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INSOLVENCY & BANKRUPTCY

Reshaping India’s Insolvency Landscape: A Practitioner’s Guide to the Insolvency and Bankruptcy Code (Amendment) Act, 2026

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The Insolvency and Bankruptcy Code (Amendment) Act, 2026 (No. 6 of 2026), which received Presidential assent on 6 April 2026, represents the most comprehensive legislative overhaul of India's insolvency framework since the Code's enactment in 2016. By notification dated 22 May 2026, the Ministry of Corporate Affairs appointed **26 May 2026** as the date of commencement for the majority of its 72 sections, bringing sweeping changes to the Corporate Insolvency Resolution Process (CIRP), liquidation mechanics, adjudicatory timelines, penalty structures, and, most significantly, introducing an entirely new creditor-initiated resolution framework alongside provisions for group and cross-border insolvency.

This article provides a structured analysis of the Amendment's key changes and their practical implications for financial creditors, operational creditors, resolution professionals, corporate debtors, and their advisers.

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Background and Legislative Context

The IBC, since its commencement, has materially altered India's credit culture and has delivered significant recoveries, yet long-standing criticisms have persisted: procedural delays in admission, ambiguity over avoidance transactions, the exclusion of smaller entities from meaningful restructuring pathways, and the absence of a statutory framework for group and cross-border insolvency. The Insolvency Law Committee and the Parliamentary Standing Committee on Finance had flagged these gaps over successive years.

The 2026 Amendment responds to this accumulated reform agenda in one legislative instrument. It is broad in scope, technical in detail, and, in several respects, represents a deliberate policy shift in how the adjudicating authority, the Insolvency and Bankruptcy Board of India (IBBI), resolution professionals, and creditors are each expected to function.

Key Changes Now in Force

1. Definitional Clarity and Conceptual Housekeeping

The Amendment inserts several new definitions into Section 3 and Section 5 of the Code. Notably:

- **"Registered valuer"** is now defined by reference to Chapter XVII of the Companies Act, 2013, lending consistency across statutes.
- **"Service provider"** is introduced as an umbrella term encompassing insolvency professionals, insolvency professional agencies, information utilities, registered valuers, and any person notified by the Central Government, simplifying the regulatory architecture under Sections 196 to 220.
- **"Avoidance transaction"** and **"fraudulent or wrongful trading"** are given statutory definitions within Section 5, resolving interpretive uncertainty that had previously been left to judicial construction.
- An **Explanation to "security interest"** in Section 3(31) clarifies that a security interest must arise from a bilateral arrangement and cannot be created merely by operation of law, a provision with significant implications for government dues and statutory charges that had sometimes been pressed as secured claims.

2. Admission of Financial Creditor Applications Under Section 7

The Amendment replaces the existing sub-section (5) of Section 7 with a more prescriptive framework. The adjudicating authority must now admit or reject an application within **14 days** of receipt. More critically:

- An **Explanation I** makes clear that where the conditions for admission are satisfied, no extraneous ground may be invoked to reject the application, addressing the practice of courts importing grounds beyond default and completeness.
- An **Explanation II** confers evidentiary sufficiency on a **record of default filed by a financial institution** with an information utility, without requiring further proof of default. This significantly simplifies creditor-initiated proceedings brought by banks and financial institutions.
- The requirement that **no disciplinary proceeding be pending against the proposed resolution professional** is now a ground for rejection under both Sections 7 and 9, with procedural safeguards that mirror each other across the two provisions.

3. Revised Withdrawal Framework Under Section 12A

The substituted Section 12A introduces a structured window for withdrawal of admitted applications. Withdrawal requires **90% voting share** of the Committee of Creditors (CoC). Critically, the Amendment now **prohibits withdrawal** both before the CoC is constituted and **after the first invitation for submission of a resolution plan has been issued**. This temporal restriction addresses concerns that late-stage withdrawals were disrupting ongoing processes and disadvantaging creditors who had engaged substantively with the process.

4. Moratorium Extended to Liquidation; Dissolution as an Alternative to Liquidation

Among the more structurally significant changes is the introduction of a **moratorium within the liquidation process** under Section 33. On passing a liquidation order, the court may now declare a moratorium for the purposes referred to in clauses (a) and (c) of Section 14(1), applied *mutatis mutandis* to liquidation proceedings, protecting the liquidation estate from fragmented litigation.

Equally significant, Section 33 now **empowers the CoC to resolve for dissolution** of the corporate debtor (rather than full liquidation), providing a faster and less resource-intensive route for insolvent entities where liquidation proceeds would be nominal. The CoC must comply with conditions to be specified by the IBBI before exercising this option.

A new **sub-section (1A)** to Section 33 enables the CoC, by a vote of not less than 66%, to seek restoration of the CIRP before a liquidation order is passed. The adjudicating authority may grant restoration for up to **120 days**. Restoration is permitted only once.

5. Liquidator Appointment and Oversight Reforms

The Amendment effects a clean separation between the roles of resolution professional and liquidator: **the resolution professional for a CIRP may no longer be appointed as the liquidator** for the same corporate debtor's liquidation process. The new Section 34 requires the adjudicating authority to refer to the IBBI for recommendation of a liquidator, with the Board required to nominate within ten days.

A new **Section 34A** grants the CoC the power to replace a liquidator during the liquidation process by a vote of 66% or more, subject to there being no pending disciplinary proceedings against the proposed replacement. This introduces a meaningful accountability mechanism that did not previously exist.

The **CoC's supervisory role during liquidation** is now statutorily embedded: Section 21(11) constitutes the CoC as a supervisory body over the liquidation process, and Section 35(2) imposes a specification-led obligation on the CoC to supervise the liquidator's conduct.

6. Resolution Plan: Enhanced Creditor Protection and Licence Continuity

The Amendment introduces two important protections within the resolution plan framework:

First, a new **clause (ba)** to Section 30(2) mandates that the resolution plan must provide for dissenting financial creditors at least the higher of their liquidation value or their proportionate entitlement under the waterfall, a clarification consistent with the Supreme Court's jurisprudence in *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta*, though now placed on

a firm legislative footing.

Second, a new **sub-section (5)** to Section 31 provides that upon approval of a resolution plan, licences, permits, registrations, concessions, and similar grants **shall not be suspended or terminated** for the remaining period of their validity, provided the corporate debtor or the resolution applicant complies with applicable obligations. Sub-section (6) further provides that all prior claims against the corporate debtor and its assets are extinguished upon approval with a carefully drafted Explanation preserving claims against promoters, guarantors, and jointly liable parties.

The adjudicating authority is now also required to **pass the order on a resolution plan within 30 days** of receipt, with the obligation to record reasons for any delay.

7. Avoidance Transactions: Extended Reach and Creditor Standing

The look-back period for preferential and undervalued transactions is reformulated to run **from the initiation date to the insolvency commencement date**, replacing the earlier phrasing anchored solely on the insolvency commencement date. This adjustment is responsive to judicial recognition that the operative facts often predate formal admission by a considerable period.

The substituted **Section 47** now confers express standing on creditors, members, or partners to approach the adjudicating authority where the resolution professional or liquidator has failed to report an avoidance transaction or fraudulent trading. Where such failure is established after sufficient opportunity, the adjudicating authority is required to direct the IBBI to initiate disciplinary proceedings against the delinquent professional.

8. Penalty and Enforcement Architecture Overhauled

The 2026 Amendment replaces the criminal offence provisions of Sections 74 and 76 with a comprehensive civil penalty regime. The substituted **Section 235A** now empowers the adjudicating authority to impose penalties of up to three times the loss caused or unlawful gain made, at the application of the IBBI or the Central Government with a floor of Rs. 1 lakh per day of continuing contravention and a cap of Rs. 5 crore where the loss or gain is unquantifiable.

New penal provisions include:

- **Section 64A**: Penalty of up to Rs. 2 crore for frivolous or vexatious proceedings under Part II.
- **Section 67B**: Civil penalties for contravention of the moratorium and of resolution plan terms, including by creditors.
- **Section 67C**: Penalty for operational creditors who conceal notice of a dispute when filing under Section 9.
- **Section 183A**: Penalty for frivolous proceedings under Part III (individual insolvency).

This shift from criminal prosecution to civil penalty is a deliberate policy choice, designed to reduce the deterrent effect on good-faith commercial actors while maintaining IBBI's enforcement capacity.

Provisions Not Yet in Force

Notably, several provisions of the Amendment Act have not yet been brought into commencement as of 26 May 2026. These include:

- **Chapter IV-A (Sections 58A to 58K)**: the Creditor-Initiated Insolvency Resolution Process (CIRP-C), a new expedited, out-of-court restructuring pathway for eligible smaller corporate debtors.
- **Chapter VA (Section 59A)**: the Group Insolvency framework.
- **Section 240C**: rules for cross-border insolvency proceedings.
- **Section 240B**: the electronic portal for insolvency processes.

These remain subject to separate commencement notifications. The deferral suggests that the regulatory groundwork, including IBBI specifications and government notifications required to operationalise these provisions is still being finalised.

Practical Implications

For financial creditors and lenders, the evidentiary sufficiency of information utility records under Section 7 and the compressed 14-day admission window reduce transaction costs in initiating proceedings. The moratorium in liquidation and the dissenting creditor protection in resolution plans provide enhanced structural protection.

For resolution professionals and liquidators, the mandatory separation of roles and the strengthened oversight by the CoC during liquidation materially change the professional's accountability landscape. The expanded standing for creditors under Section 47 creates additional exposure for professionals who fail to pursue avoidance transactions.

For corporate debtors and their promoters, the clarification that security interests must be bilateral (excluding statutory charges), alongside the explicit extinguishment of claims upon resolution plan approval, provides greater certainty regarding the clean-slate effect of a successful resolution, while the Explanations to Section 31(6) make plain that personal liability of promoters is preserved.

For practitioners and adjudicating authorities, the imposition of mandatory timelines for admission, plan approval, liquidation orders, and dissolution orders coupled with the obligation to record reasons for delay will generate an audit trail that is likely to inform appellate oversight and judicial performance metrics.

Concluding Observations

The Insolvency and Bankruptcy Code (Amendment) Act, 2026 is a mature legislative response to nearly a decade of operational experience with the Code. It consolidates judicial precedent into statute, sharpens enforcement through civil penalties, and lays the groundwork through provisions not yet in force for India's eventual integration into cross-border insolvency cooperation frameworks.

The provisions now in force represent immediate, actionable change. Legal advisers, financial institutions, insolvency professionals, and corporate boards would do well to review their existing processes, transaction documentation, and institutional arrangements in light of the changes that took effect on 26 May 2026.

This article is based on the Insolvency and Bankruptcy Code (Amendment) Act, 2026 (No. 6 of 2026), published in the Gazette of India Extraordinary dated 6 April 2026, and the Ministry of Corporate Affairs Notification S.O. 2625(E) dated 22 May 2026 appointing the date of commencement.

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