ACS - 39049	SIRC	16866	347	MS. PRIYANKA GUPTA	ACS - 45430	NIRC	16936
280	MR. ROHIT KUMAR	ACS - 40599	NIRC	16867	348	MR. DODDAPANENI SATWIK	ACS - 46234	SIRC	16937
281	MR. PRAVIN BHUDARBHAI CHAUHAN	ACS - 44263	WIRC	16868	349	MS. KAVITHA N MOORTHY	ACS - 14955	SIRC	16938
282	MS. DEBASHREE DAS	ACS - 44708	EIRC	16869	350	MS. KAVITA CHATURVEDI	ACS - 25064	NIRC	16939
283	MR. GAGAN ARORA	ACS - 46100	NIRC	16870	351	MR. VIKASH BANSAL	ACS - 30969	NIRC	16940
284	MS. DIXIT SANEJA	ACS - 46142	NIRC	16871	352	MR. ANSHUL GARG	ACS - 32301	NIRC	16941
285	MR. AMBER DURGESH KESHWANI	ACS - 46195	WIRC	16872	353	MR. VISHWASKUMAR ASHOKKUMAR SHARMA	ACS - 33017	WIRC	16942
286	MR. JATIN BAJAJ	ACS - 46273	NIRC	16873	354	MS. MEHAK GOSWAMI	ACS - 33378	NIRC	16943
287	MS. NEHA GUPTA	FCS - 8269	NIRC	16874	355	MR. JATIN SAHNI	ACS - 34587	NIRC	16944
288	SH. CHINTAN DEWAN	ACS - 18698	NIRC	16875	356	MS. HEMALATHA G	ACS - 37572	SIRC	16945
289	MS. NIDHI SHARMA	ACS - 46101	NIRC	16876	357	MS. NEHA KULCHANDER	ACS - 43044	NIRC	16946
290	MR. AMIT KUMAR	ACS - 28804	NIRC	16877	358	MS. DUBE ANUJA OMPRAKASH	ACS - 44198	WIRC	16947
291	MS. MONIKUNTALA BOWRA	ACS - 29713	EIRC	16878	359	MR. JAYMIN PIYUSHBHAI MODI	ACS - 44248	WIRC	16948
292	MS. SURABHI JAIN	ACS - 31754	WIRC	16879	360	MR. SHAH MASOOM HIMANSHUBHAI	ACS - 44325	WIRC	16949
293	MR. IMRAN HUSSAIN W	ACS - 33999	SIRC	16880	361	MS. SHREYA SRIVASTAVA	ACS - 44648	NIRC	16950
294	MS. LOVELY KUMARI	ACS - 34778	NIRC	16881	362	MR. AVIK CHAKRABORTY	ACS - 45014	EIRC	16951
295	MR. ANKIT SHARMA	ACS - 39175	NIRC	16882	363	MR. SHOBHIT GERA	ACS - 46042	NIRC	16952
296	MR. ANAND SUBROTO MUKHERJEE	ACS - 40485	WIRC	16883	364	MS. ANAGHA KSHITIJ SHIRKHEDEKAR	ACS - 44623	WIRC	16953
297	MR. ANKIT KHURANA	ACS - 42090	NIRC	16884	365	MS. TINA BAGARIA	ACS - 45873	EIRC	16954
298	MS. GARGI BHUSHAN GHATPANDE	ACS - 43415	WIRC	16885	366	MR. BIKASH KUMAR AGARWALA	ACS - 46080	EIRC	16955
299	MR. SONU FANDA	ACS - 43455	NIRC	16886	367	MS. ASHA RAMBAHADUR RATHOR	ACS - 46207	WIRC	16956
300	MR. VINAY VERMA	ACS - 44643	NIRC	16887	368	MR. KRISHNA MOHAN TP KURPAD	ACS - 46514	SIRC	16957
301	MS. LABDHI KOCHAR	ACS - 44913	NIRC	16888	369	SH. S BALAKRISHNAN	FCS - 6852	SIRC	16958
302	MS. JAYA VERMA	ACS - 46103	NIRC	16889	370	MS. KHUSHBOO SETHIA	ACS - 36230	EIRC	16959
303	SH. RAVINDER KUMAR GUPTA	FCS - 6590	NIRC	16890	371	MS. MAYA BHOJWANI	ACS - 44171	NIRC	16960
304	MS. ANURADHA NEWATIA	ACS - 24613	NIRC	16891	CANCELLED*				
305	MS. ASHWINI ASHOK DESALE	ACS - 25191	WIRC	16892	Sl.	NAME	MEMB NO	COP NO	REGION
306	MR. SHASHANK CHINTAMAN GHAIAS	ACS - 40386	WIRC	16893	No				
307	MS. NAMRATA SUHAS GADRE	ACS - 45527	WIRC	16894	1	MS. BARKHA ARORA	ACS 35918	15800	NIRC
308	MS. PRIYANKA CHANDRASHEKHAR GOLE	ACS - 45706	WIRC	16895	2	MR. K A RANGASWAMY	FCS 4065	3794	SIRC
309	MS. BHUMIKA JIGNESH JAIN	ACS - 44553	WIRC	16896	3	MS. MADHURI RAJENDRA MORE	ACS 27540	14310	WIRC
310	MR. ANKIT DUBEY	ACS - 46212	WIRC	16897	4	MR. RISHAV JAISWAL	ACS 38834	15709	NIRC
311	MS. SURABHI BHANDARI	ACS - 36541	NIRC	16898	5	MS. MEGHA CHANDAK	ACS 38350	14975	NIRC
312	MR. AJAY MADALIAH BOLLARAPPANDA	ACS - 28904	SIRC	16899	6	MR. SUBRATA PANDA	FCS 7083	16273	NIRC
313	MR. ANANT PRAKASH	ACS - 29224	NIRC	16900	7	MS. KHUSHBOO VIJAY	ACS 36456	16392	NIRC
314	MR. NARESH KUMAR GOEL	ACS - 31967	NIRC	16901	8	MS. MAMTA	ACS 41762	15533	NIRC
315	MS. PREETIKA MISHRA	ACS - 32490	NIRC	16902	9	MR. ANKIT JAIN	ACS 29499	12579	WIRC
316	MS. DILPREET KAUR KOMAL	ACS - 39656	NIRC	16903	10	MS. REVATI AMEY GOKHALE	ACS 18465	10723	WIRC
317	MR. SANKET BANSAL	ACS - 45757	NIRC	16905	11	MR. ARANI GUHA	FCS 8246	9573	EIRC
318	MS. CAUVERAMMA B B	ACS - 46064	SIRC	16906	12	MS. KARISHMA KHANDEL	ACS 34358	15835	WIRC
319	MS. DISHA VIKRAMBHAI PATEL	ACS - 46189	WIRC	16907	13	MS. SNEHA AGARWAL	ACS 34455	14401	NIRC
320	MR. CHANDER MOHAN AGGARWAL	ACS - 46277	NIRC	16908	14	MR. AJAY KUMAR	ACS 33207	14865	NIRC
321	MS. P D MEHTA	ACS - 5131	WIRC	16909	15	MS. SONICA BAMBI	ACS 33704	12479	NIRC
322	SH. V VENUGOPALAN	ACS - 13511	SIRC	16910	16	MR. KAPIL KUMAR BALI	FCS 5284	9458	NIRC
323	MR. KARUNAKARAN RADHAKRISHNAN	ACS - 30614	SIRC	16911	17	MS. SONAL MANISH SHARMA	ACS 19898	15940	WIRC
324	MS. DEEPIKA PREMSINGH KHANGAROT	ACS - 38978	WIRC	16912	18	MS. ANKITA SUSHIL JASRAPURIA	ACS 38477	14322	WIRC
325	MR. SUMIT KUMAR	ACS - 46313	EIRC	16913	19	MR. PAWAN KUMAR	ACS 40931	16393	NIRC
326	MR. RAKESH KUMAR	ACS - 41739	NIRC	16915	20	MS. S KRITHIKA	ACS 37001	14276	SIRC
327	MS. ANUPAMA GOVARDHANAGIRI	ACS - 16404	SIRC	16916	21	MR. ASWIN SARMA M	ACS 41969	15778	SIRC
328	MS. PRAKRITI AJAY JAIN	ACS - 44359	WIRC	16917					
329	MR. LIJESH K	ACS - 44880	SIRC	16918					
330	MRS. SHALINI MALIK	ACS - 27980	NIRC	16919					

* DURING THE MONTH OF JUNE & JULY 2016

22	MR. RAJAT KHANEJA	ACS 38840	14618	NIRC	84	MS. BHARTI RAMCHANDANI	ACS 41526	16060	NIRC
23	MS. POONAM KAMBOJ	ACS 38544	14438	NIRC	85	MRS. DIPTI MODI	ACS 25460	12912	WIRC
24	MRS. ARCHANA SAPRA	ACS 22550	15355	NIRC	86	MR. SOORAJ SONI	ACS 36771	13747	WIRC
25	MR. DINESH ARORA	FCS 5393	12433	NIRC	87	MR. M S I LAKDAWALA	FCS 935	12521	WIRC
26	MS. K PRIYA	ACS 11090	4490	SIRC	88	MRS. MILAN BHATIA	ACS 34850	13603	EIRC
27	MS. NISHANKA SRIVASTAVA	ACS 28684	15382	NIRC	89	MS. SAPNA OMER	ACS 29353	10594	WIRC
28	MR. P M NAIR	ACS 7692	7515	WIRC	90	MR. SHASHIDHARA S	ACS 30286	14627	SIRC
29	MS. SMITA MISHRA	ACS 26489	9918	EIRC	91	MR. HARMEET SINGH	ACS 34121	13276	NIRC
30	MS. NIDHI KHANDELWAL	ACS 37896	14579	SIRC	92	MR. HIMANSHU BASANTLAL GAJRA	ACS 40729	15168	WIRC
31	MR. KAILASH PRASAD GUPTA	ACS 2382	5029	EIRC	93	MS. VINTI TANGRI	ACS 38118	14708	SIRC
32	MR. JATINDER KUMAR KATARIA	ACS 28523	11863	NIRC	94	MR. NISHANT SINGH	ACS 43967	16119	NIRC
33	MR. ARUN GOYAL	ACS 29223	10510	NIRC	95	MR. ABHINAV KUMAR PANDEY	ACS 43487	16022	EIRC
34	MRS. AMISHA RITESH JAIN	ACS 28773	10553	WIRC	96	MS. ANKITA NAVNEET DAGA	ACS 34728	13009	WIRC
35	MS. RACHNA	ACS 43339	15988	EIRC	97	MS. TANISHA YADAV	ACS 34870	12949	NIRC
36	MS. SHEETAL MEHRA	FCS 8544	9277	WIRC	98	MS. NEHA	ACS 44389	16553	NIRC
37	MS. ANTIMA GUPTA	ACS 38140	14599	NIRC	99	MR. ANUJ JAIN	ACS 27661	10298	NIRC
38	MS. RACHANA PRAKASH	ACS 32481	13166	NIRC					
39	MR. ANANG KUMAR SHANDILYA	FCS 6693	13330	NIRC					
40	MS. NIDHI BHUTRA	ACS 40125	15318	NIRC					
41	MRS. ROHINI SATISH KADU	ACS 34525	15078	WIRC					
42	MS. KHUSHBU SINGHAL	ACS 25992	9929	NIRC					
43	MR. VISHWAS HEGDE	ACS 41955	15595	SIRC					
44	MS. PRITI SHIRKE	ACS 23044	9970	WIRC					
45	MR. VINOD KUMAR RAINA	FCS 5668	16719	NIRC					
46	MR. VISHWAS KESHAV BODAS	ACS 1541	8104	WIRC					
47	MR. SUBHAS CHANDRA BOSE	ACS 4667	2529	EIRC					
48	MR. ARJIT GUPTA	ACS 30696	15385	NIRC					
49	MR. PARMINDER SINGH	ACS 41652	15525	NIRC					
50	MR. VIVEKA FANIPATI HEGDE	ACS 38552	14515	SIRC					
51	MS. ANUBHUTI TIWARI	ACS 35731	13989	WIRC					
52	MS. NANCY BHANDARI	ACS 28486	10338	NIRC					
53	MRS. DIPTI ATISH VARTAK	ACS 23882	8579	WIRC					
54	MS. JYOTI SHARMA	ACS 36607	13621	NIRC					
55	MS. RIYA ARORA	ACS 39623	15240	EIRC					
56	MR. PARTHASARATHI KUMARASWAMI REDDIAAR	ACS 43037	16127	SIRC					
57	MR. ANILKUMAR G	ACS 18030	14365	SIRC					
58	MS. RITU GUPTA	ACS 40060	15399	NIRC					
59	MR. VIJAY KUMAR	ACS 40118	14920	NIRC					
60	MS. SARITA KUMAR LEELARAMANI	ACS 35587	14133	WIRC					
61	MS. NANCY GUPTA	ACS 39529	14766	NIRC					
62	MS. ANUPAMA SHARMA	ACS 34704	14258	NIRC					
63	MS. C SAI SHARANYA	ACS 36827	13862	SIRC					
64	MS. PRADEEBHA R	FCS 7892	14291	SIRC					
65	MS. RASHI TIWARI	ACS 27852	15856	SIRC					
66	MR. RAJEEV RANJAN	ACS 42840	16220	EIRC					
67	MS. SHAMITA SINHA MAHAPATRA	ACS 44282	16574	EIRC					
68	MR. PRAVEEN KUMAR	ACS 32631	15477	NIRC					
69	MR. ROHIT KUMAR	ACS 37781	15205	EIRC					
70	MR. AYUSH JAIN	ACS 39017	14559	NIRC					
71	MR. SWAMINATHAN NATARAJAN	ACS 19931	12904	SIRC					
72	MR. BIRAJA PRASAD PANDA	ACS 44627	16583	EIRC					
73	MS. AMRITA CHITRANSHI	ACS 42274	16046	NIRC					
74	MR. SHRIKANT W HAWALDAR	ACS 10173	15440	WIRC					
75	MRS. NITA ASHOK BUGADE	ACS 34576	15302	WIRC					
76	MS. AKANKSHA KANDOI	FCS 6883	16024	WIRC					
77	MS. DEEPIKA KAPOOR	ACS 39042	15296	NIRC					
78	MS. GARIMA PRAVEEN JAMAD	ACS 24630	12740	SIRC					
79	MRS. DHARA MITHIL PABARI	ACS 36808	14587	WIRC					
80	MR. S VIDHYASHANKAR	FCS 5322	8118	SIRC					
81	MR. ANAND KUMAR GUPTA	FCS 6396	11481	NIRC					
82	MS. DIVYA JAIN	ACS 24638	11624	NIRC					
83	MRS. PRITI KANODIA	ACS 34579	13907	EIRC					

LICENTIATE ICSI

ADMITTED*

S. NO.	NAME	LICENTIATE NO.	REGION
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2	MR. KUPPILI SREERAMAM	6847	SIRC
3	MR. RAHUL KUMAR PILANIA	6848	EIRC
4	MR. N SANTHANA KRISHNAN	6849	SIRC
5	MR. SAIBAL CHANDRA DUTTA	6850	EIRC
6	MR. RAJESH RAMACHANDRAN	6851	SIRC
7	MR. AMIT KAUSHAL	6852	NIRC
8	MR. KANAKARAJU S	6853	SIRC
9	MS. SUKANYA VASHIST	6854	NIRC
10	MR. SRIVATSAN B	6855	SIRC
11	MS. BHUMI RAMESH CHANDRA RUPAREL	6856	WIRC
12	MR. LUV KUMAR GARG	6857	NIRC
13	MR. KUSHAGRA TIBREWAL	6858	EIRC
14	MR SIDHAARDHA MANNAVA	6859	WIRC
15	MR. MANOJ KUMAR SINGH	6860	NIRC
16	MS. JANHAVI MEHUL KOTHARI	6861	WIRC
17	MR. SHAILESH GOWRI SHANKAR	6862	SIRC
18	MR. SUDARSHAN NANJANGUD SUBRAMANYA	6863	SIRC
19	MS. SHAIKH SHAHABANOO SIDDIQ AHMED	6864	WIRC

* DURING THE MONTH OF JUNE & JULY, 2016

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The Institute has brought out a CD containing List of Members of the Institute as on 1st April, 2016. The CDs are available at the headquarters of the Institute for a cost of Rs. 250/- for members and Rs. 500/- for non-members. Request along with the payment may please be sent to the Membership section at email id rajeshwar.singh@icsi.edu.

For queries if any, please contact on telephone no: 011-45341063.

Company Secretaries Benevolent Fund

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EIRC				
1	11411	MR. AVIJEET PATTANAİK	ACS - 46240	BHUBANESWAR
2	11433	MR. PINTU MAZUMDAR	ACS - 43390	RANCHI
NIRC				
3	11410	MRS. MONIKA GUPTA	ACS - 25480	FARIDABAD
4	11413	MR. KAPIL KUKREJA	ACS - 46568	DELHI
5	11415	MR. SIDHARTH SHARMA	ACS - 30367	DELHI
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7	11417	MR. HANUMAN PRASAD	ACS - 46027	CHURU DISTT
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9	11419	SH. UDAYVEER YADAV	ACS - 26743	DELHI
10	11420	SH. A K MATHUR	FCS - 2391	NEW DELHI
11	11421	MS. SWATI DAGA	ACS - 43208	BIKANER
12	11422	MR. MOHD ARSHAD	ACS - 32811	NEW DELHI
13	11423	MR. RANJIT KUMAR BEHERA	ACS - 44706	NEW DELHI
14	11429	SH. SAURABH SRIVASTAVA	FCS - 7275	LUCKNOW
15	11435	MS. PURNIMA BHASIN	ACS - 46782	KANPUR

S. No.	LM No.	NAME	MEMB No.	CITY
16	11436	MS. AKRITI MAHAJAN	FCS - 8809	DELHI
SIRC				
17	11409	MS. JEYA PACKIAMANI	ACS - 46498	CHENNAI
18	11412	MS. HANSIKA JAIN H	ACS - 45937	BANGALORE
19	11430	MS. JAMBURI SHAILAJA	ACS - 46693	KHAMMAM DISTT
20	11431	MR. P DURAIBABU	ACS - 44558	CHENNAI
21	11432	MRS. JYOTHI SHIVAYOGI	ACS - 33062	BANGALORE
WIRC				
22	11408	MR. HARISH KUMAR MALSATTER	ACS - 38713	VADODARA
23	11414	MR. GIRISH AGRAWAL	ACS - 46425	INDORE
24	11424	MR. BIRJUKUMAR MOHANBHAI GODHANI	ACS - 41903	SURAT
25	11425	MR. YOGESH HARILAL SONEJI	ACS - 36731	MUMBAI
26	11426	MR. JITESHKUMAR RAMCHANDRA VARKAL	ACS - 31727	SURAT
27	11427	MS. SHEETAL VAZE	FCS - 6729	PUNE
28	11428	MR. BALAWANT SINGH	ACS - 46282	PUNE
29	11434	MR. SAGAR BANSIKUMAR GANDHI	ACS - 44519	VADODARA

* ENROLLED DURING THE PERIOD 21.07.2016 TO 19.08.2016



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Imparting Training During
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GAURAV KUMAR

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PINCODE:110091, NEW DELHI**PAWAN KUMAR KAUSHIK,**

C-9/128, YAMUNA VIHAR, PINCODE:110053, DELHI

PRACHI HARSHAD SHAH16TH KOTHARI TOWER, 4TH FLOOR, RAM NAGAR, ABARMATI,
PINCODE:380005, AHMEDABAD**PRIYA JHALANI**P. NO. 8, VIKAS NAGAR, KALWAR ROAD, JHOTWAR PINCODE:302012,
JAIPUR**RAJDEEP VILAS MAKOTE**C 34 1ST FLOOR, MAHALAXMI CHAMBERS, NEAR CENTRAL BUS STAND,
PINCODE:416001, KOLHAPUR**RAMA LAKHOTIA**18, RABINDRA SARANI, PODDAR COURT, GATE NO.3, 5TH FLOOR, ROOM
NO. B4 PINCODE:700001, KOLKATA**RAVISHANKAR PERIHAL**G-36, MANISH MARKET, NR. RESHAMWALA MARKET, RING ROAD
PINCODE:395002, SURAT**RENU KATHURIA**

283/1, JAWAHAR COLONY, N I T PINCODE:121005, FARIDABAD

RIKTA GUPTAB-29/B, STREET NO. 3 KANTI NAGAR EXTENSION,
PINCODE:110051, DELHI**ROHIT RAMACHANDRAN**NO. 13 B CLASSIC SUNNY SANDS, CANAL ROAD, NEAR BHARATH MATA
COLLEGE THRIKKAKARA PINCODE:682021, KOCHI**RONAK BHARATBHAI LADHAWALA**314-315, V2 COMPLEX, NR. BHAIKAKA CIRCLE, VALLABH VIDHYANAGAR
PINCODE:388120, ANAND**RUKHSAR PERWEEN**H. NO. 528, 39, MISTRI MOHALLADORANDA NEAR JHARKHAND
HIGHCOURT PINCODE:834002, RANCHI**SANCHIT KUMAR**

91 SUKHIMAL DASNA GATE, PINCODE:201001, GHAZIABAD

SANJEEV KUMAR DIKSHITDHARAM KUNJ, B-121, NEAR PATEL PARK OPP. E TV OFF, HARMU
HOUSING COLONY PINCODE:834002, RANCHI**SANJOG VITTHAL NARAVANKAR**SAHARSH CO-OP HSG, PLOT NO. 256, ROOM NO. 16, NEAR IES SCHOOL
SECTOR NO. 2, CHARKOP, KANDIVALI (W), PINCODE:400067, MUMBAI**SHANKY SANTANI**

PURSHOTTAM COMPLEX, CMD CHOWK, PINCODE:495001, BILASPUR

SHASHI KIRAN M V

NO. 10/6, 1ST FLOOR, 4TH CROSS, 13TH MAIN ROAD, BANASHANKARI,
3RD STAGE, 1ST BLOCK SRINAGAR PINCODE:560050, BANGALORE

SRISHTHI MATHUR

K-3 LAXMAN PATH, NEAR POST OFFICE, SHYAM NAGAR, SODALA
PINCODE:302019, JAIPUR

SUNITA

1139, FIRST FLOOR, SECTOR 12 A, PINCODE:134100, PANCHKULA

SURAJ SINGH

F-3196, 1ST FLOOR, RAJAJIPURAM, PINCODE:226017, LUCKNOW

SWEENEY GULATI

GH-14, FLAT NO. 73, PASCHIM VIHAR, PINCODE:110087 NEW
DELHI

TEJAS BHARAT SHAH

205, SAI LEELA COMMERCIAL COMPLEX, OPP. MOKSHA PLAZA, S.V.
ROAD, BORIVALI (WEST) PINCODE:400092, MUMBAI

VARUN KUMAR SINHA

2/3, 3RD FLOOR, AAKASH TOWER, WATER WORKS ROAD, NEAR SHITLA
MANDIR (ABOVE IDBI BANK), SAKCHI PINCODE:831001, JAMSHEDPUR

VENKATESWARLU DEVASANI

NO.5, AISHWARYA ARCADE, GULMOHAR, ENCLAVE ROAD, OPP SBI BANK,
KUNDANHALLI, GATE, MUNNEKOLALA, MARTHAHALLE, PINCODE:560037
BANGALORE

VIKAS BANSAL

411, B-09, ITL TWIN TOWER, NETAJI SUBHASH PLACE, PITAMPURA,
PINCODE:110034, NEW DELHI

VIKAS GUPTA

B-95, STREET NO.10, SHASHI GARDEN, PATPARGANJ PINCODE:110091,
NEW DELHI

VIKAS KUMAR GARG

D-4 B FIRST FLOOR RAMPRASTHA, NEAR RAGHUNATH TEMPLE,
PINCODE:201011, GHAZIABAD

VIKAS RAJU VARMA

3/3, BMC COLONY, KHERWADI ROAD, BANDRA (E) PINCODE:400051,
MUMBAI

YESHA H SHAH

39, 1ST FLOOR, SAJJAN RAO ROAD, V V PURAM PINCODE:560004,
BANGALORE

GANGANAGAR MOTORS LIMITED

1, TRANSPORT NAGAR, JAIPUR(24)

GRJ DISTRIBUTORS & DEVELOPERS PRIVATE LIMITED 64, SCINDIA HOUSE
CONNAUGHT PLACE, NEW DELHI 110001

INDIA GREEN REALITY LIMITED

12, SATYAM MALL NR.KAMESHWAR SCHOOL, JODHPUR CHAR RASTA, SATELLITE,
AHMEDABAD - 380015

**JHARKHAND ACCELERATED ROAD DEVELOPMENT
COMPANY LTD**

443/A, ROAD NO. - 5, ASHOK NAGAR, RANCHI

MULTI INFRA TECH PRIVATE LIMITED

1/18 -20DL 110055 IN RANI JHANSI ROAD NEW DELHI

S V CREDITLINE PRIVATE LIMITED

5TH FLOOR TOWER B, S A S TOWERS, MEDICITY, SECTOR- 38, GURGAON

SHIRDI INDUSTRIES LIMITED

2ND FLOOR, MHATRE PEN BUILDING, GYAN MANDIR BUILDING, SENAPATI BAPAT
MARG, DADAR WEST, MUMBAI- 400028

SIEMENS HEALTHCARE PRIVATE LIMITED

130 PANDURANG BUDHKAR MARG, MUMBAI-RO(79)

SKT BUILDCON PRIVATE LIMITED

H.NO.271, MANDIR ROAD, GIRITAL, KASHIPUR, DISTT-UDHAM SINGH NAGAR

SPECTRA OUTSOURCE SOLUTIONS PRIVATE LIMITED

OFFICE NO-247, SECOND FLOOR,, 14/5, MAIN MATHURA ROAD, NEAR MEWLA
MAHARAJPUR METRO STATION FARIDABAD

SUZUKI MOTOR GUJARAT PRIVATE LIMITED

B-3 SAFAL PROFITAIRE PRAHLADNAGAR AHMEDABAD AHMEDABAD(61)

USC ADVISORY PVT. LTD.

33, ECSTASY BUSINESS PARK, GROUND FLR, J S DOSSA ROAD ,CITY OF
JOY, MULUND, MULUND WEST, MUMBAI

UTSAV SECURITIES PRIVATE LIMITED

4TH FLOOR, 15/3198, STREET NO.1, SANGAT RASHAN, PAHAR GANJ, NEW DELHI
CENTRAL DELHI DL 110055

VI BHU INTERNATIONAL LIMITED

316, EXPRESS TOWER, COMMERCIAL COMPLEX, AZADPUR-110033 DELHI-
RO(39)

VISHVARAJ INFRASTRUCTURE LIMITED

JOLLY MAKER 2, UNIT NO.88 (A), 8TH FLOOR, NARIMAN POINT MUMBAI-
RO(79)

A F ENTERPRISES LIMITED

DSM-334, DLF TOWER, SHIVAJI MARG, DELHI-RO(39)

ADHIRAJ DISTRIBUTORS LIMITED

105/5/1, KSHETRA BANERJEE LANE, HOWRAH : 711 102, KOLKATA-RO(19)

BAZEL INTERNATIONAL LIMITED

C-119, FIRST FLOOR LAJPAT NAGAR-II, DELHI-RO(39)

COMPANY BIRLA TOWER

3RD, FLOOR, 25, BARAKHAMBA ROAD, NAGPUR(67) DE

CROMPTON GREAVES CONSUMER ELECTRICALS LIMITED

TOWER 3, 1ST FLOOR, EQUINOX BUSINESS PARK, LBS MARG, KURLA (WEST),
MUMBAI 400 070

GWALIOR POLYPIPES LIMITED

263 LGF GREATER KAILASH - 1, NEW DELHI

JALAN CEMENT WOKS LIMITED

81 N S ROAD, 2ND FLOOR NO 202, KOLKATA, KOLKATA-RO(19)

MAHINDRA RURAL HOUSING FINANCE LIMITED

SADHANA HOUSE, 2ND FLOOR, 570 P.B. MARG, WORLI,
MUMBAI, 400018

MARSHALL SONS & CO (INDIA) LTD

3, N.S ROAD, KOLKATA-RO(19)

MOMAI APPARELS LIMITED

305-309, 3RD FLOOR, PACIFIC PLAZA, MAHIM DIVISION, TPS IV, B.S.ROAD, DADAR
WEST MUMBAI 400028

PARTH ALLUMINIUM LIMITED

"GAYATRI HOUSE", ASHOK VIHAR, NEAR MAITRI AVENUE SOCIETY, OPP. GOVT.
ENG. COLLEGE, MOTERA, SABARMATI, AHMEDABAD(61)

PRATIBHA INDUSTRIES LIMITED

SHRIKANT CHAMBERS, PHASE II, 5TH FLOOR, SION - TROMBAY ROAD, NEXT TO R.
K. STUDIO, CHEMBUR MUMBAI MH 400071

RELICAB CABLE MANUFACTURING LTD 57/1(4B), BHENSLORE INDUSTRIAL
ESTATE, VILLAGE DUNETHA, NANI DAMAN, DAMAN - 396213

SURAJ HOLDINGS LIMITED

A-92C, TAIMOOR NAGAR, NEW FRIENDS COLONY, DELHI-RO(39)



List of Companies
Registered for
Imparting
Training during the
month of July, 2016

ALLENERS MEDICAL SYSTEMS LIMITED

SCO-212-13-14, SECTOR-34, CHANDIGARH(21)

C T A APPARELS PRIVATE LIMITED

C-633, NEW FRIENDS COLONY, DELHI-RO (39)

CONSTELLATION BLU MANAGEMENT CONSULTANTS

LLP 412, NAVIJIVAN BUILDING NO.3, LAMINGTON ROAD, NAVIJIVAN COMMERCIAL
PREMISES, CO-OP SOCIETY, MUMBAI 400008.

CORPORATE CAPITAL VENTURES PVT. LTD.

160(BASEMENT), VINOBA PURI, LAJPAT NAGAR, DELHI-RO(39)

DELOITTE TOUCHE TOHMATSU INDIA LLP

12, DR. ANNIE BESANT ROAD OPP. SHIVSAGAR ESTATE, WORLI MUMBAI-
RO(79)

DLF UNIVERSAL LIMITED

SHOPPING MALL, 3RD FLOOR, ARJUN MARG, DLF CITY, PHASE- I, GURGAON

ENDURANCE WEB SOLUTIONS PRIVATE LIMITED

UNIT NO.501, 5TH FLOOR, IT BLDG. 3, NESCO IT PARK, NESCO COMPLEX,
WESTERN EXPRESS HIGHWAY, GOREGAON (E), MUMBAI - 400063

FOODWORLD SUPERMARKETS PRIVATE LIMITED

NO. 740, ESWARI INDUSTRIAL ESTATE, GATE NO. 2, HULIMAVU,
BANNERGHATTA ROAD, BANGALORE(41)



BRAIN – TEASERS! (Win Prizes)

To win prizes, a person has to send replies to both (i.e. Legal Jargons & Case Study). Three prizes – a first, a second and a third carrying Rs. 2000, Rs. 1500 and Rs. 1000 respectively will be awarded to the best entries in order of merit. The decision of the Institute will be final and binding and no query/clarification whatsoever will be entertained. The names of the winners will be published in one of the future issues of the Journal. Please send your replies to ak.sil@icsi.edu latest by 25th of September 2016 highlighting **Replies to September 2016 Brain Teasers Column.**

Brain Teasers September 2016

Simple Legal Terms

Across

1. Let the Seller beware
2. A Court order to stop/start a prescribed action
3. To take a legal vow
4. For a particular purpose
5. An agreement made for restricting competition

Down

1. A written statement made under Oath
2. Also known as a bond
3. Compensation in terms of Money for a legal wrong
4. Without notice to other party
5. Order to produce a person physically
6. A legally enacted law

CASE STUDY

Transport sector is prone to monopolies / abuse across the globe.

In India, a shake up of services and prices in the transport sector is being witnessed thanks to the app based aggregators. Low prices of Rs 6/km, share taxis, surge pricing are entering common parlance of a regular commuter. Still black spots exists across India, be it upmarket Gurgaon or rural Utrakhhand, consumer is being squeezed. Such phenomena are witnessed amongst Private Transport Operators like taxis, autos, buses, tempos, vans, etc.

India needs a solution.

- 1) Has the state failed in delivering to its citizens their freedom to travel.
- 2) Are Internet based services a boon or a bane.
- 3) If you were 'forum shopping', where would you seek a remedy - a) Consumer Protection, b) Writ, c) PIL,d) Competition Commission,e) civil proceedings, or other.

Attention Members

Revolving Fund Schemes for becoming life members of CSBF

The Managing Committee of Company Secretaries Benevolent Fund (CSBF) has launched the following schemes for enrolling the members of the Institute as life members of the CSBF. The members may take benefit out of these schemes.

Employer's Revolving Fund Scheme for their employees:

Under this scheme, the Companies, Practising Company Secretaries (PCS) and other organizations where the members of the Institute are working may create a Revolving Fund, to provide financial assistance out of this fund to their employee(s) by paying his/her one time subscription amount (Rs.7500/-) to CSBF to enable them to become life member of the CSBF. This amount so disbursed as financial assistance to the member may be deducted from the monthly salary of the member employee in instalments or as per the mutually agreed terms between the employer and the employees. The employer companies, PCS and other organizations will be given proper recognition by CSBF and their names will be hosted at the webpage of CSBF as well as published in the Chartered Secretary journal.

General Revolving Fund Scheme for the Members of the Institute:

This scheme will be administered by the Individual Members ("Contributory Member") of the Institute to enable the eligible members ("Beneficiary Member") of the Institute to become members of CSBF. The financial assistance will be provided at the discretion of the contributory member but in no case it should be more than 80% of the one-time subscription amount (Rs.7500/-) to be paid by the beneficiary member for becoming a Life member of CSBF. Members having less than five years standing as an Associate member shall only be eligible for this scheme. The financial assistance so provided by the Individual Members will be refunded in instalments as per the terms and conditions mutually agreed between them. The Contributory Members will be given proper recognition by CSBF and their names will be hosted at the webpage of CSBF as well as published in the Chartered Secretary journal.

Revolving Fund Scheme administered by CSBF:


Under this scheme any company, individual (member or non-member) or entity may contribute any amount towards the Revolving Fund Scheme to be administered by the CSBF. The CSBF will administer this revolving fund scheme for the new members of the Institute to enable them to become member of the CSBF. Members having less than five years standing as an Associate shall only be eligible for this scheme. This scheme shall be administered out of the contributions received by the CSBF specifically for this scheme only and earmarked for the scheme: "CSBF Membership Assistance Fund". Beneficiary Members shall have to contribute at least 20% of the one-time subscription amount to be paid by them for becoming a Life-member of CSBF. They shall refund the amount to the Fund in not more than four quarterly instalments by way of Post dated cheques within a period of one year. Amount refunded by the beneficiaries would be credited to the CSBF. Beneficiary Members shall be required to submit an undertaking to refund the amount.

Note: In the above schemes, no interest or other amount shall be charged from the members seeking financial assistance.




NEWS FROM THE REGIONS

EASTERN INDIA REGIONAL COUNCIL

Programme	QR Code/Weblink
Education Summit with MCC	https://www.icsi.edu/eiro/Archive.aspx 
Interactive Meeting with B. Mohanty, Registrar of Companies (WB)	
Study Circle Meeting on "Directors' Report and Notice of AGM".	



BHUBANESWAR CHAPTER

Programme	QR Code/Weblink
Celebration of Independence Day on 15/08/2016	https://www.icsi.edu/bhubaneswar/NewsEvents.aspx 
Study circle meeting on GST – General Exposure on 23/08/2016	
Panel Discussion on GST on 27/08/2016	
Full day workshop on GST on 30/08/2016	

HOOGLY CHAPTER

Programme	QR Code/Weblink
Study Circle Meetings Held on 19.6.2016 on Board Report and Notice and also on Corporate Governance Report and other Disclosures in Annual Report.	https://www.icsi.edu/hooghly/Home/NewsEventsandAnnouncements.aspx 
Study circle meetings held on 7.8.2016 on Preparation and Filing Before Statutory Authorities: NCLT, RD Etc. and also on Recent Changes in Company Law.	
On the same day other study circle meetings were held on "Adjudication of Service Tax" and on "Introduction of Goods & Service Tax".	
Full-Day Workshop held on 3.7.2016	
Campus Placement for Members and Students Held on 31.7.2016	
Independence Day Celebration Held On 15.8.2016	



RANCHI CHAPTER

Programme	QR Code/Weblink
Investor Awareness Programme held on 14.8.2016 - The investors were made aware of investor protection-dos & don'ts and also apprised about the fraudulent aspects of various Chit funds and Ponzi schemes prevailing in the market. Dr. Diwakar Minz, Proctor, Ranchi University was the Chief Guest.	www.icsi.edu/portals/21/IAP_Ranchi on 14.08.16.pdf 
Independence Day celebration held on 15.8.2016	www.icsi.edu/portals/21/Independence Day-Ranchi.pdf 

NORTHREN INDIA REGIONAL COUNCIL

Programme	QR Code/Weblink
Session on Start up & Stand up on 3.8.2016	NA
Workshop on NCLT/NCLAT Rules, 2016 held on 6.8.2016	
PCS Help Line on "Technical Issues relating to E-filing" held on 10.8.2016	
70 th Independence Day Celebration and Flag Hoisting held on 15.8.2016	
Seminar on Delegated Legislation : Changes & Impact (Recent Amendment to Rules under Companies Act, 2013 & NCLT & NCLAT Rules, 2016) held on 20.8.2016	
PCS Help Line on FEMA held on 24.8.2016	
Capacity Building Session on Applicability of CPC, CrPC & allied laws on NCLT proceedings held on 26.8.2016	
Empowerment Series on GST – Overview & Opportunities held on 29.8.2016	



KANPUR CHAPTER

Programme	QR Code/Weblink
Flag Hoisting on Independence Day 15.08.2016	http://www.icsi.edu/Portals/10/Flag%20Hoisting%2015.8.2016.pdf 
Seminar on NCLT / NCLAT and President's visit at Kanpur Chapter office 28.8.2016	http://www.icsi.edu/Portals/10/Users/Seminar%2028.8.2016.pdf 


MODINAGAR CHAPTER

Programme	QR Code/Weblink
Study Circle Meeting on GST held on 28.8.2016	NA





SOUTHREN INDIA REGIONAL COUNCIL


Programme	QR Code/Weblink
Seminar Held On Foundation Day Programme-on 31.7.2016	https://www.icsi.edu/webmodules/SIRC_Proceedings_FndDayProgandSem_31072016.pdf 
Study Circle Meeting 09.08.2016 on Latest Updates on Sales Tax	https://www.icsi.edu/docs/webmodules/Proceedings_SCM_Meetingon_09082016.docx 

AMRAVATI CHAPTER


Programme	QR Code/Weblink
Full day Seminar on Insolvency & Bankruptcy Code, Companies (Amendment) Bill 2016, Boards Report, Goods & Service Tax (GST) held on 26.8.2016	http://www.icsi.edu/portals/153/sem%2026.08.2016.pdf 

BENGALURU CHAPTER




Programme	QR Code/Weblink
Van Mahotsava	http://bit.ly/2aVRWtJ 
Half Day Seminar	http://bit.ly/2bjyDi2 
Joint Seminar	http://bit.ly/2aX35k4 
Full Day Seminar	http://bit.ly/2batkjl 

Programme	QR Code/Weblink
Study Circle Meeting	http://bit.ly/2b8mz2L 



HYDERABAD CHAPTER

Programme	QR Code/Weblink
Interactive Session with CS Dinesh Chandra Arora, Secretary, the ICSI on 31.7.2016	http://www.icsi.edu/portals/2/Activity/HYD-AUG16.pdf
Press Meet with President, ICSI on 3.8. 2016	
Panel Discussion on Gender Diversity in Corporate Board Room held on 3.8.2016:	
Meeting on Income Declaration Scheme (IDS)-2016 held on 4.8.2016	
ICSI - GST & CSR 5K WALK held on 21.8.2016	
Programme on SEBI Financial Educational Workshop held on 24.8.2016	



MYSORE CHAPTER

Programme	QR Code/Weblink
Seminar on Goods & Service Tax Act (GST) Jointly with CII & Study Circle Meeting	http://www.icsi.edu/mysore/ChapterActivities/SeminarPDP.aspx 
Independence Day Celebrations	http://www.icsi.edu/mysore/ChapterActivities/OtherPrograms.aspx 
Snapshots of the above mentioned programmes	http://www.icsi.edu/mysore/ChapterActivities/Snapshots.aspx 


PALAKKAD CHAPTER

Programme	QR Code/Weblink
Independence Day Celebrations	http://www.icsi.edu/palakkad/NewsEvents.aspx 
Session On Investments, Loans And Deposits Under Companies Act 2013	http://www.icsi.edu/palakkad/NewsEvents.aspx 



SALEM CHAPTER




Programme	QR Code/Weblink
Special Lecture on the Companies Act, 2013 :	http://www.icsi.edu/salem/Activities/studentsMeetGuidancePgmLectureInteractiveSession.aspx 
SANGAMAM - One Day Joint Seminar	http://www.icsi.edu/salem/Activities/SeminarPDPs.aspx 

WESTERN INDIA REGIONAL COUNCIL


Programme	QR Code/Weblink
"1st NCLT Clinic" program of ICSI-WIRC held on 14.08.2016	https://www.icsi.edu/Portals/72/Year%202016/August%20CSJ.pdf 
Program on Corporate Laws – Emerging Career Avenues held on 20.08.2016 at Nashik	
ICSI-WIRC PCS Study Circle Meeting on Practical Aspects of GST held on August 30, 2016	

AHMEDABAD CHAPTER



Programme	QR Code/Weblink
Half Day Seminar on "Goods & Service Tax - An Endeavour to comprehend The GST Trajectory" held on 27.8.2016	http://www.icsi.edu/Portals/25/AUGUST_21.08.2016%20TO%2031.08.2016.pdf 
Study Circle Meeting on "World Economy vs. India Changing World Order" held on 17.8.2016	http://www.icsi.edu/Portals/25/11.08.2016%20to%2020.08.2016.pdf 

Programme	QR Code/Weblink
Full Day Conference for Members & Students on "Company Secretary- Be the Change" held on 4.8.2016	http://www.icsi.edu/Portals/25/WRITE%20UP_1.08.2016%20TO%2010.08.2016.pdf 
43 rd Foundation day Celebration held on 4.8.2016	http://www.icsi.edu/Portals/25/WRITE%20UP_1.08.2016%20TO%2010.08.2016.pdf 
Study Circle Meeting on "Career Opportunities in Government Sector" held on 5.8.2016	http://www.icsi.edu/Portals/25/WRITE%20UP_1.08.2016%20TO%2010.08.2016.pdf 


BHAYANDER CHAPTER

Programme	QR Code/Weblink
Full Day Semimar on "National Company Law Tribunal - Law & Practice" held on 28.08.2016	http://www.icsi.edu/bhayander/NewsEvents.aspx 


PUNE CHAPTER

Programme	QR Code/Weblink
Study Circle Meeting on "Recent Changes in Labour Laws"	http://www.icsi.edu/portals/32/Chartered_Secretary_21_08_31_08_2016.pdf 
Workshop on "Knowledge Refresher Course on Critical Aspects of Companies Act, 2013" (A Series of Four Workshops)	http://www.icsi.edu/portals/32/CHARTERED_SECRETARY_%2001st_TO_10th_08.pdf 

RAJKOT CHAPTER

Programme	QR Code/Weblink
Celebration of the Foundation programme of the Rajkot Chapter on 17.08.2016.	http://www.icsi.edu/Portals/34/Foundation%20Day%2017.08.2016.pdf 

THANE CHAPTER

Programme	QR Code/Weblink
Seminar on NCLT & NCLAT Rules on 20.8.2016	http://www.icsi.edu/thane/NewsEvents.aspx 

COMPANY SECRETARIES BENEVOLENT FUND



The Company Secretaries Benevolent Fund (CSBF) provides safety net to Company Secretaries who are members of the Fund and their family members in distress.

CSBF

- Registered under the Societies Registration Act, 1860
- Recognised under Section 12A of the Income Tax Act, 1961
- Subscription / Contribution to Fund qualifies for the deduction under section 80G of the Income Tax Act, 1961
- Has a membership of about 11,000

Eligibility

A member of the Institute of Company Secretaries of India is eligible for the membership of the CSBF.

How to join

- By making an application in Form A (available at www.icsi.edu/csbf) along with one time subscription of ₹ 7,500/-.
- One can submit Form A and also the subscription amount of ₹ 7500 ONLINE through Institute's web portal: www.icsi.edu. Alternatively, he can submit Form A, along with a Demand Draft or Cheque for ₹ 7500 drawn in favour of 'Company Secretaries Benevolent Fund', at any of the Offices of the Institute/ Regional Offices/Chapters.

Benefits

- ₹ 5,00,000 in the event of death of a member under the age of 60 years
- Upto ₹ 2,00,000 in the event of death of a member above the age of 60 years
- Upto ₹ 40,000 per child (upto two children) for education of minor children of a deceased member in deserving cases
- Upto ₹ 60,000 for medical expenses in deserving cases
- Limited benefits for Company Secretaries who are not members of the CSBF

Contact

For further information/clarification, please write at email id csbf@icsi.edu or contact Mr. Saurabh Bansal, Executive on telephone no.011-45341088.

For more details please visit www.icsi.edu/csbf

6

MISCELLANEOUS CORNER



- ETHICS & CODE OF CONDUCT CORNER
- GST CORNER
- PCS CORNER
- 17TH NATIONAL CONFERENCE OF PRACTISING COMPANY SECRETARIES
- BRAIN TEASERS
- 41ST REGIONAL CONFERENCE OF COMPANY SECRETARIES
- 44TH NATIONAL CONVENTION OF COMPANY SECRETARIES

FREQUENTLY ASKED QUESTIONS ON PROFESSIONAL AND OTHER MISCONDUCT IN RELATION TO MEMBER OF THE INSTITUTE IN SERVICE UNDER THE FIRST AND SECOND SCHEDULE TO THE COMPANY SECRETARIES ACT, 1980

Q1. Can a member in employment share emoluments of the employment with any person?

Ans No, a member of the Institute in employment cannot share his emoluments of the employment undertaken by him, with any other person not even a member of the Institute.

Both direct and indirect sharing of the emoluments is prohibited under Item (1) of Part II of the First Schedule to the Company Secretaries Act, 1980. However, it may be noted that under Part I of the First Schedule, a member in practice can share the fee, commission or brokerage or profits with any other member of the Institute who is his partner.

Q2. Can a member in employment accept any secret benefit from employment?

Ans No, a member of the Institute in service cannot accept or agrees to accept any secret benefit from the employment, such as any part of fees, profits or gains from a lawyer, a Company Secretary or broker engaged by such employer, by way of commission or gratification. It is prohibited under Item (2) of Part II of the First Schedule to the Company Secretaries Act, 1980.

Q3. Who can act as Fellow of the Institute?

Ans A member, whose name has been enrolled in the Register of Members of the Institute as Fellow member, can only act as a Fellow member of the Institute.

Item (1) of Part III of the First Schedule to the Company Secretaries Act, 1980 prohibits a member, whether in practice or not, to act as a Fellow Member of the Institute if he is not a Fellow member.

Q4. Are the members bound to supply the information called for or to comply with the requirements asked for by the Institute and its various authorities?

Ans Yes, it is the duty of a member, whether in practice or not, to supply information called for or to supply the requirements as asked for, by the Institute, Council or any of its Committee and other authorities such as Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority as constituted under the Company Secretaries Act, 1980. Non-compliance of the same would amount to professional misconduct under Item (2) of Part III of the First Schedule to the Company Secretaries Act, 1980.

Q5. Can a member give information knowing it to be false, while inviting professional work from another Company Secretary or while responding to tenders or enquiries or while advertising through a write up?

Ans No, a member of the Institute, whether in practice or not, cannot give any information which he knows it to be false, while inviting professional work from another Company Secretary or while responding to tenders or enquiries or while advertising through a write up, or anything as provided for in items (6) and (7) of Part I of the First Schedule to the Company Secretaries Act, 1980, as the same would amount to professional misconduct under Item (3) of Part III of the First Schedule to the Company Secretaries Act, 1980.

Q6. What happens if a member of the Institute is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months?

Ans A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, under Item (1) of Part IV of the First Schedule to the Company Secretaries Act, 1980, if he is held guilty by any civil or criminal court for an offence which is punishable with

imprisonment for a term not exceeding six months.

Q7. What happens if as a result of his action, a member of the Institute brings disrepute to the profession or the Institute?

Ans If a member of the Institute, whether in practice or not, in the opinion of the Council brings disrepute to the profession or the Institute, as a result of his act or omission, whether the same relates to his professional work or not, or such act or omission, does not fall under any of the items of the First and Second Schedule to the Company Secretaries Act, 1980, the member shall be deemed to be guilty of other misconduct under Item (1) of Part IV of the First Schedule to the Company Secretaries Act, 1980.

Q8. Is a member of the Institute, bound to follow provisions of the Company Secretaries Act, 1980, the Regulations made thereunder and the guidelines issued by the Council?

Ans Yes, a member of the Institute, whether in practice or not, is bound to follow the Company Secretaries Act, 1980 (including the Rules), the Regulations made thereunder and the Guidelines issued by the Council of the Institute from time to time. Contravention of the same amounts to professional misconduct under Item (1) of Part II of Second Schedule to the Company Secretaries Act, 1980.

Q9. Can a member of the Institute in employment disclose confidential information acquired in the course of his employment?

Ans No, a member of the Institute in employment cannot disclose confidential information acquired in the course of his employment. He is expected to maintain confidentiality of any information which may cause harm to the employer if disclosed to any undesirable person or outsider. Disclosure of the same amounts to professional misconduct under Item (2) of Part II of the Second Schedule of the Company Secretaries Act, 1980.

Q10. Can a member include particulars knowing them to be false in any information, statement, return or form, to be submitted to the Institute, Council/Committee and other authorities?

Ans No, a member of the Institute, whether in practice or not, cannot include any particulars which he knows it to be false, in any information, statement, return or form to be submitted to the Institute, Council or any of its Committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority.

It amounts to professional misconduct under Item (3) of Part II of the Second Schedule of the Company Secretaries Act, 1980.

Q11. Can a member of the Institute defalcates or embezzles moneys received in his professional capacity?

Ans No, a member of the Institute, whether in practice or not, cannot defalcate or embezzle moneys received by him in his professional capacity as the same amounts to professional misconduct under Item (4) of Part II of the Second Schedule to the Company Secretaries Act, 1980. Misappropriation of funds received in professional capacity by a member of the Institute, would amount to misconduct under this Item.

Q12. What happens if a member of the Institute is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term exceeding six months?

Ans A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, under Part III of the Second Schedule to the Company Secretaries Act, 1980, if he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term exceeding six months.

GST Updates

- Rajya Sabha approved the Constitutional (122nd Amendment) Bill, 2014 on 3rd August, 2016 and Lok Sabha on 8th August, 2016.
- Following is the state-wise status of ratification of the Bill as on date :
 1. Assam (12th August, 2016)
 2. Bihar (16th August, 2016)
 3. Jharkhand (17th August, 2016)
 4. Himachal Pradesh (22nd August, 2016)
 5. Chhattisgarh (22nd August, 2016)
 6. Gujarat (23rd August, 2016)
 7. Madhya Pradesh (24th August, 2016)
 8. Delhi (24th August, 2016)
 9. Nagaland (26th August, 2016)
 10. Maharashtra (29th August, 2016)
 11. Haryana (29th August, 2016)
 12. Telangana (30th August, 2016)
 13. Mizoram (30th August, 2016)
 14. Sikkim (30th August, 2016)
 15. Goa (31st August, 2016)
 16. Odisha (1st September, 2016)
- With 16 States ratifying the Bill, it moves forward for President's assent.

GST in News

- Government is hopeful that all States would table respective GST Bills in the Winter Session
- Existing benefits given to hill, North-East States may continue under GST regime
- Ministry of Finance and Empowered Committee on GST holds interactive meetings with various trade and professional bodies to seek suggestions on Model GST Law
- Over 30 cesses, surcharges to push GST rate on higher side
- GST platform is likely to become analytics powerhouse
- CBEC sets up Panel to smooth road to GST
- More states riding on Goods and Services Tax Network (GSTN) technology to roll out GST reform
- Trade and Industry chambers have voiced that GST rate at 18% may be revenue neutral
- 50% of states expected to approve GST by early September
- West Bengal deters ratification of Constitutional Amendment Bill.
- Government is working hard to have GST introduced from April, 2017 but also expects that it may be delayed by few months if industry is not fully prepared

Salient Features of GST

Various indirect taxes would be subsumed into a single indirect tax i.e. Goods & Services Tax. Taxes proposed to be subsumed under GST are:

At Central level

- Central Excise Duty
- Service Tax

- Additional Excise Duties
- CVD (levied on imports in lieu of Excise duty)
- SAD (levied on imports in lieu of VAT)
- Excise Duty levied on Medicinal and Toiletries preparations,
- Surcharges and Cesses
- Central Sales Tax

At State level

- VAT/Sales tax
- Entertainment tax (unless it is levied by the local bodies)
- Luxury Tax
- Taxes on lottery, betting and gambling
- Entry tax not in lieu of Octroi
- Cesses and Surcharges

Alcohol for human consumption has been kept out of purview of GST. Petroleum and petroleum products shall be subject to GST on a later date based on recommendation of GST Council.

Some Interesting Facts

- Various countries follow different types of models (40) as per their own legislations / practices
- In Australian Model, tax is collected by the Centre and distributed to the States
- In Canadian Model, there are three variants of taxes
- In India, GST rate will be decided under the GST law but will be collected by both, Union and States, along with Integrated GST on inter-state supplies levied by Union
- In Indian GST, while exports will be zero rated, imports will be subject to levy of integrated Goods & Services Tax (IGST)
- Supply of Goods and Services will include supply without consideration in the Indian GST Model

Invitation to Participate

16th ICSI National Awards for Excellence in Corporate Governance

In its pursuit to recognize the best governed companies, ICSI unfolds the "16th ICSI NATIONAL AWARDS FOR EXCELLENCE IN CORPORATE GOVERNANCE". The Awards are committed to foster and reward globally acceptable corporate governance among Indian Companies.

The jury comprising distinguished experts from various fields under the chairmanship of Hon'ble Justice of India, Mr. V N Khare, former Chief Justice of India will adjudge the winners.

AWARD CATEGORIES & ELIGIBILITY



- Two best governed companies
- Certificate of Recognition to five companies for exemplary corporate governance practices adopted

Eligibility for participation: All Listed entities

Last date for Participation 25th September, 2016

Proceedings of the 17th National Conference of Practising Company Secretaries on the theme PCS @ Startup – Accelerate – Outpace held at Welcome Heritage Glenview Resort Kasauli, HP during August 12-13, 2016

Day 1: August 12, 2016

INAUGURAL SESSION

Hon'ble Shri A R Kohli, Former Governor of Mizoram, inaugurated the 17th National Conference of Practising Company Secretaries on the theme 'PCS @ Startup – Accelerate – Outpace'. Emphasizing on Good Governance Shri Kohli said, "With rights comes the duties and obligations and Good Corporate Governance leads to good business regime". He congratulated the ICSI for organizing this Conference as it offered a great platform for enlightening and capacity building of the professionals in key areas which would benefit the corporate as well as the society at large.

CS Mamta Binani, President, ICSI delivering her Presidential Address covered the opportunities and challenges for company Secretaries posed by the recent regulatory prescriptions. She also informed all present at the Conference about the efforts made by the Institute during the last few months towards seeking more recognitions for Company Secretaries.

CS Ashish Garg, Council Member, ICSI & Chairman, PCS Committee introduced the theme for the Conference.

CS Vineet K. Chaudhary, Council Member, ICSI & Programme Director for the Conference delivered the welcome address and thanked all the delegates and their family members for participating in the Conference.

CS Manish Gupta, Chairman, NIRC of ICSI and Programme Co-ordinator introduced the Chief Guest at the Inaugural Session.

CS Gurvinder Sarin, Chairman, Chandigarh Chapter welcomed all present at the Conference and arranged for release of the Conference Souvenir cum Backgrounder and other publications.

CS Dinesh C. Arora, Secretary, ICSI proposed a hearty vote of thanks at the end of the Inaugural Session.

FIRST TECHNICAL SESSION

The first technical session was a Panel Discussion on Startup India – Professional Opportunities for PCS and was addressed by CS Anil Murarka, Past President, ICSI, CS P K Mittal, Chief Advisor, PKMG Law Chambers, CS (Dr.) Sanjiv Agarwal, Partner, Agarwal Sanjiv & Company; CS (Dr.) Gourav Vallabh, Professor, XLRI Jamshedpur and CS Subhash Setia, Company Secretary, DLF Limited. The Session was chaired by CS Upender Gupta, IRS, Commissioner (GST).

CS Ahalada Rao V., Council Member, ICSI, introduced the faculties on the dais and set the tone of the discussions during the session.

CS Anil Murarka spoke about the landmark reforms under the Insolvency and Bankruptcy Code, 2016 enabling India to rise in rankings of Ease of Doing Business. He also presented the opportunities for Professionals under the Insolvency Law.

CS P K Mittal apprised the participants about the nuances of Drafting, Appearances and Pleadings before various quasi judicial authorities.

CS (Dr.) Sanjiv Agarwal, made an elaborate presentation covering the various provisions of the model GST law and the role of Company Secretaries therein.

CS (Dr.) Gourav Vallabh in his masterly manner deliberated upon the basics of Financial Risk Management and importance thereof for Corporate. He explained the need for Company Secretaries to have an understanding of the risk management procedures in a very lucid manner.

CS Subhash Setia, Company Secretary, DLF Limited spoke about the Real Estate (Regulation and Development) Act, 2016 and the opportunities for Practising Professionals. He also explained that the Real Estate is the second largest sector of the country in terms of employment generation and there are huge opportunities for Company Secretaries both in Employment as well as in Practice, in the Real Estate Sector.

CS Upender Gupta highlighted the enormous scope for Practice under the upcoming law on Goods and Services Tax. He stressed upon the need for Capacity Building of the members in the field of GST.

The session was summed up with a question answer session by the audience and CS Satwinder Singh, Council Member, ICSI proposed a formal vote of thanks.

SECOND TECHNICAL SESSION

The second session was chaired by CS U K Chaudhary, Past President, ICSI and Senior Advocate. CS Sanjay Grover, Partner, Sanjay Grover & Associates, CS Saurabh Kalia, Partner, Sasstra Legal and Shri Anil Kumar Bhardwaj, Advisor (Eco.), Competition Commission of India addressed the participants at the session.

CS S K Agrawala, Council Member, ICSI introduced the dignitaries on the dais and also arranged for release of publications.

CS Sanjay Grover, made a presentation on the proposed amendments in the Companies Act, 2013 under the Companies (Amendment) Bill, 2016.

CS Saurabh Kalia, Partner, Sasstra Legal, discussed the provisions of the Companies Act, 2013 relating to NCLT and NCLAT and shared the practical nuances of representing the clients before the NCLT and NCLAT. He emphasized the role of Company Secretaries in NCLT and NCLAT.

Shri Anil Kumar Bhardwaj, Advisor (Eco.), Competition Commission of India spoke about the expectations of the regulator and other stakeholders from professionals like Company Secretaries. Shri

Bhardwaj explained that competition is necessary in every field to get the better option, competition increases the quality of life in the country.

CS Amit Gupta, Member, NIRC of ICSI proposed a formal vote of thanks at the end of the session.

Day 2: August 13, 2016

INTERACTIVE SESSION

The Second day of the conference started with an Interactive Session for Practising Company Secretaries. CS Mamta Binani, President, ICSI briefly informed the recent initiatives taken by the Institute. The members raised a few of their concerns and gave their suggestions for the betterment of the profession. All queries raised were satisfactorily answered.

THIRD TECHNICAL SESSION

The third session of the National Conference was on Spiritual Wellbeing and Self Motivation for Professionals. CS Ashish Doshi, Council Member, ICSI introduced the speakers at the session. Dr. Gopal Krishan Nair and Ms. Anukrishna P K were the speakers at the session. The session started with the chanting of the sacred word 'Oum' and deliberations on the need for having a healthy body and soul. There was a short session on yoga for relaxing the mind and body.

CS K V Singhal, Vice Chairman, Chandigarh Chapter of ICSI proposed a formal vote of thanks at the end of the session.

FOURTH TECHNICAL SESSION

The fourth technical session was a Panel Discussion on Ease of Doing Business in India – Facilitations and Obstructions and was addressed by CS Pavan Kumar Vijay, Past President, ICSI, CS Nesar Ahmad, Past President, ICSI and Shri Anupam Malik, Additional Labour Commissioner, State of Haryana.

Shri Rajesh Sharma, Government Nominee on the Council of ICSI introduced the speakers at the session and delivered the opening remarks.

CS Pavan Kumar Vijay deliberated on the various issues relating to the ease of doing business. He explained the use of technology in the sphere of doing business. He also explained to the participants that now-a-days government is moving completely to electronic mode, whether it comes to registration of a company or getting approvals etc.

CS Nesar Ahmad spoke about Facilitations and Obstructions in doing business in India. He also spoke about the Government's flagship programmes such as Make in India, Skill India, etc.

Shri Anupam Malik explained the need and importance of complying with the Labour Laws. He also spoke about the third party inspection of compliances with the labour laws, which is to be done by Company Secretaries.

The session was summed up with a question answer session by the

audience.

CS Ranjeet Kumar Pandey, Council Member, ICSI proposed a formal vote of thanks.

VALEDICTORY SESSION

Mr. Justice M M Kumar, President, National Company Law Tribunal was the Chief Guest at the Valedictory Session of the Conference. Ms. Kiran Oberoi Vasudev, Chairperson, Quality Review Board, ICSI was the Guest of Honour.

CS Mamta Binani, President, ICSI, CS Vineet K. Chaudhary, Programme Director and Council Member, ICSI, CS Ashish Garg, Chairman, PCS Committee and Council Member, ICSI addressed the delegates. CS Manish Gupta, Programme Co-ordinator and Chairman, NIRC of ICSI introduced the Chief Guest and CS G S Sarin, Programme Facilitator and Chairman, Chandigarh Chapter of ICSI introduced the Guest of Honour at the session. CS Dinesh C. Arora, Secretary, ICSI gave the concluding remarks and proposed a vote of thanks.

Release of Publications

The following publications were released at the National Conference:

1. Souvenir cum backgrounder
2. Guidance Note on Code of Conduct for Company Secretaries
3. Udaan
4. Setting up of Practice by Company Secretaries
5. CS in Practice-Areas of Recognition
6. CD containing ICSI Publications
7. Brochure-THE CONFIDENT 'YOU'
8. Guidance Note on AOC-4
9. Guidance Note on Secretarial Audit (Release 1.3)
10. Referencer on Board's Report-Revised Edition
11. FAQs on Section 8 companies
12. SEBI (LODR) Regulations 2015 – Debt Securities
13. NCLT and NCLAT – Manual
14. Brochure for knowledge Essentiality workshops on NCLT and NCLAT - Law and Practice.
15. Golden Leafs - ICSI National Conventions (1972 - 2015)

OBITUARIES

"Chartered Secretary" deeply regrets to record the sad demise of the following Members:

CS Vallabhdas Jamnadas Ashar (07.05.1932 – 12.10.2013), a Fellow Member of the Institute from Mumbai.

CS Karni Dan Baheti (10.04.1938 -15.02.2015), a Fellow Member of the Institute from New Delhi. He was Chairman of NIRC in the year 1988.

CS Hem Raj Singal (26.10.1939 -20.12.2012), a Fellow Member of the Institute from Delhi.

CS Chandravadan B Shah (21.01.1934 – 19.06.2016), a Fellow Member of the Institute from Ahmedabad.

CS Tirukallam Srinivasan Raju (10.01.1958 – 31.07.2016), a Fellow Member of the Institute from Chennai.

May the almighty give sufficient fortitude to the bereaved family members to withstand the irreparable loss.

May the Departed souls rest in peace.



THE INSTITUTE OF
Company Secretaries of India
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

SOUTHERN
INDIA
REGIONAL
COUNCIL

41st Regional Conference of Company Secretaries

UNDER THE AUSPICES OF KOCHI CHAPTER

8 PCH for Members
16 PDP for Students

Theme:

ES Rewarding Avenues : Reaping Benefits
Growing by Leaps and Bounds

Venue:

Ramada Cochin Resorts
P.V.Sreedharan Road, Kumbalam South
Kumbalam, Kochi, Kerala - 682 506
Ph: 0484 - 3011100

Friday & Saturday, October 14 & 15, 2016

Sub Themes:

1. Governance – The Invisible Reality
2. Hidden Treasurers in Companies Act 2013
3. Real Estate Laws
4. FEMA
5. Personality Development / Soft Skills
6. IFRS / NCLT

Speakers: Eminent speakers with comprehensive exposure will lead the technical sessions and interact with the participants.

Participants: Company Secretaries and other professionals in Secretarial, Legal and Management disciplines would be benefited by participating in the Conference.

Delegate fees

Registration for	Regular fees	Early Bird fee till 17th September 2016	Early Bird fee form 18th September 2016 to 30th September 2016
Members	Rs 3500/-	Rs 2500/-	Rs 3000/-
Students	Rs 1500/-	Rs 1000/-	Rs 1250/-
Corporate Members	Rs 2500/-	Rs 2000/-	

(The fee will cover organizational expenses including Conference Material, Coffee/ Tea / Lunch & Dinner).

MODE OF PAYMENT

The delegate fee can be paid in any one of the following modes:

Mode of Payment	Details	
Cheque/DD	Favouring "SIRC of the ICSI" Payable at Chennai or Kochi	
Cash	Accepted at SIRO, Chennai and at Kochi Chapter of the ICSI	
Online payment	Payment can be made through online, as per the details below to the credit of SIRC of the ICSI *	
	HDFC Bank	Account Number : 04921110000013 RTGS/NEFT IFSC – HDFC 0000492

*Delegates who have paid delegate fee through online to send the delegate form with transaction details at siro@icsi.edu

44th National Convention of Company Secretaries

Mahatma Mandir Convention Centre
Gandhinagar, Gujarat
17-19 November, 2016
Thursday-Friday-Saturday



Image of map is only for reference & map is not to scale

POWERING GOVERNANCE - EMPOWERING STAKEHOLDERS
CS - THE GOVERNANCE PROFESSIONAL



**THE INSTITUTE OF
Company Secretaries of India**

IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament
www.icsi.edu

Invitation

Dear Professional Colleagues

September 9, 2016

We cordially invite you to attend and participate in the 44th National Convention of Company Secretaries which is being organized by the Institute from **Thursday, November 17, 2016 to Saturday, November 19, 2016 at Mahatma Mandir, Gandhinagar, Gujarat** on the Theme "Powering Governance – Empowering Stakeholders : CS - The Governance Professional." With a view to make reflective analysis of the theme, the Convention seeks to deliberate on the following sub-themes:

1. Opening Plenary
2. CEOs Speak - Emulate Governance from Corporate Leaders
3. Looking Glass to 2022 – India at 75
4. Enhancing Skills – Finding the Way beyond Compliance
5. Digital Drive – Empowering Knowledge Economy
6. Learning from the Experience of Royal Majesties
7. Towards Meaningful Life
8. Closing Plenary

The Convention will begin with the Opening Plenary at 2.00 P.M. on Thursday, November 17, 2016 and will conclude with closing plenary at 2.30 P.M. on Saturday, November 19, 2016.

Eminent persons and experts in their respective fields from the Government, Regulators, Profession, Academia and Corporate Sector will kindly address the Convention.

With the focus straddled on exchange of professional knowhow, views and experiences from varied sectors of the economy, both from India and abroad, Institute will also be keen to provide the impetus for exchange of pleasantries.

I take pleasure in inviting your esteemed selves to kindly organise to register for the much awaited event of ICSI, the National Convention, 2016. It will be one of its kind and the venue and theme reverberates the sanctity of the event.

It will be worth to register not only yourselves but also the executives of your organization as delegate(s) for this Convention. Also do register your spouse, children and other guests. It will be a remembrance for them to be there. Lots of games and activities for keeping your precious spouse and children happily engaged is being organised.

A Souvenir containing theme articles, program details, messages of good wishes and other interesting features will also be brought out to commemorate this annual event of the Institute.

May we take the liberty to request your goodself to organise through your good offices for advertisements, sponsorships and contributions in whichever manner, convenient.

Details about the registration procedure, participation fees along with the tentative program schedule, advertisement/sponsorship card and list of the hotels are set out in this brochure please.

Looking forward to your gracious presence at the 44th National Convention at Gandhinagar, Gujarat, with your family and friends.

Each incremental step, big or small, enables the person to inch closer and closer to its destination. Your esteemed selves contribution in every manner holds lot of significance and importance to us.

Thanking you

With kind regards

Yours sincerely

CS Mamta Binani
President, ICSI

CS Ashish C. Doshi
Council Member, ICSI and Chairman
44th National Convention
Organizing Sub-Committee

CS Ashish Garg
Council Member, ICSI and Co-Chairman
44th National Convention
Organizing Sub-Committee

CS D C Arora
Secretary



44th National Convention of Company Secretaries

Tentative Programme Schedule

DAY 1 - Thursday, November 17, 2016	
11.00 AM onwards	Registration of Delegates & Lunch
2.00 PM to 3.30 PM	Opening Plenary
3.30 PM to 4.00 PM	Tea
4.00 PM to 6.00 PM	Technical Session-I
6.00 PM to 7.00 PM	B2B Session
7.30 PM onwards	Cultural Programme and Dinner
DAY 2- Friday, November 18, 2016	
7.00 AM to 8.00 AM	Power Breakfast Session
10.00 AM to 11.30 AM	Special Session
11.30 AM to 12.00 Noon	Tea
12.00 Noon to 1.30 PM	Technical Session-II
1.30 PM to 3.00 PM	Traditional Lunch
3.00 PM to 4.15 PM	Technical Session-III
4.15 PM to 4.45 PM	Tea
4.45 PM to 5.45 PM	Technical Session-IV
8.00 PM onwards	Cultural Programme and Dinner
DAY 3 – Saturday, November 19, 2016	
6.30 AM to 8.00 AM	Run for a Cause
9.30 AM to 10.30 AM	Interactive Session (For Members of ICSI only)
10.30 AM to 12.30 PM	Technical Session-V
12.30 PM to 2.30 PM	Closing Plenary
2.30 PM onwards	Lunch

Participants

Company Secretaries, Corporate Directors, Senior Management Executives in the Corporate and Financial Services Sector, Practising Professionals in Secretarial, Financial, Legal and Management Disciplines, Researchers and Academicians would benefit from participation in the Convention.

Faculty

Eminent persons from the Government and industry, including professionals, management experts and academicians will address the participants. There would be brainstorming sessions and interactions too.

Papers for Discussion

Members who wish to contribute papers for publication in the souvenir or for circulation at the Convention are requested to send the same through email at conference@icsi.edu in word

format only with the caption 'Paper for 44th National Convention' on or before October 10, 2016. The paper should not normally exceed 15 typed pages (font size Verdana 11 point – single space/single column and without any diagrams/sketches/ downloaded pictures from internet). The Articles Screening Committee will consider the articles so received and the decision of the Institute based on the recommendations of the Screening Committee will be final in all respects. An honorarium of Rs. 2,500 will be kindly paid by the Institute for each paper selected for publication in the souvenir or circulation at the Convention. Esteemed Members are requested to mention their Income Tax PAN number while submitting the articles, in order to enable us to expedite the payment of honorarium.

REGISTRATION PROCEDURE

A. DELEGATE FEES (Non-Residential)

Type of Delegate	Early Bird-I Payment (Received upto September 30, 2016) Inclusive of Service Tax	Early Bird-II Payment (Received upto October 30, 2016) Inclusive of Service Tax	Other Payment (Received from November 01, 2016) Inclusive of Service Tax
Members of ICSI/ICAI/ICAI-COST	INR 6000	INR 7000	INR 7500
Company Secretaries in Practice	INR 5500	INR 6500	INR 7000
Accompanying Spouse / Guest / Children / Senior Members (60 years & above)	INR 5000	INR 6000	INR 6500
Students of ICSI	INR 3500	INR 4000	INR 4500
Non-Members	INR 6500	INR 7500	INR 8000
Foreign Delegates	USD 200	USD 225	USD 250

The Delegate Fee is payable in advance and is not refundable once the nomination is received.

Delegate Registration through online mode:

Delegates are requested to register for the convention by visiting the link or scanning a QR code:

<https://www.icsi.in/student/DelegateRegistration/tabid/137/ctl/ViewEventDetails/mid/454/EventId/44/Default.aspx>



QR CODE

National Electronic Fund Transfer (NEFT) Mandate Form (Mandate for Receiving Payment Through NEFT/RTGS)

1	Vendor Name	THE INSTITUTE OF COMPANY SECRETARIES OF INDIA
2	Address of Vendor	22, ICSI HOUSE, LODI ROAD, INSTITUTIONAL AREA NEW DELHI - 110003
3	Permanent Account Number (PAN)	AAATT1103F
4	Service Tax Number	AAATT1103FST001
5	Particulars of Bank Account	
	A. Name of Bank	AXIS BANK LTD.
	B. Name of Branch	SWASTHYA VIHAR
	C. Address	C-58 BASEMENT & GROUND FLOOR PREET VIHAR MAIN VIKAS MARG NEW DELHI-110092
	D. City Name	NEW DELHI
	E. IFSC Code (11 digits)	UTIB0000055
	F. 9 digit MICR Code appearing on the Cheque Book	110211010
	G. Type of Account (10/11/13)	SAVINGS (10)
	H. Account No.	912010040104826
6	Vendor's email ID	1. mahendra.gupta@icsi.edu 2. shree.prakash@icsi.edu 3. amit.kumar@icsi.edu 4. shandilya.saroj@icsi.edu
7	Date of effect	2-May-16

Note : In case of any queries relating to fund transfer, Shri Mahendra Kapoor Gupta, Joint Secretary (Finance & Accounts) may please be contacted at Tel. No.: 0120-4522013 or at E-mail Id: mahendra.gupta@icsi.edu

Programme Credit Hours

Members of the Institute attending the National Convention on all three days will be entitled to 10 (ten) Programme Credit Hours.

Students attending National Convention would be deemed to have completed with the requirement of attending 25 (Twenty Five) hours of Professional Development Programme.

Accompanying Guests, Spouse and Children

Accompanying Guests, spouse and children registered for the Convention will be eligible to participate in Lunch, Dinner, Cultural Evening and other attractions of the Convention.

Venue of the Convention

Mahatma Mandir, Sector 13C, Gandhinagar, Gujarat- 382017; Ph.079-23250492

How to Reach

By Air

The most convenient option by air is to reach Ahmedabad, 32 Kms away from Gandhinagar. The connecting flights to Ahmedabad are available from Delhi, Mumbai, Pune, Kolkata, Nagpur, Lucknow etc.

By Train

Ahmedabad is the nearest railway station situated 27 Kms away from Gandhinagar.

By Road

Gandhinagar is well connected by road to Ahmedabad, Anand, Godhra, Vadodara and Rajkot.

It is also well connected to Mumbai, Surat, Navi Mumbai through NH8A and to Jaipur, Udaipur, Delhi through NH8C.

HOTEL ACCOMMODATION

Special arrangements made by the Institute

The delegates are requested to plan their itinerary well in advance to avoid inconvenience at a later stage.

The Institute has finalized packages from the under-mentioned hotels wherein special arrangements have been made for accommodation of delegates:-

- Hotel Holiday Inn Express, Ashram Road, Ahmedabad
- Hotel Regenta, 15 Ashram Road, Ahmedabad
- Hotel Hyatt Regency, Ashram Road, Ahmedabad
- Hotel Fortune Landmark, Ahmedabad
- Hotel Fortune Inn Haveli, Gandhinagar

The details about the accommodation charges and the booking procedure are available on the Institute's website.

Sponsorship/Advertisement Tariff

Sl. No.	Type of Sponsorship	Sponsorship Amount in Rs. and other Details
1.	Principal Sponsor	21,00,000
	- One special full page advertisement in the Souvenir	
	- Delegate fee (non-residential) exemption	15 delegates
	- Display at Convention Backdrop	
	- Special acknowledgement	
2.	Co-Sponsor	11,00,000
	- One special full page advertisement in the Souvenir	
	- Delegate fee (non-residential) exemption	10 Delegates
	- Display at Convention Backdrop	
	- Special acknowledgement	
3.	Sponsorship for Bags	10,00,000
	- One special full page advertisement in the Souvenir	
	- Delegate fee (non-residential) exemption	8 delegates
	- Display at the Convention Backdrop	
	- Acknowledging Support	
4.	Sponsorship for Dinner (two dinners)	12,00,000
	- One special full page advertisement in the Souvenir	
	- Delegate fee (non-residential) exemption	9 Delegates
	- Display at Convention and Dinner site	
	- Special acknowledgement	
5.	Sponsorship for Lunch (three lunches)	10,00,000
	- One special full page advertisement in the Souvenir	
	- Delegate fee (non-residential) exemption	9 Delegates
	- Display at Convention and Lunch site	
	- Special acknowledgement	
6.	Sponsorship for High Tea	5,00,000
	- One special full page advertisement in the Souvenir	
	- Delegate fee (non-residential) exemption	3 Delegates
	- Display at the Site of High Tea	
	- Acknowledging Support	
7.	Platinum Sponsor	4,00,000
	- One special full page advertisement in the Souvenir	
	- Delegate fee (non-residential) exemption	3 Delegates
	- Display at Convention Site	
	- Acknowledging Support	

Sponsorship/Advertisement Tariff

Sl. No.	Type of Sponsorship	Sponsorship Amount in Rs. and other Details
8.	Golden Sponsor	3,00,000
	- One special full page advertisement in the Souvenir	
	- Delegate fee (non-residential) exemption	2 Delegates
	- Display at Convention Site	
	- Acknowledging Support	
9.	Silver Sponsor	2,00,000
	- One special full page advertisement in the Souvenir	
	- Delegate fee (non-residential) exemption	1 Delegate
	- Display at Convention Site	
	- Acknowledging Support	
10.	Souvenir Sponsor	5,00,000
11.	Cultural Programme Sponsor	5,00,000
12.	Advertisements in Souvenir	
	- Back Cover (Display of one banner)	1,00,000
	- Third Cover (Display of one banner)	75,000
	- Second Cover (Display of one banner)	75,000
	- Special Full Page (coloured printing)	50,000
	- Full Page (B/W)	25,000
	- Half Page	15,000
13.	Banner	
	(I) 8' x 3' + Spl. Full Page Advertisement (Colour)	1,00,000
	(I) 8' x 3'	50,000
	(II) 6' X 3'	35,000
14.	Distribution of Publicity Material, literature, Pen/Pad etc.	1,00,000
15.	Sponsorship of Pen/ Pad	1,00,000
16.	Miscellaneous	
	- For any member who procures advertisements above Rs. 2,00,00 -Delegate fee (non-residential) exemption for 2 delegates	
	- For any member who procures advertisements above Rs. 1,00,000 -Delegate fee (non-residential) exemption for 1 delegate	
	- 10% Incentive to the Chapter for procuring any of above sponsorships / advertisements	

In case you are facing any difficulty or want any clarification the following could be contacted:

Query/Clarification	Name of the Concerned ICSI Official	e-mail ID	Contact No.
Delegate Registration	Mr. K.P. Sasi Kumar	kp.sasi@icsi.edu	0120-4522056
Research Paper related	Ms. Jagvinder Kaur Bedi	jagvinder.bedi@icsi.edu	011-45341027
Sponsorship/Advertisement	Ms. Arti J Shailendar	arti.shailendar@icsi.edu	011-45342077
Hotel Accommodation	Directly to the concerned Hotel, details available on ICSI website.		

SPECIAL ISSUES OF CHARTERED SECRETARY

It is proposed to bring out the following special issues of Chartered Secretary during the remaining period of 2016:

2. LODR (October, 2016 issue)
3. Competition Law (November 2016 issue) and
4. Social Audit and CSR (December 2016 issue).

Members and others having expertise on the aforesaid subjects are welcome to contribute articles for consideration by the Editorial Advisory Board for publication in the said special issues.

The articles may kindly be forwarded to:

The Director (Publications), the ICSI, 22, Institutional Area, Lodhi Road, New Delhi – 110003.
e-mail: ak.sil@icsi.edu

Your undisclosed income is a time bomb...



DEFUSE THE TENSION

Declare your undisclosed income under
Income Declaration Scheme, 2016



Income Declaration Scheme, 2016 opens TODAY!

One time opportunity to ALL PERSONS, who have not declared income correctly in earlier years, to come forward and declare such undisclosed income.

SALIENT FEATURES OF SCHEME

- Scheme to apply to undisclosed income in form of assets or otherwise pertaining to F.Y. 2015-16 or earlier years.
- Fair Market Value of the asset as on 01.06.2016 deemed to be the undisclosed income.
- Tax, surcharge & penalty are payable at 45% of the Income declared under scheme.

IMMUNITY

- Assets declared exempt from Wealth Tax.
- No scrutiny/enquiry under Income-tax Act/Wealth-tax Act in respect of such declarations.
- Immunity from prosecution under Income-tax Act/Wealth-tax Act.
- Immunity from Benami Transactions (prohibition) Act, 1988 subject to certain conditions.

COMPLIANCE WINDOW

- Declaration to be made from 1st June, 2016 to 30th September, 2016.
- Tax, surcharge & penalty to be paid : By 30th November, 2016.

MODE OF MAKING DECLARATION

- To be filed online, Or
- To jurisdictional Pr. Commissioner/Commissioner of Income-tax.

* By 30th November, 2016 – Not less than 25 %
By 31st March, 2017 – Not less than 50 % less already paid
By 30th September, 2017 – 100% less already paid

For Circular No. 16 & 17 dated 20.05.2016 and Circular No. 19 dated 25.05.2016 (Explanatory Notes and Clarifications on Income Declaration Scheme, 2016) please visit www.incometaxindia.gov.in

For queries please call toll free no : 1800-180-1961



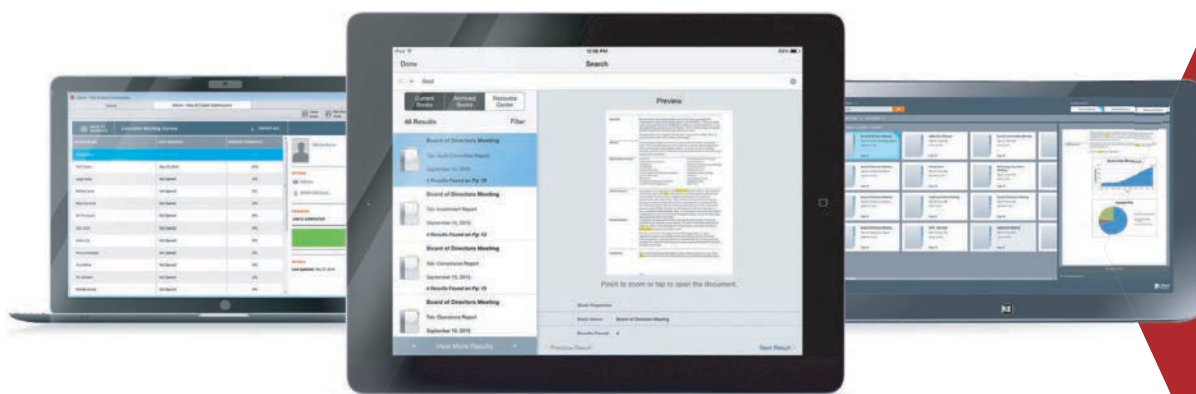
Income Tax Department

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* Updated
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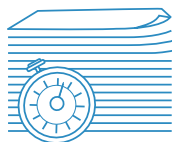
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