

# Joint Committee Report Summary

## The Insolvency and Bankruptcy Code, 2015

- The Joint Committee on the Insolvency and Bankruptcy Code, 2015 (Chairperson: Mr. Bhupender Yadav) submitted its report on April 28, 2016. The Code was introduced in Lok Sabha and subsequently referred to the Joint Committee on December 23, 2015.
- The Code seeks to create a unified framework for resolving insolvency and bankruptcy in India. It provides time bound insolvency resolution processes for companies and individuals. Insolvency is a situation where a person is unable to repay his outstanding debt.
- **Creditors Committee:** The Code classifies creditors into financial and operational creditors. It provides for a creditors committee consisting of financial creditors to take decisions regarding insolvency resolution. The Joint Committee recommended that operational creditors should also be a part of the creditors committee's deliberations. They should be invited to the committee meetings for presenting their issues, however, they should not have a right to vote.
- The creditors committee may formulate and vote on a resolution plan to restructure the debtor's debt. The Committee observed that there is a need to monitor the implementation of a resolution plan to ensure its proper execution. It noted that the resolution plan itself should provide for proper implementation of its provisions, and management of affairs of the debtor.
- **Insolvency Professional Agencies:** The Code establishes multiple insolvency professional agencies (IPAs), and allows each of them to make their own bye-laws. These bye-laws will specify rules on areas such as the manner of granting membership to insolvency professionals (IPs), standards for their ethical conduct and grounds for penalising them. The Committee observed that while the Code specifies parameters for which these bye-laws will be made, it does not provide a model bye-law. This may lead to a lack of uniformity in the bye-laws made by different IPAs. The Committee recommended that the Board should make model bye-laws to ensure consistency among rules followed by all IPAs.
- **Professional streams of IPs:** The Code does not specify the professional streams from where IPs will be drawn. The Committee recommended that these streams should be specified in the Code. It proposed a clause to allow for professionals from fields such as law, management and insolvency to practice as IPs.
- **Performance Bond:** Under the Code, an IPA is required to furnish a performance bond equal to the asset value of the debtor. This bond is to be furnished when an IP begins a resolution process. The Committee observed that such a bond may act as a deterrent for the entry of IPs and IPAs into the sector. It recommended that the requirement to furnish a performance bond should be removed.
- **Information Utilities:** The Code creates multiple information utilities (IUs). These IUs will collect and store financial information related to the debtor. The information will be collected from financial and operational creditors. The Committee recommended that the IUs should be made interoperable, to ensure that a seamless network of information is created. Further, it noted that operational creditors may not have adequate resources to submit information to the IUs. It suggested that submission of information by operational creditors should be made optional.
- **Information storage with IUs:** Under the Code, a person providing information to the IU will have the right to correct or remove information provided by him. The Committee recommended that a person should not have the right to remove information, and should only be allowed to modify or correct information provided by him.
- **Purpose of establishing the Bankruptcy Fund:** The Code creates an Insolvency and Bankruptcy Fund, which will receive voluntary contributions from any person. The Committee noted that the Code does not specify the purpose for which the Fund will be used. It suggested that a contributor should be allowed to withdraw his contribution from the fund in cases including where he has to make payments to workmen.
- **Cross-border insolvency:** Cross border insolvency relates to an insolvent debtor who has assets abroad. The Code does not contain provisions to deal with such situations. The Committee recommended that new provisions should be made to provide for the central government to enter into agreements with other countries to enforce provisions of the Code.
- **Employee benefits during liquidation:** The Committee observed that provident fund, pension fund and gratuity fund provide a social security net for employees. It recommended that any dues payable to workmen from these funds should be excluded from the debtor's assets during liquidation.

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