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INSOLVENCY & BANKRUPTCY

The Insolvency and Bankruptcy Code (Amendment) Act, 2026: A Significant Shift in India’s Insolvency Framework

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Introduction

The enactment of the **Insolvency and Bankruptcy Code (Amendment) Act, 2026** marks another major step in the evolution of India's insolvency regime. Published in the Gazette of India on 6 April 2026, the amendment introduces extensive reforms to the Insolvency and Bankruptcy Code, 2016.

The objective of the amendment is improving efficiency, reducing delays, strengthening creditor participation, enhancing liquidation oversight, and introducing a completely new creditor-driven insolvency mechanism.

Since the introduction of the Insolvency and Bankruptcy Code in 2016, the insolvency ecosystem in India has undergone continuous transformation through judicial interpretation, regulatory changes, and legislative amendments.

The 2026 amendment reflects the Government's attempt to address practical challenges faced during insolvency and liquidation proceedings, particularly delays in resolution, ineffective liquidation monitoring, unresolved avoidance applications, and procedural bottlenecks before the Adjudicating Authority.

The amendment also significantly expands the role of creditors and committees of creditors while simultaneously introducing stricter accountability standards for insolvency professionals and service providers.

One of the most notable developments under the amendment is the introduction of a new *"Creditor-Initiated Insolvency Resolution Process,"* which creates an alternative insolvency pathway outside the traditional CIRP mechanism.

Expansion of Definitions and Clarificatory Amendments

The amendment introduces several new definitions and clarifications under **Section 3 and Section 5** of the Code. A new definition of "registered valuer" has been inserted with reference to the Companies Act, 2013.

The amendment also introduces the concept of "service provider," which now includes:

- Insolvency professionals
- Insolvency professional agencies
- Information utilities
- Registered valuers
- Other notified entities involved in insolvency and bankruptcy processes

Clarification on Security Interest

An important clarification has been inserted regarding **"security interest."** The amendment clarifies that a security interest will exist only where rights or interests are created through an agreement or arrangement between parties and not merely through operation of law.

This clarification is likely to have substantial implications for government dues, statutory claims, and competing security rights during insolvency and liquidation proceedings.

Avoidance Transactions and Fraudulent Trading Definitions

The amendment further introduces definitions relating to "avoidance transactions" and "fraudulent or wrongful trading." These additions seek to create greater statutory clarity and strengthen proceedings relating to preferential, undervalued, extortionate, and fraudulent transactions.

Changes to CIRP Admission and Timelines

The amendment makes substantial changes to **Sections 7, 9, and 10** of the Code dealing with initiation of insolvency proceedings by financial creditors, operational creditors, and corporate applicants.

Under the amended Section 7, the Adjudicating Authority is now expressly required to either admit or reject an application within **fourteen days**. Where no order is passed within the prescribed timeline, the Adjudicating Authority must record reasons for delay in writing.

This amendment attempts to address one of the most persistent criticisms of the insolvency regime, namely prolonged delays in admission of insolvency applications.

The amendment also introduces an important clarification that once the requirements for admission are fulfilled, no other extraneous ground should be considered for rejecting an application under Section 7. Additionally, records of default available with information utilities are expressly recognised as sufficient proof for establishing default.

Similar timeline-related amendments have also been incorporated under Sections 9 and 10, thereby imposing greater procedural discipline upon the Adjudicating Authority.

Restriction on Withdrawal of Insolvency Proceedings

A major amendment has been made to **Section 12A** relating to withdrawal of insolvency applications.

The substituted provision now prohibits withdrawal of an admitted insolvency application before constitution of the Committee of Creditors *and* after the first invitation for submission of a resolution plan has been issued.

This amendment seeks to prevent misuse of the insolvency framework by parties attempting to settle matters after significant progress has already occurred in the insolvency process. The provision is aimed at protecting procedural sanctity and ensuring stability during resolution proceedings.

Clarification Regarding Moratorium and Guarantees

The amendment inserts an important clarification under **Section 14** regarding moratorium provisions. It expressly clarifies that the moratorium will also apply where a surety seeks to initiate or continue proceedings against the corporate debtor pursuant to a guarantee contract.

This clarification is significant because disputes often arose regarding the interaction between guarantee enforcement and insolvency moratorium protections. The amendment seeks to avoid conflicting proceedings during the insolvency resolution process.

Strengthening the Role of Interim Resolution Professionals and Creditors

The amendment substantially strengthens the powers and responsibilities of **Interim Resolution Professionals and Resolution Professionals**.

Under Section 18, it is now clarified that the Interim Resolution Professional must verify and determine the value of claims submitted by creditors.

Section 19 has also been expanded to widen the category of persons obligated to cooperate with insolvency professionals. The obligation now extends to personnel and promoters and to persons associated with management and those engaged through service contracts with the corporate debtor.

These amendments seek to address practical difficulties faced by insolvency professionals in obtaining information, records, and cooperation from former management and associated personnel.

Enhanced Role of the Committee of Creditors During Liquidation

One of the most far-reaching changes under the amendment is the **continued involvement of the Committee of Creditors** even after commencement of liquidation proceedings.

Under the newly inserted Section 21(11), the Committee of Creditors will supervise the conduct of the liquidation process by the liquidator. This is a major departure from the earlier framework where the Committee of Creditors effectively ceased to function after liquidation orders were passed.

The amendment also permits creditors to attend liquidation-related meetings and continue oversight during the liquidation process. This change is expected to increase transparency and creditor participation while ensuring better monitoring of liquidation proceedings.

Avoidance Transactions and Fraudulent Trading

The amendment significantly strengthens the framework relating to **avoidance transactions and fraudulent trading**.

Section 26 has been substituted to clarify that proceedings relating to avoidance transactions or fraudulent and wrongful trading will continue independently and will not be affected by completion of the CIRP or liquidation process.

A completely revised **Section 47** now empowers creditors, members, or partners of the corporate debtor to independently approach the Adjudicating Authority where the Resolution Professional or Liquidator fails to report avoidable transactions or fraudulent trading.

This is an extremely significant amendment because it reduces exclusive dependency on insolvency professionals and creates an *independent statutory remedy* for stakeholders. The amendment also permits disciplinary action against insolvency professionals who deliberately fail to report such transactions despite having sufficient information.

Major Changes to the Liquidation Framework

The amendment introduces several reforms aimed at expediting liquidation proceedings and improving creditor recoveries. Key changes include:

- **Restoration of CIRP:** Section 33 now permits restoration of the CIRP process before passing a liquidation order where the Committee of Creditors makes an application with the requisite voting threshold. The Adjudicating Authority may restore CIRP for a period extending up to 120 days.
- **Liquidation timeline:** Liquidation proceedings should ordinarily be completed within 180 days from the liquidation commencement date, extendable by up to ninety days for sufficient reasons.
- **Direct dissolution:** A new provision allows dissolution of a corporate debtor directly based on a decision of the Committee of Creditors, creating an efficient closure mechanism where continuation of liquidation becomes commercially unviable.

These reforms seek to address long-pending liquidation proceedings that often continue for years without closure, while also providing a final opportunity for revival before liquidation becomes inevitable.

Replacement and Supervision of Liquidators

The amendment introduces **Section 34A**, which empowers the Committee of Creditors to replace a liquidator during the liquidation process by a sixty-six percent voting share.

This amendment substantially strengthens creditor control and accountability within liquidation proceedings. It also reflects the broader legislative trend of increasing creditor participation throughout the insolvency lifecycle.

Importantly, the amendment further prohibits the same insolvency professional who acted as Resolution Professional during CIRP from being appointed as liquidator. This seeks to avoid concentration of powers and potential conflicts of interest.

Reforms Relating to Secured Creditors

The amendment introduces important changes under **Section 52** dealing with secured creditors during liquidation.

Secured creditors intending to realise security interests outside liquidation must now intimate the liquidator within **fourteen days** from liquidation commencement, failing which the security interest will be deemed relinquished to the liquidation estate.

Additionally, where multiple secured creditors hold security over the same asset, independent enforcement is prohibited unless creditors representing at least sixty-six percent of secured claims agree to such enforcement.

These amendments are aimed at reducing fragmented enforcement actions and preserving value maximisation during liquidation.

Introduction of Creditor-Initiated Insolvency Resolution Process

One of the most revolutionary aspects of the amendment is the insertion of **Chapter IV-A** introducing the “Creditor-Initiated Insolvency Resolution Process” (CIIRP).

Under this mechanism, specified financial institutions may initiate insolvency proceedings directly after obtaining approval from financial creditors representing at least fifty-one percent in value. The process also requires prior notice to the corporate debtor and an opportunity to make representations.

Unlike traditional CIRP, management of the corporate debtor continues to remain with the Board of Directors during the process, although the Resolution Professional receives substantial supervisory powers.

Key Features of CIIRP

The amendment further provides for:

- Creditor oversight
- Public announcement mechanisms
- Optional moratorium
- Conversion into regular CIRP
- Strict timelines for completion

This framework appears heavily inspired by *debtor-in-possession* and hybrid insolvency systems followed in several international jurisdictions. It seeks to create a faster, more flexible, and creditor-controlled resolution mechanism particularly suited for smaller or specialised corporate debtors.

Conclusion

The **Insolvency and Bankruptcy Code (Amendment) Act, 2026** represents one of the most comprehensive reforms to India's insolvency framework since the original enactment of the Code in 2016.

The amendment attempts to address several longstanding challenges within the insolvency ecosystem, including delays in admission, ineffective liquidation monitoring, unresolved avoidance applications, lack of accountability, and excessive procedural uncertainty.

Most Notable Reforms

- Continued creditor oversight during liquidation
- Stronger powers relating to avoidance transactions
- Structured liquidation timelines
- Expanded accountability of insolvency professionals
- Introduction of the Creditor-Initiated Insolvency Resolution Process

If implemented effectively, these amendments have the potential to significantly improve efficiency, recovery outcomes, and creditor confidence within India's insolvency framework.

However, much of the practical success of the amendment will depend upon subordinate regulations, institutional capacity, and the manner in which courts and tribunals interpret the newly introduced provisions.

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