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THE INSOLVENCY AND BANKRUPTCY CODE AFTER THE 2026 AMENDMENT: EVOLVING FRAMEWORK, JUDICIAL DEVELOPMENTS AND UNRESOLVED ISSUES

-Teeshaa Thanki

I. INTRODUCTION

A deadline only matters if something happens when the clock runs out.

That problem runs through India's insolvency law. The Insolvency and Bankruptcy Code, 2016 was built around time, and the 2026 amendment adds more of it: more deadlines, more recorded reasons, more supervision, and consequences when a process stalls. The numbers suggest why another figure in the statute will not, on its own, make a case move. The Insolvency and Bankruptcy Board of India (IBBI) reported 1,865 ongoing corporate insolvency resolution processes (CIRPs) on 30 June 2026. A Lok Sabha reply of 10 August 2026 recorded 1,885 on 31 March 2026, with 1,367 already past 330 days. The figures come from different dates and are not rival counts of the same population. Together they show how deep the delay runs, just as Parliament chose to tighten the Code again.¹

The Insolvency and Bankruptcy Code (Amendment) Act, 2026 does not replace the IBC. It repairs a system that has run for almost a decade. It changes admission, withdrawal, liquidation supervision, plan implementation, payments to dissenting financial creditors, the treatment of claims, restoration of CIRP before liquidation, avoidance proceedings and several institutional arrangements. It also builds the machinery for creditor-initiated insolvency resolution (CIIRP) and gives rule-making powers for group and cross-border insolvency.²

Passing a law is one thing and running it is another. Section 1(2) lets provisions commence on different dates. A notification dated 22 May 2026, published by the IBBI on 25 May, brought specified provisions into force from 26 May. The IBBI's April–June 2026 newsletter records that the CIIRP, group insolvency, cross-border insolvency and Insolvency and Bankruptcy Fund provisions were still not in force.³ In the first months, the law on the books was wider than the law in operation.

¹ IBBI, *Insolvency and Bankruptcy News: Quarterly Newsletter, April–June 2026*, Table 1; Lok Sabha, Unstarred Question No 3574, answered 10 August 2026.

² Insolvency and Bankruptcy Code (Amendment) Act, 2026, Act No 6 of 2026, Gazette of India, Extraordinary, Part II, Section 1, No 11, 6 April 2026 ('Amendment Act 2026').

³ IBBI, *Insolvency and Bankruptcy News: Quarterly Newsletter, April–June 2026*, section B.1.

This paper asks what the amendment changes in practice, how it sits with the Supreme Court's existing case law, whether it answers the delay and recovery problems, what stays unresolved (CIIRP, government dues, cross-border and group insolvency), and what the UK and US can teach without being copied. My argument is that the amendment strengthens the IBC's machinery but cannot fix the conditions that cause delay. Whether it works depends on tribunal capacity, on whether the new procedures are put into operation, on how the open legal questions are settled, and on whether institutions can meet the deadlines Parliament has now written down.

II. THE 2025–26 LEGISLATIVE CHANGES

How the amendment came about

The Insolvency and Bankruptcy Code (Amendment) Bill, 2025 was introduced in the Lok Sabha on 12 August 2025 and sent to a Select Committee chaired by Baijayant Panda. The Committee adopted its report on 16 December 2025 and presented it to Parliament the next day. The Bill became the Insolvency and Bankruptcy Code (Amendment) Act, 2026 (Act No 6 of 2026) after Presidential assent on 6 April 2026.⁴

Section 1(2) allows different provisions to commence on different dates, and the notification of 22 May 2026 appointed 26 May 2026 for specified provisions.⁵ That is easy to miss when reading the bare Act, but it decides what the insolvency system actually looked like in October 2026.

Admission: the first 14 days

The amendment tries to stop the first stage of a CIRP from hanging in limbo. Section 7 now requires the Adjudicating Authority to admit an application within 14 days where the statutory conditions are met, and to reject it where they are not. If the defect can be cured, the applicant gets seven days to cure it. Where the 14-day period is missed, the Authority must record reasons. And where a financial institution's default is recorded in an information utility, that record is sufficient evidence of default for the purposes the provision specifies.⁶

The Select Committee looked at this change itself. On section 7(5), the Ministry told it that the proposal answered the Supreme Court's decision in *Vidarbha Industries Power Ltd v Axis Bank Ltd* (Civil Appeal No 4633 of 2021).⁷ *Vidarbha* read the word "may" in section 7(5)(a), in its context, as giving the Adjudicating Authority discretion on the facts before it. Parliament has now replaced that wording with a more prescriptive test. It did not overrule *Vidarbha*. It changed the text on which the discretion rested.

Sections 9 and 10 get comparable changes, so the admission deadline now runs

⁴ Select Committee on the Insolvency and Bankruptcy Code (Amendment) Bill, 2025, Report No SCIBC 2025 No 01 ('Select Committee Report'); Amendment Act 2026 (n 2).

⁵ Amendment Act 2026 (n 2), s 1(2); S.O. 2625(E), 22 May 2026.

⁶ Amendment Act 2026 (n 2), s 4, amending s 7 of the Insolvency and Bankruptcy Code 2016.

⁷ Select Committee Report (n 4), ch II para 4.3; *Vidarbha Industries Power Ltd v Axis Bank Ltd* (2022) 8 SCC 352.

across all three types of application.

The harder question is what happens when the system cannot keep up. A deadline creates a duty to act. It does not create another bench, another member or another registry officer. The amendment can make delay visible by demanding reasons, but it cannot make the capacity problem go away.

Withdrawal has a window too

Section 12A has been rewritten. Withdrawal now needs an application by the resolution professional and approval by 90 per cent of the voting share of the Committee of Creditors (CoC). The provision restricts withdrawal before the CoC is constituted and after resolution plans have been invited. The Adjudicating Authority has 30 days to decide, and must record reasons if it takes longer.⁸

This changes when a settlement can happen. Once the process is well along, withdrawal sits firmly under collective creditor control, through the 90 per cent threshold and the time limits. It marks a boundary on settlement. It is not a ban on negotiated resolution.

Who supervises liquidation?

The amendment gives the CoC a more direct role in liquidation. New section 21(11), inserted by section 13 of the Amendment Act, provides for the CoC to supervise the liquidator in the circumstances the Code specifies, and section 35(2), as amended by section 23, does the same.⁹

Appointment changes too. The Adjudicating Authority now refers the matter to the IBBI for a recommendation of a liquidator, and the resolution professional who ran the CIRP does not continue as liquidator in the manner provided by the amended section 34. New section 34A allows the CoC to replace a liquidator by a 66 per cent vote, subject to the statutory conditions.¹⁰

The direction is clear enough. Liquidation becomes a supervised stage of its own, not just the administrative result of a failed CIRP. Supervision does not turn the CoC into the liquidator, whose functions remain allocated by statute.

An approved plan still has to be carried out

Section 30(2)(d), as amended by section 18, lets the CoC provide for a mechanism to implement and supervise an approved resolution plan, including a committee where needed.¹¹ The change is practical. A plan can be legally approved and still fail because approvals arrive late, obligations are misread or nobody is clearly monitoring it. Approval and execution are different things, and the amendment now says so.

⁸ Amendment Act 2026 (n 2), s 8, amending s 12A.

⁹ Amendment Act 2026 (n 2), s 13, inserting s 21(11), and s 23, amending s 35(2).

¹⁰ Amendment Act 2026 (n 2), ss 21 and 22, amending s 34 and inserting s 34A.

¹¹ Amendment Act 2026 (n 2), s 18, amending s 30(2)(d).

The same section also changes the position of dissenting financial creditors. New section 30(2)(ba) sets a payment floor at the lower of two amounts: what the creditor would receive under section 53 in liquidation, and what is distributable to it under the specified distribution framework. The floor does not apply where the CoC approved a plan, or liquidation was ordered, before the relevant amendment commenced.¹² That limit matters. It stops a new distribution rule from reopening every plan and liquidation that already existed.

Finality gets a statutory edge

Amended section 31 tightens the structure around approved plans. It allows phased approval where the statute provides for it, protects licences, permits and regulatory approvals in specified ways, and says that claims are extinguished in accordance with the approved plan, subject to exceptions written into the provision. Those exceptions cover specified claims involving promoters, management or control, guarantors, and joint or several liability.¹³

Two problems are being addressed together. One is implementation: can the successful resolution applicant actually run the business once the plan is approved? The other is finality: what liabilities can still follow the resolved corporate debtor? A plan cannot be a clean slate if every old claim can come back under a new label. Equally, finality has to live alongside the exceptions Parliament chose to keep, and section 31 draws that line more explicitly.

Saving value after a plan fails

Section 33 contains one of the more unusual changes. On an application backed by a 66 per cent CoC vote, the Adjudicating Authority may restore the CIRP before a liquidation order is made, subject to the conditions and time limit in the provision. Restoration is available once and may last at most 120 days. The provision also covers pending CIRPs that began before commencement where no liquidation order has yet been made.¹⁴

The idea is significant. The move from resolution to liquidation need not be irreversible at the first sign of failure. If a viable route remains at the edge of liquidation, the Code now allows a limited return to CIRP. The limits matter as much as the idea. This is a single chance with a 120-day ceiling, not an open-ended second try, and every restoration risks extending the time creditors go unpaid.

New processes, not yet running

The amendment also builds frameworks beyond the traditional CIRP. Part II now has provisions for a creditor-initiated insolvency resolution process, and the Act adds provisions on group and cross-border insolvency.¹⁵

¹² Amendment Act 2026 (n 2), s 18, inserting s 30(2)(ba) and its commencement-related exception.

¹³ Amendment Act 2026 (n 2), s 19, amending s 31.

¹⁴ Amendment Act 2026 (n 2), s 20, amending s 33, including ss 33(1A) and 33(1B).

¹⁵ Amendment Act 2026 (n 2), ss 40, 42 and 71.

CIIRP is the most notable. Under section 58F, management stays with the board during the process.¹⁶ India already has a debtor-in-possession model in the pre-packaged insolvency resolution process (PPIRP) available to eligible MSMEs, so what is new is the combination: creditor initiation, debtor management, professional oversight and a possible transition within the statutory process. It would be wrong to call the Act either fully operational or dormant. The IBBI amended the CIRP and liquidation regulations in June 2026 to give effect to the provisions that had commenced, while the CIIRP, group and cross-border provisions stayed outside force in the April–June reporting period.¹⁷

The IBBI issued a discussion paper on CIIRP on 15 April 2026, with comments invited until 5 May 2026.¹⁸ The official IBBI material reviewed for this paper does not show a final, operative CIIRP regulatory framework.

Group and cross-border insolvency

Section 59A enables rules on group insolvency, covering matters such as a common bench and coordination between proceedings. A “group” is defined by control or by the specified 26 per cent ownership threshold.¹⁹ Cross-border insolvency is dealt with in sections 240B and 240C, and the Explanation to section 240C extends “corporate debtor”, for this framework, to a foreign limited-liability entity that meets the statutory description.²⁰

These provisions matter because modern business does not stop at the border. But an enabling provision is not an operating regime. The practical questions sit in the rules, the recognition process, institutional coordination and the treatment of local creditors, and they stayed open while the provisions were not in force.

III. THE JUDICIAL BACKDROP

Parliament meets the Supreme Court

The 2026 amendment cannot be read as if the IBC began again in April 2026. The Code has grown through litigation, and several of the new provisions answer questions that had already reached the courts. The Supreme Court had already worked out principles on value preservation, CoC decision-making, plan finality, admission and personal guarantors. The amendment intervenes in that existing structure. It is not a fresh start.

What the courts had already built

The starting point is *Swiss Ribbons Pvt Ltd v Union of India* where the Supreme Court described the Code as a framework for reorganisation and insolvency resolution, in which time-bound resolution and preservation of value as a going concern matter and liquidation is the last resort.²¹ That gives the amendment a

¹⁶ Amendment Act 2026 (n 2), s 40, inserting s 58F; Insolvency and Bankruptcy Code 2016, ch III-A.

¹⁷ IBBI, *Insolvency and Bankruptcy News: Quarterly Newsletter, April–June 2026*, section B.1, which also reports the 2 and 4 June 2026 amendments to the CIRP and liquidation regulations.

¹⁸ IBBI, *Discussion Paper on Creditor-Initiated Insolvency Resolution Process* (15 April 2026); IBBI, Press Release IBBI/PR/2026/8 (extending the period for comments to 5 May 2026).

¹⁹ Amendment Act 2026 (n 2), s 42, inserting s 59A.

baseline. Parliament has not changed the Code's objective. It has made the machinery for reaching it more prescriptive.

K Sashidhar v Indian Overseas Bank and Committee of Creditors of Essar Steel India Ltd v Satish Kumar Gupta then set the limits of adjudicatory interference with the CoC. Courts are not to substitute their own view of commercial viability for the CoC's, subject to the Code's requirements.²² *Essar Steel* also allowed limited flexibility around the 330-day period in exceptional circumstances, while warning against routine extensions.²³ Read against that, the amendment's repeated short, express deadlines look like Parliament tightening the procedural side of a system where the Court had already refused to treat every timeline as an absolute cut-off.

Ghanashyam Mishra and Sons Pvt Ltd v Edelweiss Asset Reconstruction Co Ltd adds the clean-slate principle. Once a plan is approved under section 31, claims not dealt with in the plan are subject to its statutory finality, including claims of governmental authorities.²⁴ That makes the amendment to section 31 more than a tidy-up. Its claim-extinguishment and implementation provisions operate where the Court had already tied finality to a successful applicant's ability to take over the corporate debtor without old claims resurfacing.

Admission is the clearest case of Parliament changing the text after a judicial reading. In *Vidarbha*, the Court held that "may" in section 7(5)(a) gave the Adjudicating Authority discretion on the facts of that case.²⁵ The 2026 amendment replaces that formulation with a more prescriptive test and says that, where the specified requirements are met, no other ground may be used to reject the application. The change does not erase the judgment's account of the earlier text. The Ministry's explanation to the Select Committee therefore has a real judicial decision behind it, although the legislative response goes beyond the facts of *Vidarbha*.²⁶

Government dues are more complicated because the case law pulls in different directions. *State Tax Officer v Rainbow Papers Ltd* treated a statutory charge under the Gujarat Value Added Tax Act as capable of creating a security interest for IBC purposes.²⁷ The Supreme Court later dismissed review petitions in *Sanjay Kumar Agarwal v State Tax Officer*, and *Paschimanchal Vidyut Vitran Nigam Ltd v Raman Ispat Pvt Ltd* then confined *Rainbow Papers* to its facts and stressed the section 53 waterfall.²⁸ The amendment goes at that tension directly, by narrowing section 3(31) and separately changing how section 53 treats government dues. The open question is therefore no longer what *Rainbow Papers* meant. It is how the amended text applies to claims arising before commencement and to proceedings already under way.

The personal-guarantor cases complete the picture. *Lalit Kumar Jain v Union of India*

²² *K Sashidhar v Indian Overseas Bank* (2019) 12 SCC 150; *Committee of Creditors of Essar Steel India Ltd v Satish Kumar Gupta* (2020) 8 SCC 531.

²³ *Essar Steel* (n 22).

²⁴ *Ghanashyam Mishra and Sons Pvt Ltd v Edelweiss Asset Reconstruction Co Ltd* (2021) 9 SCC 657.

²⁵ *Vidarbha* (n 7); *Axis Bank Ltd v Vidarbha Industries Power Ltd*, review order (22 September 2022).

²⁶ Select Committee Report (n 4), ch II para 4.3.

upheld the selective commencement of the IBC framework for personal guarantors of corporate debtors and held that approval of a corporate resolution plan does not by itself discharge the guarantor.²⁹ *Dilip B Jiwrajka v Union of India* upheld sections 95 to 100 and recognised the resolution professional's role before the Adjudicating Authority decides whether to admit the application.³⁰ The 2026 changes to Part III therefore sit inside a judicially built structure.

The 330-day problem never went away

Time limits have been argued over since the Code's early years. The 2026 amendment adds a 14-day admission requirement, 30-day decision periods in specified applications, a 120-day restoration ceiling and tighter liquidation structures. The logic is simple: if delay is the problem, write clearer clocks into the statute. The data show why the clock is only part of the answer.

The IBBI's April–June 2026 newsletter gives different timeline measures for different datasets. Its section C.3.1 reports an average of 633 days for the relevant dataset, and other tables use different populations and give different figures. They should not be merged into a single average for all CIRPs.³¹

The Lok Sabha reply of 10 August 2026 adds another angle: 1,367 ongoing CIRPs had crossed 330 days as at 31 March 2026.³² That does not tell us why each case ran over. Some delay may come from litigation, adjudication, creditor decisions or procedural disputes. It does show that the statutory time objective and actual timelines remain far apart in a large number of cases.

The amendment responds by making delay harder to ignore, since reasons must be recorded in several places. Whether those reasons become a tool for accountability or one more paper in a delayed file is the open question. In September 2026 the IBBI also issued a circular asking insolvency professionals to exercise due diligence against misuse of the Code.³³ That addresses professional conduct. It leaves the institutional causes of delay where they were.

Government dues: the old question returns

Government dues show how much precision matters in drafting. Section 3(31) now narrows "security interest" by requiring that it be created by agreement or arrangement between parties, and by excluding interests created merely by operation of law.³⁴ The Select Committee records the Ministry's explanation that this was meant to address the effect associated with *Rainbow Papers*.³⁵

The amendment also changes the distribution scheme in section 53. Section 32 of the Amendment Act places amounts due to the Central or State Government for the whole or any part of the two years before the liquidation commencement date at section 53(1)(e)(i), with remaining debts and dues under section 53(1)(f).³⁶

²⁹ *Lalit Kumar Jain v Union of India* (2021) 9 SCC 321.

³⁰ *Dilip B Jiwrajka v Union of India* (2024) 5 SCC 435.

³¹ IBBI Newsletter (n 1), section C.3.1. Other timeline tables use different datasets and are not combined here.

³² Lok Sabha, Unstarred Question No 3574, answered 10 August 2026.

³³ IBBI 'Due diligence by insolvency professionals regarding misuse of IBC framework' (Circular 9

Parliament is thus working from two directions: defining security interest more tightly, and adjusting the waterfall.

The unresolved issue is not what Parliament intended. It is how the amended language reaches claims and proceedings that existed before commencement. The Select Committee report records the Ministry's view that the relevant Explanations would operate retrospectively, but the enacted section 3(31) has no express retrospectivity clause.³⁷ The Ministry's explanation is relevant legislative history. It is not a transitional provision.

The gap will matter, because insolvency does not happen in a vacuum. A government authority may have asserted a statutory claim years before the amendment while the CIRP or liquidation carries on after commencement. Whether the new definition changes that claim's legal position cannot be settled by purpose alone. It will turn on the text, the transitional position and how courts interpret both.

The issue was still live in 2026. In *Jaiprakash Associates Ltd v Office of the Commissioner of Customs Air Cargo Complex*, decided on 2 September 2026, the Delhi High Court treated the approved resolution plan and section 31 as controlling enforcement of a pre-CIRP customs claim that had not formed part of the plan. The Court distinguished the statutory setting of *Rainbow Papers* and relied on the later case law on section 53 and plan finality.³⁸ It is a High Court decision and does not resolve the wider conflict. But it shows that the 2026 amendments will be applied against a judicial record that was already divided.

Bhushan Power: a plan that came back

The Bhushan Power and Steel litigation shows how a resolution plan can pass through several legal states while the business itself stands still. On 2 May 2025, in *Kalyani Transco v Bhushan Power and Steel Ltd* the Supreme Court set aside the earlier approval of JSW Steel's resolution plan and directed liquidation under section 33.³⁹ On 26 May 2025 it ordered status quo in the liquidation proceedings while review was pursued. On 29 July 2025 it directed that the review applications be heard in open court, and the 31 July order appears in the IBBI's corporate-process record.⁴⁰ On 26 September 2025 the Court recalled the earlier judgment and delivered a fresh one, 2025 INSC 1165, restoring the resolution-plan position while dealing with the issues the earlier proceedings had raised.⁴¹

The sequence puts pressure on the idea of finality. It shows that finality can be tested even after a plan has become the centre of a completed judicial process. The 2026 amendment strengthens implementation, claims and restoration before liquidation, but it cannot remove appellate or review jurisdiction. Finality is therefore part of the value calculation and not just a commercial preference, because

³⁷ Select Committee Report (n 4), ch II para 2.5(vii)(c).

³⁸ *Jaiprakash Associates Ltd v Office of the Commissioner of Customs Air Cargo Complex*, W.P.(C) 10387/2026 (Delhi High Court, 2 September 2026); see also the cases at (n 28).

³⁹ *Kalyani Transco v Bhushan Power and Steel Ltd*, 2025 INSC 621 (2 May 2025).

⁴⁰ *JSW Steel Ltd v Sanjay Singhal*, Diary No 29406 of 2025 (26 May 2025); IBBI, corporate process orders for Bhushan Power and Steel Ltd, recording the 31 July 2025 Supreme Court order; Supreme Court order of 29 July 2025.

reopening a settled plan affects creditors, employees, the resolution applicant and the business itself.

Activity is not outcome

The IBBI's April–June 2026 data show steady activity in personal-guarantor insolvency. It reports 5,186 applications, made up of 971 under section 94 and 4,215 under section 95, along with 64 approved repayment plans, ₹234.56 crore realised through them and 310 bankruptcy applications.⁴² The framework is clearly being used. The figures do not tell us whether it resolves cases quickly, recovers proportionately or gives creditors and guarantors predictable outcomes.

IV. PROBLEMS THAT REMAIN

The NCLT backlog

The amendment repeatedly assumes that the adjudicatory system can work within shorter statutory periods. That assumption is hard to separate from the capacity of the National Company Law Tribunal (NCLT).

The Lok Sabha reply of 10 August 2026 recorded 14,813 cases pending before the NCLT as at 31 March 2026, and gave the insolvency figures discussed above separately.⁴³ A much larger figure of about 30,600 has appeared in secondary reporting of a Parliamentary Standing Committee discussion, where it was described as IBC cases.⁴⁴ The two numbers are hard to place side by side without the underlying primary report and its definition of the cases counted.

I would not overstate the point. The figures may use different dates, categories or counting methods. Still, it is striking that a number described as IBC cases exceeds the reported total NCLT pendency. Until the primary Standing Committee material is examined, the two figures should stay separate and not be quietly reconciled.

The institutional question is simpler than the statistical one. Parliament can require an order within 14 days. The system still has to produce it.

Recovery is not resolution

The IBC is often discussed through recovery numbers because recovery is easier to count than the quality of a restructuring. The numbers still need careful reading.

The IBBI reported 9,166 CIRPs admitted cumulatively by the end of the relevant period, 1,484 resolution plans approved and 3,074 liquidation orders. In the relevant realisation table, resolution-plan realisation was 30.52 per cent of admitted claims and 166.58 per cent of liquidation value.⁴⁵ The IBBI also reported 94.72 per cent realisation against fair value in a subset of 1,359 cases. That is not a simple ratio of the aggregate claim and realisation totals. It comes from a defined subset, and

⁴² IBBI Newsletter (n 1), personal-guarantor data as at 30 June 2026.

⁴³ Lok Sabha, Unstarred Question No 3574 (n 32).

⁴⁴ ANI, 'Parliamentary panel backs govt steps to strengthen IBC recovery, seeks deeper action on fund diversion' (13 August 2026), reporting the Standing Committee on Finance action-taken report. The underlying primary report was not located for this paper.

⁴⁵ IBBI Newsletter (n 1), Table 5 and section C.1.

calculating a percentage from the table's totals would give a different result.⁴⁶

This is more than statistical housekeeping. A process can recover well against liquidation value and still take too long. It can rescue a viable business without maximising immediate cash. It can produce a large nominal recovery and still impose heavy costs through years of litigation. Judging the Code properly needs at least three separate measures: how fast cases move, how much value is realised, and whether the business or productive assets survive where revival is possible.

One more caution on sources. The IBBI material mentions studies by the Indian Institutes of Management, but those concern post-resolution revival and borrower credit behaviour. The delay and recovery study cited in the parliamentary material is attributed to the IBBI. The two should not be merged into a single IIM study on delay and recovery.⁴⁷

CIIRP: a framework not yet operating

CIIRP is among the most ambitious additions in the 2026 Act. It is meant for specified corporate debtors and opens a different route into resolution. Section 58F keeps management with the board during the process, so CIIRP follows a debtor-in-possession structure. That is not foreign to Indian law, because PPIRP already works on that basis for MSMEs, under creditor supervision.⁴⁸ The novelty lies less in debtor possession itself than in using it through a creditor-initiated process.

The difficulty is timing. The process was not in force in the IBBI's April–June 2026 reporting period. The Board issued a discussion paper on 15 April 2026, but the material used for this paper does not identify final regulations bringing the framework into operation.⁴⁹ A statutory design cannot be used until creditors and businesses have operative rules.

Cross-border insolvency: an enabling provision is not a framework

The amendment also moves India towards a statutory cross-border framework. Section 240C stands out because its Explanation extends "corporate debtor" to a foreign limited-liability entity meeting the provision's requirements.⁵⁰ Rule-making provisions for the cross-border process were not brought into force in the period covered by the IBBI's April–June 2026 newsletter.⁵¹

The UNCITRAL Model Law offers a framework for recognition of foreign proceedings, cooperation, coordination and access. It does not harmonise substantive insolvency law. UNCITRAL's status page lists the Model Law as adopted or implemented in 63 States and 66 jurisdictions, and India does not appear on that list.⁵² India need not copy another jurisdiction's rules. Cross-border insolvency still requires decisions on recognition, cooperation, jurisdiction, public policy and the treatment of local creditors. The amendment opens a route. The operating rules will decide whether

⁴⁶ IBBI Newsletter (n 1), relevant fair-value realisation table. The 94.72 per cent figure relates to a subset of 1,359 cases and should not be recalculated from aggregate totals.

⁴⁷ Lok Sabha Question No 3574 (n 32), answer (d) and Chair's Desk; IBBI Newsletter (n 1).

⁴⁸ Insolvency and Bankruptcy Code 2016, ch III-A (PPIRP).

⁴⁹ IBBI, CIIRP Discussion Paper (n 18).

⁵⁰ Amendment Act 2026 (n 31) (n 20).

anyone can use it.

Group insolvency has the same problem

Corporate groups raise a similar difficulty. Separate legal personality works when group companies operate independently, but insolvency can expose how thin that separation is when assets, management and creditors are spread across related entities.

Section 59A is a rule-making provision covering, among other things, a common bench and coordination between proceedings, with “group” defined by control or the 26 per cent ownership threshold.⁵³ The architecture is in the Act, but the provision was not yet in force in the first IBBI reporting period after enactment.⁵⁴ That leaves practical questions. How will creditors coordinate when group companies enter insolvency at different times? When should proceedings be heard together? What information can be shared? How far can coordination go before it collapses separate corporate personalities? Rules and adjudication will have to answer these. Writing the word “group” into the Code does not.

PPIRP: a smaller experiment

The pre-packaged process is a useful domestic comparison because it already works on a debtor-in-possession model. As at 30 June 2026, the IBBI recorded 18 PPIRPs admitted cumulatively since 2021. One had been withdrawn, 11 plans were approved and six were ongoing.⁵⁵ Those numbers are small next to CIRP, and they show limited use. They do not prove the mechanism has succeeded or failed. They do matter for CIIRP, because India is not entering debtor-in-possession restructuring from scratch. The 2026 framework can be tested against an Indian precedent as well as against Chapter 11 practice.

V. A COMPARATIVE LOOK

What India can borrow and what it cannot

Comparative insolvency law helps only when the comparison is made at the level of institutional function and not vocabulary. “Debtor in possession”, “administration” and “reorganisation” sound portable, but the legal systems underneath those labels are not.

The United Kingdom offers administration under Schedule B1 of the Insolvency Act 1986.⁵⁶ The United States offers Chapter 11 of the Bankruptcy Code, with its automatic stay and debtor-in-possession structure.⁵⁷ Both developed in institutional settings unlike India’s NCLT-centred model. The comparison has to stay modest. India can ask what each mechanism achieves and whether the IBC already serves a similar purpose, without assuming that importing a mechanism imports its results.

⁵³ Amendment Act 2026, s 42 (n 19).

⁵⁴ IBBI Newsletter, section B.1 (n 3).

⁵⁵ IBBI Newsletter (n 1), section C.9. The 18 admissions¹¹ are cumulative since 2021.

⁵⁶ Insolvency Act 1986 (UK), sch B1, paras 1, 3–4, 59–60 and 68; Companies Act 2006 (UK), pt 26A, s 901F.

⁵⁷ 11 USC §§ 362(a), 1107(a).

Debtor in possession is not new to India

The US is closely associated with debtor-in-possession restructuring, but India now has its own statutory examples. PPIRP uses it for MSMEs, and section 58F places management with the board during CIRP.⁵⁸ So the question is not whether India should adopt it. India already has. The question is what safeguards come with it. A debtor stays in management while creditors keep meaningful oversight, and information rights, voting thresholds, monitoring, replacement powers and consequences for misconduct decide whether debtor possession is a restructuring tool or just a way of delaying creditor control. The CIRP regulations will have to answer that. A debtor-in-possession model cannot run on trust alone, least of all where the debtor is already in financial distress.

The UK model: control of the business

UK administration is a useful contrast because the administrator takes control of the company, with statutory objectives governing the process. Schedule B1 is built around rescue, better realisation for creditors and, where appropriate, distribution to secured or preferential creditors.⁵⁹

That highlights a choice built into India's framework. The IBC largely separates CIRP from liquidation, with the resolution professional managing the first and a liquidator taking over after a liquidation order. The 2026 amendment adds structure around liquidation supervision and a limited mechanism for restoring CIRP before liquidation. The lesson is institutional and not textual. A restructuring system needs a person or body able to control the business, collect information, deal with competing creditors and drive the case to a defined outcome. A deadline is not enough if whoever is responsible for moving the process cannot do so in practice.

The US model: the stay and the reorganisation

Chapter 11 gives another contrast. Section 362 creates an automatic stay, and section 1107 gives a debtor in possession many of a trustee's rights and powers, within the statutory framework.⁶⁰ India's moratorium under section 14 works within a different structure. It is not an American automatic stay under another name, because the role of the resolution professional and the creditor committee differs. The comparison is more useful when it asks what the stay is for. In both systems a collective process needs protection against individual enforcement destroying the value available for restructuring. Scope and exceptions are matters of domestic design.

The US experience also shows why safeguards around restructuring power matter. In *Harrington v Purdue Pharma LP*, the US Supreme Court held that Chapter 11 did not authorise a plan releasing claims against non-debtor third parties without the

⁵⁸ Insolvency and Bankruptcy Code 2016, ch III-A (n 48); Amendment Act 2026 (n 2), s 40, inserting s 58F.

⁵⁹ Insolvency Act 1986 (UK) (n 56), sch B1.

⁶⁰ 11 USC §§ 362(a), 1107(a) (n 57).

affected claimants' consent, in the circumstances before it.⁶¹ The comparison is limited, but the point carries over: a plan can settle the debtor's obligations only within the authority the statute gives it. The reach of that authority matters as much as the speed of the process.

What India should actually learn

Three lessons stand out. First, restructuring systems run on institutions, not statutory slogans. A deadline, stay or debtor-in-possession label means something only if the body administering the process can use it. Second, creditor participation has to be matched with information and supervision. India's CoC-centred model differs from both UK administration and US Chapter 11, but all three have to answer who controls the distressed business while competing interests are negotiated. Third, flexibility needs an exit. Restoration under section 33 works because it is limited to one restoration and 120 days. CIIRP will need similar clarity once its rules are final, since a process that stays permanently "almost resolved" makes delay a cost in itself.

VI. CONCLUSION AND RECOMMENDATIONS

On paper, the Code now has tighter admission timelines, more structured withdrawal, greater CoC supervision in liquidation, implementation mechanisms for resolution plans, a payment floor for dissenting financial creditors, stronger finality for approved plans and a limited route back to CIRP before liquidation. It also has statutory machinery for CIIRP and rule-making powers for group and cross-border insolvency.

But the first months of implementation show why expanding a statute is not the same as completing it. CIIRP, group insolvency and cross-border insolvency were not in force in the IBBI's April–June 2026 reporting period, so those procedures remain partly promises until the regulations and institutional processes to run them exist.

Capacity comes first. The Code can demand a 14-day admission decision, but the NCLT has to produce it, and more than a thousand CIRPs past 330 days show that delay is not just a drafting problem.

Second is government dues. The change to section 3(31) responds to a problem identified in the legislative history, but retrospective operation is not answered as cleanly in the enacted text as the Committee discussion suggests. That will need careful judicial interpretation. The Ministry's explanation is relevant legislative history, but it is not an express transitional clause.

Third is CIIRP. Section 58F gives a debtor-in-possession structure that builds on PPIRP experience. Whether the regulations can combine debtor control with enough

⁶¹ *Harrington v Purdue Pharma LP*, 603 US 204 (2024).

creditor oversight, without creating another source of delay, remains to be seen.

Fourth is cross-border and group insolvency. Sections 59A and 240C are significant steps, but with no operational framework in the first implementation period the hard questions remain: recognition, coordination, jurisdiction, information sharing and protection of separate legal personality.

Fifth is measurement. Recovery percentages should come with their denominator, dataset and period. A 94.72 per cent figure against fair value in a 1,359-case subset cannot casually be set beside aggregate realisation against admitted claims, and different IBBI timeline tables should not be turned into one average because they all count days.

What should happen next

The first recommendation is institutional. The amendment should come with transparent capacity data from the NCLT and NCLAT. A case that takes 500 or 700 days should not vanish into an average. Periodic reporting should show how much time is spent at admission, CoC constitution, claims verification, plan invitation, plan approval, adjudication and appeals. If litigation causes delay, the data should show it, and the same goes for tribunal capacity. Without that breakdown, “time-bound insolvency” is a conclusion and not something we can measure.

Second, the new deadlines should carry institutional consequences. Recording reasons for a missed 14-day period helps, but only if repeated delay can be identified and dealt with. The Standing Committee’s reported figure of 30,600 pending IBC cases, and its observation that 30 NCLT benches were handling the backlog, point to capacity as a structural issue and not a drafting defect.⁶²

Third, CIIRP should be introduced cautiously. Debtor-in-possession gives a distressed company a chance to keep management continuity, but the regulations should settle information disclosure, creditor supervision and consequences for misuse before the process is widely available. PPIRP offers an Indian reference point.

Fourth, cross-border and group insolvency need operating rules that provide for coordination without erasing separate corporate personality. The rule-making powers are only a start. Recognition of foreign proceedings, common-bench requests, information sharing and conflicts between group creditors all need predictable procedures.

Finally, recovery statistics should be published with enough context to prevent misleading comparisons. Each percentage should state its denominator, case population, date and whether it measures admitted claims, liquidation value or fair value. The 94.72 per cent figure is useful precisely because its subset is identified, and the same discipline should apply to every major indicator.

⁶² ANI (n 44).

The 2026 amendment is best read as an attempt to sharpen the IBC where practice has shown friction. Whether it speeds anything up will be decided outside the statute. It depends on whether tribunals can meet the new deadlines, whether regulations make the new processes usable, whether the courts settle the transitional questions, and whether creditors and professionals can carry out plans without years more litigation.

An insolvency law is not measured by how many deadlines it contains. It is measured by whether a distressed business reaches a certain outcome before the delay itself destroys its value.