IBC AMENDMENT ACT 2026: GAME-CHANGING REFORMS EXPLAINED: AN ANALYTICAL STUDY OF THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2026, ITS COMPARATIVE CONTEXT, AND THE ROAD AHEAD

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ABSTRACT

The Insolvency and Bankruptcy Code (Amendment) Act, 2026 (Act No. 6 of 2026), which received the assent of the President of India on 6 April 2026, marks the most extensive legislative overhaul of India's insolvency framework since the Insolvency and Bankruptcy Code, 2016 (IBC) itself came into force. Enacted a decade after the original Code, the Amendment Act responds to accumulated jurisprudential learning, empirical evidence of delay and value erosion, and comparative lessons drawn from mature insolvency systems such as those of the United States, the United Kingdom, Singapore, Japan and Australia. This paper traces the constitutional and historical foundations of tribunalisation in India, situates the IBC within that lineage, and undertakes a clause-level examination of the 2026 Amendment's principal innovations mandatory admission of applications, the Creditor-Initiated Insolvency Resolution Process (CIIRP), an enlarged supervisory role for the Committee of Creditors, a dedicated group insolvency chapter, a UNCITRAL-aligned cross-border insolvency framework, statutory codification of the 'clean slate' doctrine, an expanded look-back period for avoidance transactions, and a recalibrated approach to statutory dues and decriminalisation of technical defaults. Drawing on comparative material and recent judicial pronouncements of the Hon'ble Supreme Court and the National Company Law Appellate Tribunal (NCLAT), the paper identifies persisting structural gaps particularly around the appointment of resolution professionals, the treatment of intra-group guarantees, NCLT capacity constraints, and the absence of notified rules for cross-border cooperation and offers a set of comparative recommendations for the next phase of reform.

Keywords: UNCITRAL, decriminalization, international law, amendment

1. Introduction

The 124th Report of the Law Commission of India, 1988[1] focused upon distinctive fields of law and the institutional mechanisms required to administer them efficiently. The impetus for setting up specialised Tribunals in India was first articulated by the Hon'ble Supreme Court in S.P. Sampath Kumar v. Union of India[2], which adopted the theory of an alternative institutional mechanism as a constitutionally permissible substitute for the writ jurisdiction of the High Courts in specified subject matters. The Court noted that with the rapid increase in litigation before the High Courts after independence, there was a pressing need to establish specialised, subject-expert forums capable of delivering speedy and informed adjudication.

The National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT) emerged from this constitutional and jurisprudential lineage. Their creation was driven by three principal objectives: first, to provide a single-window forum for the adjudication of company law disputes that had previously been scattered across the High Courts, the Company Law Board and the Board for Industrial and Financial Reconstruction (BIFR); second, to enable time-bound disposal of insolvency and restructuring matters; and third, to reduce the docket burden on the High Courts, thereby freeing constitutional courts to focus on matters requiring their special jurisdiction.

Tribunals, as judicial or quasi-judicial bodies, are established by statute with the specific aim of providing faster adjudication and removing delay from the justice-delivery system, as compared to the ordinary hierarchy of courts. Their strength lies in subject-matter expertise: unlike generalist courts, Tribunals are typically staffed by a combination of judicial and technical/expert members possessing domain knowledge in the field they regulate.

The constitutional basis for this tribunalisation is found in Articles 323A and 323B of the Constitution of India[3], inserted by the 42nd Constitutional Amendment, which empower Parliament (and, in the case of Article 323B, State Legislatures as well) to constitute Tribunals for the adjudication of disputes relating to the recruitment and conditions of service of public servants, and for any matter enumerated in the Seventh Schedule, respectively. Two objectives animate this constitutional design: first, that a quasi-judicial Tribunal should possess a degree

[1] 124th report by the Law Commission of India 1988.
[2] S.P. Sampath Kumar Etc vs Union Of India & Ors 1987 AIR 386 (1986) (India).
[3] India Const. art. 323A and 323B, amended by The Constitution Constitution (Forty-second Amendment) Act, 1976.

of independence broadly comparable to that of the court it replaces; and second, that such a Tribunal should be capable of delivering quicker and more efficient resolution of disputes than the ordinary court hierarchy.

It is against this backdrop that the Insolvency and Bankruptcy Code, 2016[4] was enacted, and it is against the same backdrop a continuing search for speed, certainty and creditor confidence that Parliament enacted the Insolvency and Bankruptcy Code (Amendment) Act, 2026[5]. This paper examines that Amendment Act in detail: its legislative history, its substantive innovations, its place within comparative insolvency law, and the gaps that remain to be addressed.

2. Historical Evolution of Insolvency Law and Tribunalisation in India

Prior to 2016, India's insolvency and restructuring architecture was fragmented across at least four distinct statutes and institutions: the Sick Industrial Companies (Special Provisions) Act, 1985[6] (SICA), administered by the BIFR; the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDBFI Act)[7], administered by Debt Recovery Tribunals; the winding-up provisions of the Companies Act, 1956/2013[8], adjudicated by the High Courts; and the Presidency-Towns Insolvency Act, 1909 and Provincial Insolvency Act, 1920 governing individual insolvency. This multiplicity of fora produced conflicting jurisprudence, forum-shopping, and most critically chronic delay, with the average time to resolve insolvency in India, prior to reform, running into several years and recovery rates for creditors remaining amongst the lowest in the G20.

The Eradi Committee (2000) first recommended a unified insolvency framework and the winding down of the BIFR mechanism, but implementation lagged for over a decade. It was only with the Report of the Bankruptcy Law Reforms Committee (BLRC, 2015), chaired by Dr. T.K. Viswanathan, that a comprehensive, principle-based Code was drafted, culminating in the enactment of the Insolvency and Bankruptcy Code, 2016[9].

[4] Insolvency and Bankruptcy Code, 2016.
[5] Insolvency and Bankruptcy Code (Amendment) Act, 2026.
[6] Sick Industrial Companies (Special Provisions) Act, 1985.
[7] Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDBFI Act).
[8] Companies Act, 1956/2013.
[9] *Supr*a n.4.

3. The Insolvency and Bankruptcy Code, 2016: Genesis and Framework

The Insolvency and Bankruptcy Code (Amendment) Act, 2026[10] builds upon the Insolvency and Bankruptcy Code, 2016[11], which came into force in that year and established subject-specific Tribunals across India dedicated to the time-bound resolution of corporate insolvency. The 2016 Code consolidated the fragmented pre-existing regime into a single statute administered principally by the NCLT (for corporate debtors) and the Debt Recovery Tribunal (for individuals and partnership firms), with the Insolvency and Bankruptcy Board of India (IBBI) as regulator, and a cadre of licensed Insolvency Professionals (IPs) and Insolvency Professional Agencies (IPAs) as market intermediaries.

The 2016 Code shifted the underlying philosophy of Indian insolvency law from a debtor-in-possession model to a creditor-in-control model, placing the Committee of Creditors (CoC) at the centre of the Corporate Insolvency Resolution Process (CIRP) and mandating resolution within statutorily prescribed timelines (originally 180 days, extendable to 270 and later 330 days including litigation). Over its first decade of operation, the Code delivered measurable improvements in India's Ease of Doing Business rankings and in secured-creditor recovery rates, but empirical and judicial experience also revealed structural weaknesses: prolonged resolution timelines caused by litigation at the admission stage, value erosion in stressed assets pending resolution, limited creditor influence during liquidation, and the complete absence of structured mechanisms for group entities and cross-border insolvency.

4. Legislative Journey of the IBC (Amendment) Act, 2026

The 2026 Amendment did not emerge in isolation; it followed the Insolvency and Bankruptcy Code (Amendment) Bill, 2025 (Bill No. 107 of 2025), introduced after extensive stakeholder consultation and inputs from a Select/Standing Committee of Parliament, IBBI working groups, and reports of the Cross-Border Insolvency Rules/Regulations Committee (CBIRC) on both cross-border and group insolvency. After due deliberation and perusal of these inputs, the Insolvency (Amendment) Bill was passed by both Houses of Parliament and received the assent of the President of India on 6 April 2026, being notified as Act No. 6 of 2026 in the Official Gazette. Unusually for Indian legislative practice, the Act itself does not commence uniformly: Section/Clause 1 leaves the date of commencement to be notified by the Central Government,

[10] *Supr*a n.5.
[11] *Supr*a n.4.

and different provisions may be brought into force on different dates a staggered approach subsequently exercised through a notification dated 22 May 2026 appointing 26 May 2026 as the commencement date for the majority of the Act's 72 sections, with rules for group insolvency, cross-border insolvency and CIIRP mechanics to follow by subordinate legislation.

This staggered commencement is significant: it means that while the legislative foundation for major reforms particularly group and cross-border insolvency, is now in place, their operational efficacy depends on the timely notification of implementing regulations by the IBBI and the Ministry of Corporate Affairs (MCA), a process that stakeholders, resolution professionals and financial creditors must continue to monitor closely.

5. Key Reforms Under the Amendment Act, 2026

The Amendment Act touches practically every stage of the insolvency lifecycle admission, resolution, liquidation, avoidance and penalty and can usefully be organised under the following heads.

5.1 Mandatory Admission and Compressed Timelines

The centrepiece procedural reform is the shift from discretionary to mandatory admission. Where a clear default by the corporate debtor is established through reliable documentary evidence including records available with Information Utilities, the NCLT is now required to admit the application within 14 days, sharply curtailing the scope for dilatory objections, adjournments and frivolous litigation at the threshold stage that had historically consumed a disproportionate share of CIRP timelines. A corresponding 30-day outer limit applies to the passing of liquidation orders. Complementary amendments for instance to Section 99[12], extending the response window for personal-guarantor applications from ten to twenty-one days while tightening the joinder of the creditor to the process are calibrated to balance speed against due process. The Act also restricts the previously wide 'fast-track' route for small companies by folding it into the main CIRP, and imposes costs and penalties on parties responsible for frivolous or vexatious applications, mirroring practice in mature insolvency jurisdictions.

[12] S.99 Insolvency and Bankruptcy Code, 2016.

5.2 The Creditor-Initiated Insolvency Resolution Process (CIIRP)

A wholly new track, the CIIRP (introduced principally through amendment to Section 58K and allied provisions), allows creditors representing a specified threshold generally understood to be 51 per cent of outstanding debt to initiate an out-of-court or semi-formal resolution process with minimal Tribunal intervention. The process is designed to conclude within 150 days, extendable by a further 45 days, and is intended to address genuine business failures through negotiated restructuring without the full procedural weight (and attendant costs, publicity and value-erosion risk) of a formal CIRP. By diverting suitable cases away from the NCLT docket, CIIRP is expected to conserve scarce judicial bandwidth for genuinely contested matters while giving commercially sophisticated creditors a faster, more confidential route to restructuring.

5.3 Enhanced Powers of the Committee of Creditors (CoC)

The Amendment Act substantially widens CoC oversight, both during CIRP and for the first time in a structured manner during liquidation. The CoC now has greater authority over key liquidation decisions, including asset-sale strategy, with reduced requirement for case-by-case Tribunal approval. This reform is explicitly creditor-centric: it is designed to give financial institutions and other creditors a stronger stake in, and correspondingly stronger incentive to actively participate in, both resolution and liquidation strategy, rather than treating liquidation as a purely administrative, Tribunal-supervised afterthought to a failed CIRP.

5.4 Group Insolvency: Chapter V-A

For the first time, the Code acquires a dedicated statutory group insolvency regime through the insertion of Chapter V-A[13], enabling coordinated resolution of interconnected corporate debtors holding companies, subsidiaries and joint ventures that share common management, ownership or economic interdependence. Salient features include the possibility of a common adjudicating bench presiding over the coordinated conduct of proceedings, a shared or coordinated Insolvency Professional across group entities, and a joint or coordinated Committee of Creditors. The framework is expressly influenced by the UNCITRAL Model Law on Enterprise Group Insolvency and by the recommendations of the IBBI's Cross Border Insolvency Rules/Regulations Committee (CBIRC-II) Report on Group Insolvency (December 2021). For India's large business conglomerates, many of which are structured through

[13] *Supr*a n.5.

multiple, cross-holding subsidiaries, this reform promises smoother handling of group insolvencies, improved and coordinated asset realisation and maximisation, reduced duplication of legal process, and materially less paperwork than the earlier practice of fragmented, entity-by-entity proceedings before different benches. However, as elaborated in Section 8 below, the operative rules for group co-ordination and asset inclusion remain to be notified.

5.5 A UNCITRAL-Aligned Cross-Border Insolvency Framework

The Amendment Act also introduces, through amendment principally to Section 240 and allied enabling provisions, a statutory mechanism broadly aligned with the UNCITRAL Model Law on Cross-Border Insolvency[14]. The framework contemplates two categories of foreign proceedings 'main' proceedings, situated in the jurisdiction of the debtor's centre of main interests (COMI), and 'non-main' proceedings mirroring the UNCITRAL classification. It creates a statutory route for Indian courts and Tribunals to recognise foreign insolvency proceedings, for foreign insolvency representatives to seek relief before Indian fora, and for Indian Insolvency Professionals to cooperate and communicate with their foreign counterparts. For multinational corporations, foreign investors, and Indian companies with overseas assets or subsidiaries, this promises much-needed certainty and predictability that had been conspicuously absent for a decade. It bears emphasis, however, that as with group insolvency this is presently an enabling framework: the Act does not itself prescribe detailed procedure, and stakeholders must await subordinate rules and, in time, bilateral or multilateral cooperation protocols with key foreign jurisdictions.

5.6 Codification of the 'Clean Slate' Doctrine

The Amendment Act legislatively codifies the 'clean slate' doctrine a principle earlier developed through Supreme Court jurisprudence by providing Successful Resolution Applicants (SRAs) with statutory protection from undisclosed or lingering liabilities, including certain statutory dues and claims, once a resolution plan stands approved by the Adjudicating Authority. This reform directly addresses the anomaly highlighted in the Rainbow Papers line of litigation and is intended to give resolution applicants the commercial certainty needed to bid confidently for stressed assets, without the fear of open-ended, post-approval liability.

[14] UNCITRAL Model Law on Cross-Border Insolvency

5.7 Expanded Look-Back Period for Avoidance Transactions

The look-back period for avoidance transactions preferential, undervalued, extortionate and fraudulent dealings under Sections 43, 45, 50 and 66[15] has been expanded (reports indicate an extension to a two-year look-back window in several categories), while the Act simultaneously introduces stronger deterrents against fraudulent and wrongful trading by promoters and related parties. This dual reform a longer investigative window coupled with sharper penalties is designed to claw back more value for the creditor pool while disincentivising eleventh-hour asset-stripping in the run-up to insolvency.

5.8 Waterfall Mechanism and Statutory Dues

The Amendment Act provides long-sought clarification of the Section 53[16] waterfall mechanism and the treatment of statutory dues owed to Central and State Governments, correcting the interpretive uncertainty that had followed the Supreme Court's decision in *State Tax Officer v. Rainbow Papers Ltd*[17]. The amendments clarify that a security interest, for the purposes of priority in the waterfall, exists only where it arises from an agreement or arrangement between parties, and does not extend to security interests arising merely by operation of law, a clarification with significant consequences for government claims, tax authorities and competing creditors alike.

5.9 Pre-Packaged Insolvency for MSMEs and Restricted Withdrawal

The Amendment Act streamlines the pre-packaged insolvency resolution process (PPIRP) for micro, small and medium enterprises (MSMEs), while simultaneously tightening rather than liberalising the withdrawal route under Section 12A[18]. Withdrawal after admission is now subject to a narrower window and stricter creditor-consent thresholds, reflecting Parliament's judgment that the earlier, relatively permissive withdrawal regime had been misused by promoters and select creditors to exit CIRP after extracting settlement value, at the expense of the broader creditor class.

[15] S.43,45,50,66 Insolvency and Bankruptcy Code, 2016.
[16] S.53 Insolvency and Bankruptcy Code, 2016.
[17] State Tax Officer v. Rainbow Papers Ltd Civil Appeal No. 2568 of 2020.
[18] S.12A Insolvency and Bankruptcy Code, 2016.

5.10 Decriminalisation of Minor Non-Compliance and Sharper Penalties for Serious Offences

In a calibrated reform, the Act decriminalises a range of minor, technical non-compliances (for instance, delayed but good-faith filings), converting them into monetary penalties, while simultaneously reinforcing custodial and financial penalties for serious offences such as fraudulent initiation of CIRP, concealment of assets, and wrongful trading. This mirrors the broader 'Jan Vishwas' decriminalisation philosophy pursued elsewhere in Indian corporate and commercial law, and is intended to reduce the compliance burden on genuine business failures while preserving strong deterrence against deliberate abuse of the insolvency process.

5.11 Liquidation Reforms, Guarantor Assets, and Restoration of CIRP

Beyond resolution, the Act also reforms the liquidation stage itself. It permits, through amendment to Section 59[19], a company already in voluntary liquidation to reverse course and resume business by special resolution and creditor approval recognising that liquidation decisions taken under distress are not always irreversible commercial judgments. A notable and closely watched innovation allows a supermajority of 66 per cent of financial creditors to vote, even after a liquidation order has been passed, to restore the CIRP for a period of up to 120 days creating a second opportunity for resolution in cases where a viable buyer or plan emerges after the resolution window has formally closed. The Act also addresses the treatment of guarantor assets through amendment enabling consolidation of the asset pool where a guarantor is itself insolvent, with a waterfall that first settles the guarantor's liability before any surplus reverts to the guarantor's own estate, thereby preventing double recovery by creditors.

6. Comparative Analysis: International Best Practices

The 2026 Amendment[20] draws explicitly and implicitly on the experience of several mature insolvency jurisdictions, and a comparative reading illuminates both what the Act achieves and where it still falls short.

6.1 Singapore

Singapore's insolvency framework, particularly following its 2017 reforms adopting elements

[19] S.59 Insolvency and Bankruptcy Code, 2016.
[20] *Supra* n.5.

of the UNCITRAL Model Law and Chapter 11[21]-style debtor rehabilitation tools, features specialised panels of judges dealing specifically with cross-border and complex group insolvency matters, housed within its dedicated Singapore International Commercial Court framework. India's Amendment Act, by contrast, continues to rely on the existing NCLT bench structure supplemented at most by 'common bench' coordination for group matters without a dedicated specialist panel, a gap addressed further in the Recommendations below.

6.2 United States and United Kingdom

Both the United States (through Chapter 11 of the Bankruptcy Code)[22] and the United Kingdom (through the Insolvency Act 1986[23] and the Corporate Insolvency and Governance Act 2020[24]) impose strict statutory timelines for the disposal of insolvency matters, and both jurisdictions provide for the imposition of costs and penalties on parties who cause delay through non-compliance with court or tribunal orders. India's 2026 Amendment moves meaningfully in this direction through mandatory 14-day admission and penalties for frivolous applications but still lacks the comprehensively codified timeline discipline, with statutory cost consequences at every procedural stage, that characterises the US and UK regimes.

6.3 Japan

Japan's Corporate Reorganisation Act provides for the appointment of a Trustee often a representative connected to or overseen by judicial administration who assumes responsibility for the reorganisation process, manages and distributes the company's assets, and settles liabilities among creditors in proportion to their claims or in accordance with an approved reorganisation plan. The IBC, even after the 2026 Amendment[25], has no direct equivalent: the Resolution Professional under Indian law performs a narrower, largely facilitative role vis-à-vis the CoC, rather than the more autonomous, distribution-oriented function performed by a Japanese-style Trustee.

6.4 Australia

Australia's insolvency framework under the Bankruptcy Act 1966 includes a dedicated

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[21] *Supra* n.14.
[22] Chapter 11 of the Bankruptcy Code.
[23] Insolvency Act 1986.
[24] Corporate Insolvency and Governance Act 2020.
[25] *Supra* n.5.

Registrar's Court, empowered to handle a wide range of procedural and administrative matters filing of petitions, extensions of time, applications to set aside orders, notices, and deceased-estate bankruptcy thereby relieving the substantive bankruptcy courts and their judicial officers of a significant administrative burden. India's NCLT possesses no comparable Registrar-level adjudicatory tier; procedural and administrative matters presently consume Tribunal-member time that could, on the Australian model, be delegated to a dedicated Registrar's forum.

6.5 UNCITRAL Model Laws

The cross-border and group insolvency provisions introduced by the 2026 Amendment are both explicitly modelled on UNCITRAL instruments the Model Law on Cross-Border Insolvency (1997)[26] and the Model Law on Enterprise Group Insolvency (2019) respectively. This alignment is a significant step toward international interoperability; however, as UNCITRAL itself recognises, the Model Laws are designed to operate through domestic implementing legislation and subordinate rules, judicial cooperation protocols, and ideally reciprocal or bilateral arrangements with major trading partners. India's framework, being presently confined to enabling primary legislation without notified rules, has taken the first but not the final step toward full UNCITRAL-standard interoperability.

7. Judicial Trends Shaping the 2026 Reforms

Much of the 2026 Amendment can be read as a legislative response to a decade of Supreme Court and NCLAT jurisprudence. In *Swiss Ribbons Pvt. Ltd. v. Union of India*[27], the Supreme Court upheld the constitutional validity of the Code's creditor-centric architecture and affirmed the primacy of the CoC's commercial wisdom, a principle the 2026 Amendment reinforces by further enlarging CoC authority over liquidation decisions. In Committee of Creditors of *Essar Steel India Ltd. v. Satish Kumar Gupta*[28], the Court clarified the finality and binding effect of an approved resolution plan on all stakeholders, a holding that the Amendment Act's statutory 'clean slate' codification now places on an explicit legislative footing rather than leaving it to case-by-case judicial elaboration. In *Vidarbha Industries Power Ltd. v. Axis Bank Ltd.*[29], the Court held that admission of a Section 7 application involved an element of Adjudicating Authority discretion even where default was established a position in tension with the pre-2026

[26] *Supra* n.14.
[27] Swiss Ribbons Pvt. Ltd. v. Union of India AIR 2019 SUPREME COURT 739.
[28] Essar Steel India Ltd. v. Satish Kumar Gupta Civil Appeal No. 8766-67 of 2019.
[29] Vidarbha Industries Power Ltd. v. Axis Bank Ltd. Civil Appeal No. 4633 of 2021.

practice of near-automatic admission upon proof of default, and one that the Amendment Act's mandatory 14-day admission provision appears designed to legislatively recalibrate in favour of certainty and speed. Finally, in *State Tax Officer v. Rainbow Papers Ltd.*[30], the Court's characterisation of statutory dues as secured claims created significant uncertainty for the Section 53 waterfall[31], prompting the definitional clarification of 'security interest' that the 2026 Amendment now supplies. Read together, these decisions and their legislative responses illustrate a continuing dialogue between the judiciary and Parliament in shaping India's insolvency jurisprudence.

7.1 Anticipated Impact on Key Stakeholders

Financial and Operational Creditors

For banks, non-banking financial companies and other financial creditors, the mandatory 14-day admission requirement and the expanded CoC powers over liquidation are expected to materially improve recovery timelines and, over time, recovery rates. Operational creditors including MSME vendors stand to benefit from the streamlined PPIRP track, though they will need to update internal credit-monitoring and documentation practices given the enhanced evidentiary weight placed on Information Utility records at the admission stage.

Resolution Professionals and Insolvency Professional Agencies

Resolution Professionals will need to reorient their practice toward the compressed admission timelines and the CIIRP track, which places a premium on early creditor coordination and documentation readiness. IPAs, for their part, will need to develop specialised training and certification pathways for professionals handling group and cross-border matters, given the distinct coordination and cross-jurisdictional skills these new chapters demand.

Corporate Debtors, Promoters and Boards

Corporate boards particularly those of large conglomerates with multiple group entities and intra-group guarantees will need to undertake proactive gap analyses: mapping group entities and cross-jurisdictional exposure, updating board reporting on insolvency triggers, recalculating CoC voting shares in light of amended creditor-classification rules, and preparing

[30] *Supra* n.17.
[31] *Supra* n.16.

cross-border cooperation protocols in anticipation of the eventual notification of implementing rules. The narrower Section 12A[32] withdrawal window also means that promoters can no longer treat withdrawal, post-admission, as a reliably available exit; this is likely to encourage earlier and more serious engagement with restructuring negotiations before formal admission occurs.

Foreign Investors and Multinational Corporations

For foreign investors and multinational corporations with Indian operations or Indian counterparties, the introduction of a UNCITRAL-aligned recognition mechanism even in its present enabling form signals a meaningful improvement in predictability. Over the medium term, as implementing rules and cooperation protocols with major trading-partner jurisdictions are notified, India's insolvency regime is likely to become significantly more attractive for cross-border investment and lending, narrowing a longstanding gap between India and comparable emerging-market economies.

8. Loopholes and Gaps

Notwithstanding the scope of the 2026 Amendment, several structural gaps persist in the Code.

- Appointment of the Resolution Professional continues to rest with the Adjudicating Authority bench, rather than with the Insolvency and Bankruptcy Board of India (IBBI); vesting this function with IBBI, as the specialist regulator, would improve consistency and reduce bench-to-bench variation.

- Constitution of the CoC continues to proceed through invitation of claims by the Resolution Professional and subsequent convening of meetings, without a requirement of prior leave of the Tribunal before admission or rejection of claims; a threshold judicial check at this stage, together with a bar on premature convening of meetings, would reduce disputes over CoC composition.

- Group insolvency, despite the introduction of Chapter V-A, still lacks specific, notified guidelines on asset inclusion and inter-entity coordination. Conglomerates with extensive intra-group guarantees of the type seen in large diversified groups such as the Adani Group or the Vedanta Group remain without a specific statutory mechanism to

[32] *Supra* n.18.

address intra-group guarantee obligations, since Chapter V-A's coordination provisions focus primarily on procedural consolidation rather than substantive treatment of cross-guarantees.

- NCLT capacity constraints remain a binding operational bottleneck. The mandated 14-day admission timeline and 30-day liquidation-order timeline are difficult to meet in practice given persistent vacancies in judicial and technical member positions, existing case backlogs, and insufficient court staff and infrastructure across Tribunal benches.

- The cross-border insolvency framework, while aligned in principle with the UNCITRAL Model Law, currently lacks notified procedural rules and bilateral or multilateral cooperation mechanisms with foreign jurisdictions, leaving the framework's practical efficacy dependent on future subordinate legislation.

- The Code continues to place comparatively limited statutory emphasis on the valuation of assets and the regulation of asset transfers, an area where registered-valuer standards and disclosure norms remain underdeveloped relative to comparable jurisdictions.

9. Recommendations

Building on the comparative analysis above, the following reforms are recommended for the next phase of India's insolvency law development.

- Establish, on the Singapore model, a dedicated panel of specialist judges/Tribunal members within the NCLT and NCLAT specifically empowered to handle cross-border and group insolvency matters, ensuring consistent, expert adjudication of these newly introduced and inherently complex categories of cases.

- Codify comprehensive, stage-wise statutory timelines across the entire insolvency lifecycle not merely at admission on the model of the United States and United Kingdom, together with automatic cost consequences for non-compliance with Tribunal orders or statutory deadlines.

- Introduce a Trustee mechanism, drawing on the Japanese Corporate Re-organisation model, empowered to take a more autonomous role in asset distribution and liability settlement during reorganisation, working alongside rather than merely facilitating the

CoC.

- Establish a Registrar's Court or equivalent administrative adjudicatory tier within the NCLT structure, on the Australian model, to handle procedural filings, timeline extensions, and administrative applications, thereby freeing Tribunal members to focus on substantive commercial adjudication.

- Vest the power to appoint Resolution Professionals with the IBBI rather than the Adjudicating Authority bench, and require prior Tribunal leave before admission or rejection of CoC claims, together with a bar on premature convening of creditor meetings.

- Expedite notification of the subordinate rules necessary to operationalise Chapter V-A group insolvency and the cross-border insolvency framework, including specific guidance on intra-group guarantee treatment and asset-inclusion criteria for conglomerate structures.

- Address NCLT capacity constraints on a priority basis through expedited filling of judicial and technical member vacancies, augmented court staff, and digital case-management infrastructure, without which statutory timelines risk remaining aspirational rather than operational.

- Strengthen statutory standards and disclosure norms governing asset valuation and asset transfers during CIRP and liquidation, including enhanced accountability for registered valuers.

10. Conclusion

The Insolvency and Bankruptcy Code (Amendment) Act, 2026 is aimed at building a robust, time-bound and market-oriented insolvency system. By addressing critical bottlenecks prolonged timelines, value erosion, limited creditor influence in liquidation, and the long-standing absence of structured group and cross-border mechanisms and by incorporating contemporary global practices drawn from the United States, the United Kingdom, Singapore, Japan, Australia and the UNCITRAL Model Laws, the Amendment strengthens creditor confidence and contributes meaningfully to the broader objective of fostering a healthier credit culture and supporting economic resilience in India. At the same time, the Amendment's ultimate success will depend on matters largely outside the four corners of the statute itself: the timely notification of subordinate rules for group and cross-border insolvency, sustained investment in NCLT capacity and infrastructure, and continued judicial and regulatory attention to the specific gaps resolution professional appointment, CoC constitution, intra-group guarantee treatment, and asset valuation standards identified in this paper. Banks, creditors, debtors, resolution professionals, promoters and other stakeholders will each need to recalibrate their strategies to operate effectively within this substantially reformed legal architecture.

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