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INSOLVENCY AND BANKRUPTCY CODE

**Realisations for financial creditors through
IBC to improve in FY2022 but second wave
may again delay resolutions and increase
haircuts**

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SUMMARY



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- The Covid-19 pandemic, its related effects and the suspension of new proceedings under the Insolvency and Bankruptcy Code (IBC) for the whole of FY2021 resulted in a sharp slowdown in the resolution process. Realisations for financial creditors from resolutions under the IBC declined significantly to ~Rs. 260 billion in FY2021, almost a quarter of the realisations in FY2020.
- As per ICRA's estimates, the financial creditors could realise about Rs. 550-600 billion in FY2022 through successful resolution plans from the IBC, though realisations post successful completion of the IBC proceedings for a large housing finance company would contribute significantly to the same. The difficult current operating environment due to the second wave of the pandemic may result in a slowdown in the resolution process, especially for smaller-sized entities, and would also result in an increase in the haircuts for the lenders.
- From its commencement in December 2016, 4,376 corporate insolvency resolution processes (CIRPs) had commenced, of which 2,653 were closed till March 2021. About 13% or 348 cases were closed through the approval of the resolution plans, of which 107 were approved in FY2021. Financial creditors have realised/expect to realise an average 39% of their claims and the realisation value, in comparison to the liquidation value, stands at 180%.
- The average time taken for the completion of the CIRPs yielding approval of the resolution plan is 406 days (excluding the time considered by the adjudicating authority (AA)), much higher than ideal. Many cases have seen inordinate delays in the implementation of the resolution plans even after approval from the National Company Law Tribunal (NCLT) for various reasons, thus resulting in a decrease in the time value of the lenders' realisation.
- The average time taken for closure by resolution or liquidation orders had increased by around 150 days in FY2021 owing primarily to the pandemic and the subsequent lockdowns. However, with the gradual lifting of the lockdowns and the higher usage of digital mediums in recent months, the NCLT may expedite the hearings and the judgement of the cases currently under process.

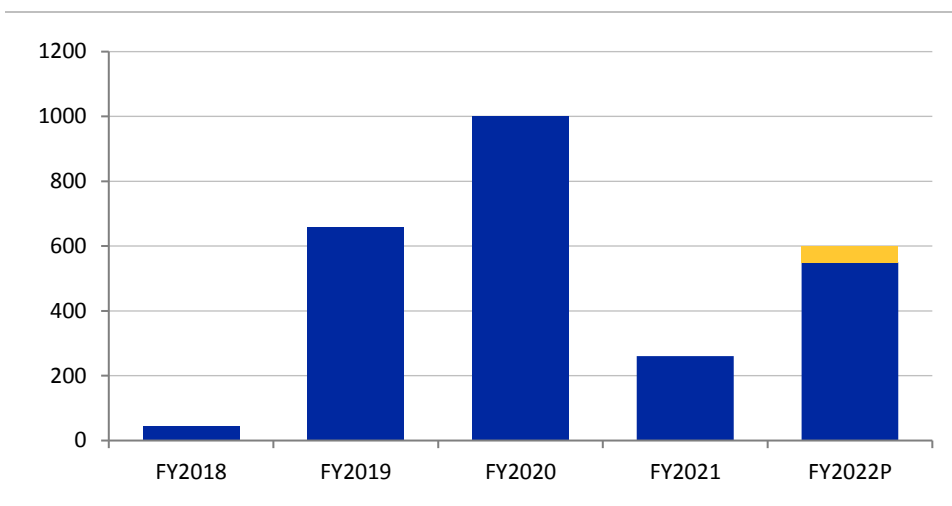
FINANCIAL CREDITORS' REALISATION THROUGH IBC IN FY2021 WITNESSED SIGNIFICANT DECLINE FROM FY2020

The outbreak of the Covid-19 pandemic and its related effects in FY2021 battered the prospects for stressed asset resolution. The pandemic has increased operational challenges for the various parties involved in a CIRP, which resulted in limited cases yielding a resolution plan. Further, the suspension of new proceedings under the IBC for the entire fiscal resulted in a sharp slowdown in the resolution process. Accordingly, the realisation for financial creditors from the resolution of CIRPs under the IBC declined significantly in FY2021 with a total resolution amount of ~Rs. 260 billion, almost a quarter of the realisations in FY2020.

IMPROVEMENT EXPECTED IN FY2022 WITH ESTIMATED REALISATION OF RS. 550-600 BILLION

As per ICRA's estimates, the financial creditors could realise Rs. 550-600 billion in FY2022 through successful resolution plans from the IBC (refer Exhibit 1). However, the increase in the resolution amount in FY2022 would depend on the expected resolution of Dewan Housing Finance Limited (DHFL), which is awaiting the NCLT's approval but is also under litigation in the higher courts. DHFL's resolution alone is expected to be ~60% of the possible realisation in the year. Additionally, in FY2022, the realisation by the financial creditors would depend on the successful resolution of 8-9 big-ticket accounts, as more than 20% of ICRA's estimated realisation for the year could be from these alone. However, large accounts mostly see a very high level of delay in closures due to litigations, which is a concern. Further, if the second wave of the pandemic does not subside soon, it could have a bearing on ICRA's estimates as the difficult operating environment may result in a slowdown in the resolution process, especially for smaller-sized entities, and would also result in an increase in the haircuts for the lenders.

EXHIBIT 1: Realisation for financial creditors from CIRPs yielding resolution (NCLT approved)



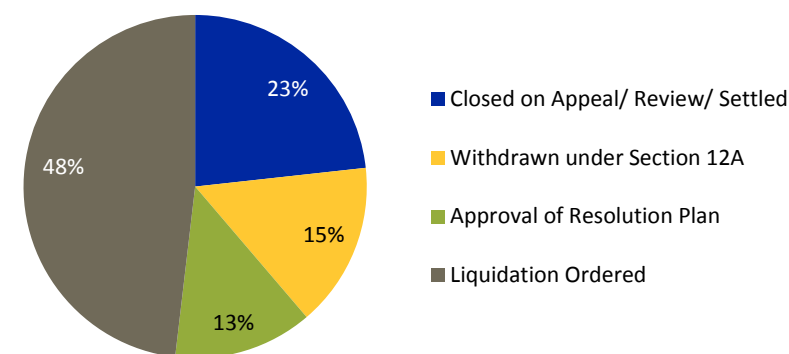
Source: The Insolvency and Bankruptcy Board of India (IBBI), ICRA research; **Note:** The realisations mentioned above may not be the actual amounts realised by the financial creditors as the resolution plans may allow for a staggered payment or the NCLT's decision may be challenged in the higher courts

NUMBER OF SUCCESSFUL RESOLUTION PLANS ACHIEVED THROUGH IBC REMAINS MODEST TILL DATE COMPARED TO NUMBER OF CASES TAKEN TO LIQUIDATION; REALISATIONS BY FINANCIAL CREDITORS THROUGH IBC LARGELY DRIVEN BY RESOLUTION OF 10 LARGE NPAs

The CIRPs under the IBC have been affected over the years by the overburdened NCLT, innumerable litigation, defiant promoters and failing sectors. Even with such challenges, the IBC process has shown significant progress. From its commencement in December 2016, 4,376 CIRPs have been admitted, of which 2,653 were closed till March 2021. The break-up of the closed cases is given in Exhibit 2.

- 1,028 cases (~39%) were closed on appeal/review or settled or withdrawn under Section 12A. ICRA notes that 71% of these cases were initiated by operational creditors. Hence IBC, to some extent, has been successful in instilling the fear of losing control of the company in the mind of the owners, who have become more willing to pay their dues to keep the IBC proceedings at bay.
- 348 cases (~13%) were closed through the approval of the resolution plan, of which 107 were approved in FY2021. Financial creditors have realised/expect to realise an average 39% of their claims and the realisation value, in comparison to the liquidation value, stands at 180%. However, the realisation figures are primarily dominated by the CIRP of the Reserve Bank of India's (RBI) first list of the 12 largest non-performing assets (NPAs; refer Exhibit 6 for details). Till date, the resolution plan has been approved for 9 of these 12 companies while the CIRP is still ongoing for one entity and the remaining two companies have been referred for liquidation. The break-up of the resolution from the selected 10 large cases compared to other cases through the IBC is provided in Exhibit 3.

EXHIBIT 2: Outcome of closed cases



Source: IBBI, ICRA research

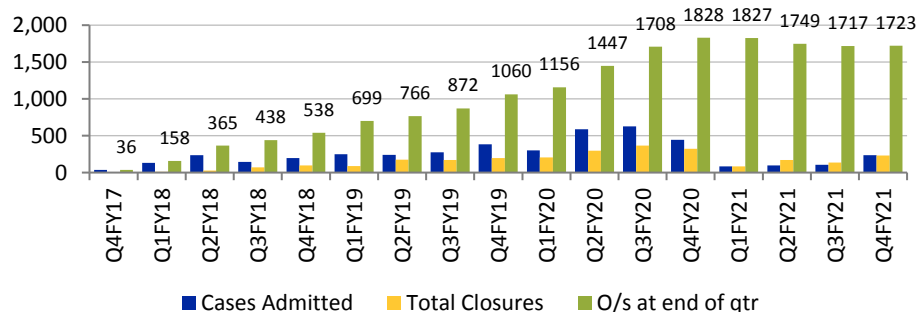
EXHIBIT 3: Realisation by financial creditors (FC) under IBC process as on March 31,2021

Rs. billion	Number of cases	FC's claims admitted	Liquidation value (LV)	Claims realisable/ realised	% Realised/ Realisable	
					% of FC claims	% of LV
Resolution plan approved	348	5,160.5	1,126.4	2,026.2	39%	180%
- 10 large accounts**	10	2,527.6	730.7	1,466.8	58%	201%
Liquidation completed	240	330.9	11.0	10.6	3%	96%

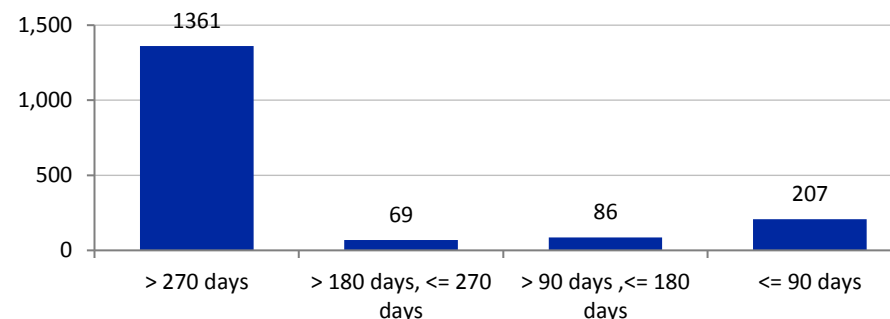
** Bhushan Steel, Bhushan Power & Steel, Monnet Ispat & Energy, Electrosteel Steels, Essar Steel, Alok Industries, Jaypee Infratech, Jyoti Structures, Binani Cements, Ruchi Soya Industries

Source: IBBI, ICRA research

- 1,277 cases (~48%) have been referred for liquidation. The final reports for only 240 cases have been submitted. Out of the ongoing 1,037 liquidation cases, 26% are two years old indicating that the liquidation process has been slow and time-consuming. The average realisation through liquidation has been a mere ~3% of the claim amount. The low liquidation value is partly because a large portion of the cases were already under the Board of Industrial and Financial Reconstruction (BIFR)/defunct where the value of these entities had already eroded, before admission to the CIRP, to make any meaningful recovery.
- As on March 31, 2021, 1,723 cases were still undergoing CIRP under the IBC. Cases admitted were increasing every quarter till March 2020. However, the Government of India had suspended the filing of applications for the initiation of CIRP in respect of any default arising during the period of 12 months commencing on March 25, 2020. Accordingly, the suspension expired on March 24, 2021. Hence, there has been a significant reduction in cases admitted under the IBC in FY2021.
- Against the stipulated resolution period of 330 days (increased from 270 days in August 2019), the average time taken for the completion of the CIRPs yielding approval of the resolution plan has been 406 days (excluding the time considered by the AA) so far. Of the total CIRPs ongoing as on March 31, 2021, 79% had already crossed 270 days (refer Exhibit 5).
- Many cases have seen delays in the implementation of the resolution plans even after the approval of the NCLT for reasons like substantial litigation in higher courts or enforcement actions (Example: Essar Steel and Bhushan Power & Steel accounts), refusal of the resolution applicant to abide by the resolution plan (Amtek Auto's account) or for various other reasons (many large value accounts took more than six months), thus resulting in a decrease in the time value of the lenders' realisation. For cases resulting in an order of liquidation, the average time taken for the CIRP was 351 days (including the time excluded by the AA). After this, the average time taken for the liquidation process was around 1-2 years, thus substantially eroding the value of the recovery as well as the time value of money for the lenders. The average time taken for closure by resolution or liquidation orders had increased by around 150 days in FY2021 owing primarily to the pandemic and the subsequent lockdowns. However, with the gradual lifting of the lockdowns and the higher usage of digital mediums in recent months, the NCLT may expedite the hearings and judgement of the cases currently under process.

EXHIBIT 4: Number of cases undergoing CIRP


Source: IBBI, ICRA research

EXHIBIT 5: Timelines for ongoing CIRPs as on March 31, 2021


Source: IBBI, ICRA research

ANNEXURE

EXHIBIT 6: Progress of CIRPs for RBI's list of 12 large defaulting companies + other large accounts referred to the NCLT

Corporate debtor	Financial creditor claims (Rs. billion)	Claims realised (Rs. billion)	% haircut	CIRP duration	Status
Bhushan Steel Limited	560.2	355.7	37%	293 days	Completed; acquired by Tata Steel
Essar Steel India Limited	494.7	410.2	17%	583 days	Completed; acquired by ArcelorMittal
Alok Industries Limited	295.2	50.5	83%	598 days	Completed; acquired by joint venture (JV) between Reliance Industries and JM Group
ABG Shipyard Limited	181.3	NA	NA	633 days	Ordered into liquidation
Electrosteel Steels Limited	131.8	53.2	60%	270 days	Completed; acquired by Vedanta
Monnet Ispat & Energy Limited	110.1	28.9	74%	371 days	Completed; acquired by JV between JSW Steel and Aion Investments
Jyoti Structures Limited	73.6	36.9	50%	631 days	Completed; acquired by HNIs
Lanco Infratech Limited	452.6	NA	NA	385 days	Ordered into liquidation
Bhushan Power & Steel Limited	471.6	193.5	59%	652 days*	Completed; acquired by JSW Steel
Amtek Auto Limited	126.4	26.1	79%	1,081 days ^	NCLT approval received in July 2020; subsequent litigation continuing
Jaypee Infratech Limited	231.8	232.2	0%	937 days	NCLT approval received in March 2020; litigation continuing in Supreme Court
Era Infra Engineering Limited	122.1	Pending	Pending	1,081 days (ongoing)	Ongoing
Ruchi Soya Industries Limited	93.8	40.9	56%	586 days	Completed; acquired by Patanjali
Tecpro Systems Limited	80.4	NA	NA	646 days	Resolution plan approved; subsequently ordered into liquidation
Aircel Limited + Dishnet Wireless Limited + Aircel Cellular Limited	198.3	66.3	67%	813 days	NCLT approval received in June 2020; not implemented due to non-receipt of RBI approval
Reliance Infratel Limited	410.6	42.4	90%	931 days	NCLT approval received in December 2020; subsequent litigation continuing
Deccan Chronicle Holdings Limited	81.8	3.6	96%	698 days	NA

Source: IBBI, ICRA research

* As per the approval of resolution plan by NCLT; however, due to subsequent litigation, deal closure happened only in March 2021 (after additional 22 months)

^ CIRP was initially completed in 366 days but was subsequently brought back to NCLT; 2nd round of CIRP process took another ~2 years and implementation is still pending



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ICRA Limited (formerly Investment Information and Credit Rating Agency of India Limited) was set up in 1991 by leading financial/investment institutions, commercial banks and financial services companies as an independent and professional investment Information and Credit Rating Agency.

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- Assist the regulators in promoting transparency in the financial markets;
- Provide intermediaries with a tool to improve efficiency in the funds raising process.

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