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How has the insolvency system performed?

A well-functioning insolvency system endeavours to revive financially distressed viable businesses while liquidating financially distressed nonviable businesses, thereby revive economic value and allocate resources effectively. The Indian Bankruptcy code (IBC), in over six years of its existence, has established a holistic insolvency institutional framework, developed the ecosystem, built capacity and streamlined the processes for managing corporate debtors (CDs). In these years, the recovery through IBC process has surpassed that of the existing framework of Lok Adalats, Debt Recovery Tribunal (DRT) and SARFAESI Act.

As of Dec 31, 2021, the IBC has admitted 4,946 cases of which 66% have been resolved through various channels. 457 have been resolved through approval of resolution plans, 1514 through liquidation, 562 withdrawn and 714 are in the process of appeal. The process is ongoing for 1699 cases.

The financial distress has been prevalent over most sectors in the Indian economy in the last couple of years and the cases admitted to IBC have presence in both manufacturing and services sectors. Amongst, the cases as per the data of Insolvency and Bankruptcy Board of India (IBBI) manufacturing sector saw the highest stress as well as the highest closure through resolution process. Within manufacturing basic metals have seen higher recovery as per cent of the liquidation value.

Sectoral composition

Table 1: Sectoral Distribution Of CIRPs as on December 31, 2021

Sector	No. of CIRPs								
	Admitted	Closed					Ongoing		
		Appeal/Review/ Settled	*Withdrawal under Section 12 A*	*Approval of Resolution Plan*	*Commencement of Liquidation*	*Total*		*CIRPs closed as % of admitted*	*admitted as % of total*
Manufacturing	1994	251	224	230	654	1359	635	68.15	40.32
Real Estate, Renting & Business Activities	989	184	136	59	264	643	346	65.02	20.00
Construction	538	102	64	45	105	316	222	58.74	10.88
Wholesale & Retail Trade	494	63	42	27	191	323	171	65.38	9.99
Hotels & Restaurants	107	21	16	14	27	78	29	72.90	2.16
Electricity & Others	148	15	7	23	43	88	60	59.46	2.99
Transport, Storage, com	144	19	14	11	57	101	43	70.14	2.91
Others	532	59	59	48	173	339	193	63.72	10.76
Total	**4946**	**714**	**562**	**457**	**1514**	**3247**	**1699**	**65.65**	**100.00**

The sectoral distribution of the corporate insolvency resolution process (CIRPs) (Table 1)s hows that:

- Of the total admitted CIRPs manufacturing sectors accounts for 40% of the cases followed by Real Estate Renting and Business activities, and construction.
- The CIRPs closed as per cent of the admitted cases has been the highest for hotels and restaurant segment (73%), followed by Transport Storage and communication (70%) and manufacturing (68%).
- The lowest share has been that of construction at 59%.

Dominant Manufacturing sector

Within manufacturing segment, basic metals and textile, leather and apparel products saw a share of 17% each followed by food, beverages and tobacco products at 13% of the total cases admitted for resolution process. Manufacturing segment dominated the process of approval of resolution plan with 230 CIRPs closed which is almost 50% of the total CIRPs closed through this process. The share of manufacturing in the total liquidation of cases was lower at 43%.

Table 2: Manufacturing Sector Distribution Of CIRPs as on December 31, 2021

Sector	No. of CIRPs								
	Admitted	Closed					Ongoing		
		Appeal/Review/ Settled	*Withdrawal under Section 12 A*	*Approval of Resolution Plan*	*Commencement of Liquidation*	*Total*		*CIRPs closed as % of admitted*	*admitted as % of total*
Manufacturing	1994	251	224	230	654	1359	635	68.15	40.32
Food, Beverages & Tobacco	255	28	27	28	80	163	92	63.92	13
Chemicals etc	202	28	30	27	60	145	57	71.78	10
Electrical Mach/ Apparatus	151	21	8	9	66	104	47	68.87	8
Fabricated Metal Products	104	12	17	10	41	80	24	76.92	5
Machinery & Equipment	227	36	32	20	66	154	73	67.84	11
Textiles, Leather & Apparel	344	42	38	27	133	240	104	69.77	17
Wood, Rubber, Plastic & Paper	233	28	29	30	64	151	82	64.81	12
Basic Metals	339	39	25	56	108	228	111	67.26	17
Others	139	17	18	23	36	94	45	67.63	7

Wide variation in resolution

The IBC process seeks buyers for a non performing asset. Over this period, there has been a wide variation in resolution ranging from 100% to zero haircuts and companies have been rescued. For instance, Ghotaringa Minerals Limited, and Orchid Healthcare Private Limited together owed Rs 8,163 crore to creditors, while they had absolutely no assets when they entered the IBC process. Creditors had to take a 100% haircut. On the other hand, Binnani Cements and MBL Infrastructure have yielded zero haircuts, in addition to the rescue of the companies.

Studies have highlighted that various micro (loan specific) and macro (economy specific) factors are determinants of recovery of stressed assets along with factors such as higher quota of collateral, size of the company, state of the business cycle, growth in GDP and loan supervision.

The Steel sector has seen the largest recoveries. Among the twelve large accounts referred by banks on the directions of RBI, five were from steel sector with admitted claims of Rs 1,27,370 crore. All the five cases have been resolved through the process of resolution with Essar Steel at 82.91% recording highest realised amount as per cent of claims. The success of resolution in steel sector has been attributed to various factors such as strong domestic demand, outlook for steel, higher prices, and interest from multiple bidders. Even the performance of these stressed accounts post resolution has been better.

Table 3: Twelve Large Accounts					**(Rs crore)**
Name of CD	**Claims of FCs Dealt Under Resolution**			**Realisation as a percentage of Liquidation Value**	**Successful Resolution Applicant**
	Amount Admitted	**Amount Realised**	**Realisation as % of Claims**		
Completed					
Electrosteel Limited	13175	5320	40.38	183.45	Vedanta Ltd.
Bhushan Steel Limited	56022	35571	63.5	252.88	Bamnipal Steel Ltd.
Monnet Ispat & Energy Limited	11015	2892	26.26	123.35	Consortium of JSW and AION Investments Pvt. Ltd.
Essar Steel India Limited	49473	41018	82.91	266.65	Arcelor Mittal India Pvt. Ltd.
Alok Industries Limited	29523	5052	17.11	115.39	Reliance Industries, JM Financial Asset Reconstruction Company Ltd., JMFARC - March 2018 Trust
Jyoti Structures Limited	7365	3691	50.12	387.44	Group of HNIs led by Mr. Sharad Sanghi.
Bhushan Power & Steel Limited	47158	19350	41.03	209.12	JSW Limited
Amtek Auto Limited	12641	2615	20.68	169.65	Deccan Value Investors L.P. and DVI PE (Mauritius) Ltd.
Under Process					
Era Infra Engineering Limited	Under CIRP				
Jaypee Infratech Limited	Under CIRP				
Lanco Infratech Limited	Under Liquidation				
ABG Shipyard Limited	Under Liquidation				
Total for Steel Sector	**176843**	**104151**	**58.89**		

Recovery Trends under various recovery channels

As per RBI data, the recovery through the earlier existing channels of Lok Adalats, Debt Recovery Tribunals (DRTs), SARFAESI Act was lower than that of under IBC since 2017-18 when IBC became operational. Between 2017-18 and 2019-20, the amount recovered as per cent of amount involved was above 45% for resolution under IBC which fell to 20.2% in FY2020-21 as the initiation of fresh insolvency proceedings under IBC was suspended for a year till March 2021 and COVID-19 related debt was excluded from the definition of default.

The recoveries through Lok Adalats and DRTs remained around 5% during the period under review. SARFAESI supported recoveries better than these two channels and in FY 2022-21, it was the highest at 41% among all the channels.

Table 4: NPAs of SCBs Recovered through Various Channels

Recovery Channel	2017-18			2018-19			2019-20			2020-21 (P)		
	Amount involved	Amount recovered	Col. (2) as per cent of Col. (1)	Amount involved	Amount recovered	Col. (4) as per cent of Col. (5)	Amount Involved	Amount recovered	Col. (7) as per cent of Col. (8)	Amount Involved	Amount recovered	Col. (10) as per cent of Col. (11)
	1	2	3	4	5	6	7	8	9	10	11	12
Lok Adalats	45,728	1,811	4	53,484	2,750	5.1	67,801	4,211	6.2	28,084	1,119	4
DRTs	1,33,095	7,235	5.4	2,68,413	10,552	3.9	2,05,032	9,986	4.9	2,25,361	8,113	3.6
SARFAESI Act	81,879	26,380	32.2	2,58,642	38,905	15	1,96,582	34,283	17.4	67,510	27,686	41
IBC	9,929	4,926	49.6	1,45,457	66,440	45.7	2,24,935	1,04,117	46.3	1,35,139	27,311	20.2
Total	**2,70,631**	**40,352**	**14.9**	**7,25,996**	**1,18,647**	**16.3**	**6,94,350**	**1,52,597**	**22**	**4,56,094**	**64,228**	**14.1**

P: Provisional, source: Report on Trend and Progress (various years)

CIRPS closure channels

Liquidation accounted for around 47% of the CIRPs cases. As per IBBI, the high proportion of liquidation is on account of almost 77% of these cases, that is, 1143 of 1512 (for which data is available) were earlier with Board for Industrial and Financial Reconstruction (BIFR). The economic value in most of the CDs had almost completely eroded even before they were admitted into CIRP. These CDs had assets, on average, valued at less than 8% of the outstanding debt amount. These 1514 CDs had an aggregate claim of Rs 7.85 lakh crore but the assets were valued at Rs 0.55 lakh crore. Till Dec 2021, 292 CDs have been completely liquidated having an outstanding claims of Rs 49,500 crore but having assets valued at Rs 2293.42 crore of which Rs 2177.60 crore was realised through liquidation.

Withdrawal of claims accounts for 17.31% of the cases and of this 42% have been withdrawn due to full settlement with the applicant. This is indicative of change in the behaviour of the applicants as the resolution process would entail loss of ownership for the going concern, thereby motivating them to make the best efforts to avoid defaults. The enactment of the code has emphasised that non-repayment of loan is not an acceptable option and ownership is contingent on prudent performance and transfer of ownership through resolution is possible.

In case of 457 cases, resolved through resolution plan, the total admitted claims was of Rs 8.34 lakh crore for which the liquidation value was of Rs 1.51 lakh crore. The resolution plan realised Rs 2.59 lakh crore which is 172% of the liquidation value and 33% of the admitted claims.

Table 5: Corporate Insolvency Resolution Process *(Number)*

Year / Quarter	**CIRPs at the beginning of the Period**	**Admitted**	**Closure by**				**CIRPs at the end of the Period**
			Appeal/Review/ Settled	***Withdrawal under Section 12A***	***Approval of Resolution Plan***	***Commencement of Liquidation***	
2016 - 17	0	37	1	0	0	0	36
2017 - 18	36	706	94	0	20	91	537
2018 - 19	537	1157	153	97	79	306	1059
2019 - 20	1059	1986	343	216	139	542	1805
2020 - 21	1805	537	83	157	122	349	1631
Apr - Jun, 2021	1631	141	9	33	45	74	1611
Jul - Sep, 2021	1611	144	18	24	16	57	1640
Oct - Dec, 2021	1652	195	7	22	35	84	1699
Total	**NA**	**4946**	**714**	**562**	**457**	**1514**	**1699**

Banking Sector

The prolonged stress of CDs has a dual impact. On one hand, it affects the firm's viability and its asset value. On the other, it affects the creditors by limiting their ability to lend as funds are blocked in these borrowers thereby restricting their credit growth. This led to both the creditor and borrowers being under stress. Hence, the pivot for a robust and resilient banking sector is a comprehensive bankruptcy regime. It enables a sound debtor-creditor relationship by promoting predictability and ensuring efficient resolution of indebtedness.

The gross NPA of the Banking system touched a peak of 11.2% as per cent of gross advances as of March 2018 and non-priority NPA accounted for more than 75% of the total system. As of Sep 2021, the gross NPA has declined to 6.9% as of Sep 2021 with in the non-priority sector accounted for less than 60%.

Table 7: NPA of SCBs (Rs bn)				
	Priority Sector	Non-priority Sector	Total NPAs	Non-priority as % of Total NPAs
2017	1,703	5,587	7,290	76.64
2018	2,076	7,555	9,631	78.44
2019	2,440	6,362	8,802	72.27
2020	2,755	5,648	8,403	67.21
2020	2,755	5,648	8,403	67.21
2021	3,156	4,645	7,801	59.55

Source: Report on Trend and Progress of Banking in India

The data from RBI's FSR shows that NPA has declined between Sep 2017 and Sep 2021. The highest decline was for Basic metals and their products, vehicles, paper and their products, engineering and others.

Table 8: Sector wise NPA			
Industry (%)	NPA as of Sep 17	NPA as of Sep 21	Diff in % points
Basic metals and their products	44.5	8.2	-36.3
Vehicles, vehicle parts and transport equipment's	21.0	6.1	-14.9
Paper and their products	23.6	9.7	-13.9
Engineering	31.0	18.0	-13.0
Mining and Quarrying	27.1	14.3	-12.8
Textiles	23.7	11.7	-12.0
Food Processing	24.9	14.2	-10.7
Infrastructure	19.6	9.2	-10.4
Construction	26.7	21.1	-5.6
Cement and their products	12.8	7.4	-5.4
Chemicals and their products	8.1	6.1	-2.0
Rubber, Plastics and other products	5.1	9.6	4.5
Gems and jewellery	11.7	20.7	9.0

Source: Financial Stability Report, Dec 2017 and Dec 2021

Timelines of the resolution and cost

An early resolution increases the likelihood of a company being revived and, in turn, productive assets retain value. It is one of the main objective of IBC. However, as of Dec 2021, the average days taken for 451 CIRPs under resolution was 441 days while 1514 CIRPS under liquidation took on average 391 days for conclusion as against the stipulated time limit of 330 days.

The recent measures to reduce timelines includes the Pre-Packaged Insolvency Resolution Process (PPIRP) for corporate Micro, Small and Medium Enterprises as an alternative insolvency resolution process to ensure quicker outcomes has been introduced. It blends debtor-in-possession with creditor-in-control. The process is required to be completed within a time frame of 120 days from the commencement date

On April 5, 2022, the code has been amended for voluntary liquidation of solvent corporate person as there was substantial delay in completion of the liquidation process. To timelines have been reduced considerably to ensure faster exit for firms.

To conclude:

Over the years, the IBC has established the resolution infrastructure. The success of recovery through this process is contingent on various factors impacting the sectors and includes among others overall growth of the industry, company specific factors, demand for the assets, stage of business cycle, asset value, stage of stress when the company enters the IBC process etc.

The resolution process has seen recovery more than 172% of the liquidation value. In terms of realisation of value, there has been a wide gap and there have been instances where Banks had to take up the 100% haircut. There has been a positive impact on the Banks NPA recovery. Yet, the timelines remain the main concern as they have exceeded the stipulated 330 days for most of cases even though this process was designed to be time bound process. Long delays result in deterioration of value and would increase the haircut the creditors have to suffer.

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