



## Role of “Insolvency and bankruptcy code 2016” in managing NPA

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### Abstract

In the process of extending credit, the unwanted by products generated are considered as NPA (Umar and Sun, 2018). The banks consider a loan or advance, an NPA if its interest or principal amount remains due for more than 90 days. NPA is continuously increasing since 2011, post financial crisis and reached at an alarming stage in 2015, after implementation of AQR Mechanism by RBI. Banks have adopted a lot of strategies to handle NPA, but lack of strong bankruptcy code always remained a hurdle in the way of banks. So, in 2016, Insolvency and Bankruptcy Code came into practice to solve the issues concerning the insolvency and bankruptcy in India.

**Keywords:** NPA, Insolvency and bankruptcy, RBI

### Introduction

According to RBI Master Circular, dated 1st July 2015, “An asset including a leased asset becomes non-performing when it ceases to generate income for the bank”. Banks have several options to handle NPA and recover the dues that include one-time settlement, lok adalats, debt recovery tribunals, corporate debt restructuring, SARFAESI act, asset reconstruction companies but NPA continues to increase after 2011, post financial crisis of 2008, and the level of NPA reached an alarming stage in 2015-16 after implementation of Asset Quality Review Mechanism in 2015 by RBI. Insolvency and Bankruptcy Code is introduced in 2016 by the government for easy resolution of NPA as earlier there was no proper bankruptcy code in India.

### Insolvency and Bankruptcy Code 2016

When the debt owed to the creditors cannot be repaid then the legal status of such a person or an entity is termed as bankruptcy. Mainly, the debtors initiate it. It is crucial to consider that bankruptcy is not akin to insolvency. Bankruptcy is entirely for individual in countries like UK, However, insolvency proceeding like liquidation are suitable for entities and companies. The insolvency and bankruptcy code, 2016 looks for combining the existing structure by making a single law for insolvency and bankruptcy.

### Objectives of IBC

1. To unify and revise all existing insolvency laws of India.

2. To clarify and quicken India’s insolvency and bankruptcy proceedings.
3. To resuscitate the company in the time frame.
4. Defending the creditors’ interest including company’s stakeholders.
5. To encourage entrepreneurship.
6. To get the required ease to creditors leading to the improved credit supply in the economy.
7. To plan a fresh and timely recovery procedure that can be acquired by individuals, banks and other financial institutions.
8. To build an insolvency and bankruptcy board of India.
9. Pumping up the assets’ value of corporate persons.

### Procedure

#### Initiation

The resolution process may be started off by the debtor or creditor once the default occurs. The decision concerning the future of the outstanding debt owed to creditors will be taken by a committee comprising of the financial creditors. They might have a choice to either resuscitate the debt owed to them or they might sell the debtors’ assets in order to repay the debt owed to them. The assets of the debtor can be liquidated in case the decision is not taken in 180 days.

#### Liquidation

The liquidation process is handled by an insolvency professional in case the debtor goes into liquidation. The proceeds generated from selling of the assets of the debtors are given out in the already established order.

**Table 1:** List of amount recovered as percentage of amount involved through IBC

Year	IBC		
	Percentage of total amount involved	Percentage of total amount recovered	amount recovered as percent of amount involved
2017-18	3.7	12.2	49.6
2018-19	20.4	56.2	45.7
2019-20	31.3	61.3	45.5

Source: RBI Reports

For NPA resolution, IBC has been proved to be most momentous reform. Since its inception it has recovered largest percentage of amount involved. In 2019-20, the percentage was as high as 45.5 percent, which is way larger than other recovery channels.

### Recent steps taken by the government to handle NPA

Apart from the insolvency and bankruptcy code 2016, enacted for immediate insolvency resolution of corporations, a lot of recent efforts were taken by banks to reduce NPA and re-capitalize the banks. Indradhanusha scheme which has seven components symbolic of a rainbow, is planned by the government following the measures suggested by PJ Nayak Committee to overcome the challenges faced by public sector banks in 2015 (Ministry of Finance, 14th Aug, 2015). The components are: Appointments: For the smooth functioning of public sector banks and to keep a check on excessive power concentration, the post of the managing director and chief executive officer were separated.

- **Bank Boards Bureau:** Bank Boards Bureau (BBB) had replaced the public sector banks appointment board. BBB gives banks advice on acquisitions, mergers, and on raising funds. BBB act as middlemen and separate the functioning of public sector banks from the government.
- **Capitalisation:** Government planned to induce a capital of 70,000 by 2018-19 due to high NPA.
- **De-stressing:** Asset reconstruction companies were strengthened to check the stressed assets due to issues in the infrastructure sector.
- **Empowerment:** Greater autonomy was provided in hiring manpower in public sector banks.
- **Accountability:** Banks assessment will be based on few qualitative and quantitative performance indicators that include NPA management, initiatives for human resources, asset quality improvements, financial inclusion growth, and diversification, etc.
- **Governance reform:** For resolving issues among government officials and bankers related to the banking sector, banker's retreat or the Gyan Sangam conferences were organized.

RBI also launched scheme for Sustainable Structuring of Stressed Assets (S4A) in 2016, to handle the enormous amount of stressed assets in the corporate sector. The main aims of the scheme are:

1. Reinstate the credit flow to the important sectors of the economy along with reinstating the infrastructure.
2. An opportunity for the reworking of financial structure was provided to restore the real state issues.
3. The focus of the scheme is to offer financial restructuring for large debt projects through allowing the acquiring the stressed project equity to banks lender.

National Asset Reconstruction Co Ltd (NARCL) is established by the government as a bad bank to resolve the

non-performing assets and to reduce stress from the bank's balance sheets (PIB, Ministry of Finance, 16th September 2021). NARCL is established for banks to remain focused on their key activities and to prevent bank resources to be invested in failed loans. AMCs can dispose of assets efficiently when it is aptly funded and have highly trained and professional people in the management (Klingebiel, 2000). The operations of NARCL should be transparent and independent. Proper accountability should also be ensured by the Government. Although the institution is owned by the government, but for managerial efficiency, the staff should be outsourced.

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