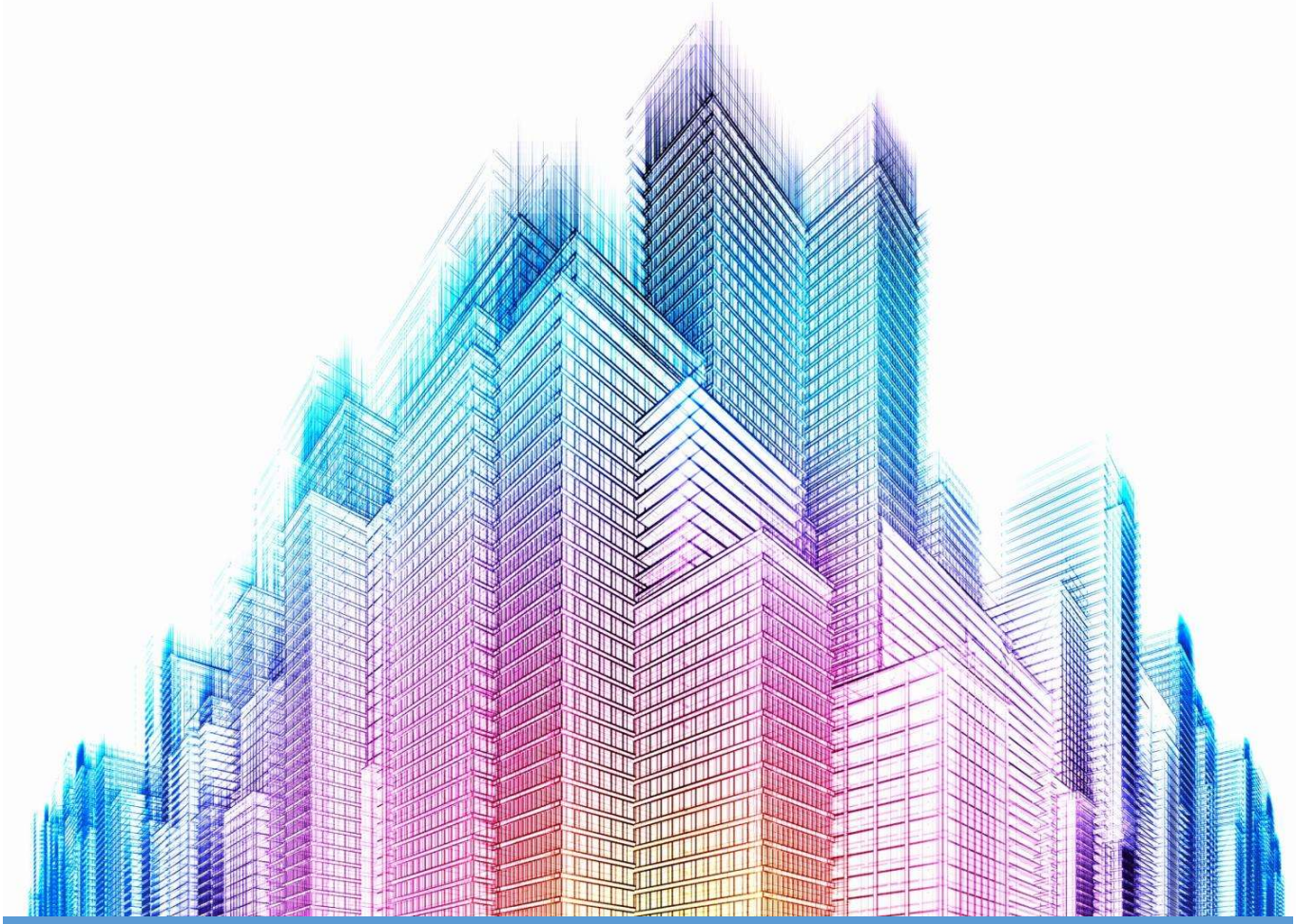
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Insolvency and Bankruptcy Board of India

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Report of the Committee on Framing Guidelines for Insolvency Proceedings in Real Estate Sector

April 2026

Report of the Committee on Framing Guidelines for Insolvency Proceedings in Real Estate Sector

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

April 2026

Date: 7th April 2026

To
Shri Ravi Mital
Chairperson
Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan, Shankar Market
Connaught Circus
New Delhi – 110001

Dear Sir,

It is our privilege to submit the Report of the Committee constituted by the Insolvency and Bankruptcy Board of India (IBBI) pursuant to the directions of the Hon'ble Supreme Court in *Mansi Brar Fernandes v. Shubha Sharma & Anr.*, to examine the issues arising in the conduct of insolvency resolution processes involving real estate projects under the Insolvency and Bankruptcy Code, 2016 (Code).

2. The Committee was mandated to analyse sector-specific challenges in real estate insolvency, particularly those affecting homebuyers, resolution applicants, regulators and creditors, and to recommend measures to strengthen the effective implementation of the Code. In this Report, the Committee sets out its analysis and recommendations on the structural, procedural and institutional aspects of insolvency proceedings in the real estate sector, with a view to improve coherence, efficiency, and outcomes for all stakeholders under the Code.

3. In carrying out its mandate, the Committee engaged extensively with a wide range of stakeholders, including Central Ministries, State Real Estate Regulatory Authorities (RERAs), land development authorities, industry bodies, homebuyer associations, Government-backed funds, insolvency professionals and former members of the adjudicating authority, viz., National Company Law Tribunal. The Committee also considered judicial pronouncements and practical experience from real estate insolvency cases.

4. The Committee has approached its task with due regard to the core principles of the Code, including time-bound resolution, value maximisation and respect for the commercial wisdom of creditors, and has focused on clarifications, process improvements and best practices. The Committee has given 155 specific recommendations on 55 broad issues identified during the course of its deliberations and firmly believes that, if implemented, these will contribute to greater consistency, predictability, efficiency, and effectiveness in real estate insolvency resolution, while strengthening confidence among homebuyers, creditors, and investors. We place this Report for consideration and further action by various stakeholders, as deemed appropriate.

Yours sincerely,

Jayanti Prasad
Chairperson

Kuldip Narayan
Member

Denning Babu
Member

Vaishali Singh
Member

Dr. Ravinder N. Batta
Member

Chandan Kumar Singh
Member

Ashish Dubey
Member

Jithesh John
Member Secretary

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PREFACE

1. The real estate sector occupies a distinctive and complex status within the insolvency framework under the Insolvency and Bankruptcy Code, 2016 (Code/ IBC). Unlike most other sectors, real estate insolvency directly affects the interests of a large and diverse class of non-institutional stakeholders – the homebuyers - whose primary expectation is not financial recovery but the timely completion of their projects and delivery of homes to them. Over nearly a decade of experience with the Code, it has become evident that the conventional, entity-centric corporate insolvency resolution process, when applied without adequate sectoral nuance, often struggles to address the structural, regulatory, and social dimensions inherent in real estate projects.

2. Since the enactment of the Code and the Real Estate (Regulation and Development) Act in 2016, India's insolvency and real estate regulatory landscape has undergone a significant transformation. The recognition of homebuyers as the financial creditors (FCs) through the 2018 amendment to the Code marked a fundamental shift, acknowledging that the life savings of millions of Indian households function as a critical source of project finance. While the Code has brought several distressed real estate projects within a structured resolution framework and has enabled resolution in a number of cases, several real estate insolvency proceedings continue to linger. Prolonged timelines, multi-project development structures, conflicts between regulatory regimes, and coordination challenges among land authorities, financial institutions, and regulators have frequently resulted in value erosion rather than value preservation, leaving homebuyers trapped in uncertainty for long durations and causing them severe stress.

3. Against this backdrop, the Hon'ble Supreme Court of India, in its judgment dated 12 September 2025 in the matter of *Mansi Brar Fernandes v. Shubha Sharma & Ors.*, issued a series of significant directions and suggestions aimed at setting in place a completion-centric and homebuyer-focused approach to insolvency proceedings in the real estate sector. Recognising that real estate constitutes one of the largest categories of cases under the Code, the Hon'ble Supreme Court directed the Insolvency and Bankruptcy Board of India (IBBI), in consultation with Real Estate Regulatory Authorities (RERA Authorities), to constitute a council to frame sector-specific guidelines for real estate insolvency, including timelines for project-wise corporate insolvency resolution processes and safeguards for allottees. The present Committee was constituted by the IBBI pursuant to these directions.

4. The Committee was entrusted with examining the challenges encountered in real estate insolvency proceedings, assessing the adequacy of the existing legal and regulatory framework, and recommending measures to align insolvency processes with the objectives articulated by the Hon'ble Supreme Court - namely, protection of the interests of the genuine homebuyers, completion of viable projects, harmonisation between the IBC and RERA frameworks, and avoidance of value-destructive outcomes such as indiscriminate liquidation. The Committee's assessment underscores that the conventional insolvency paradigm, focused primarily on recovery and redistribution, must evolve in the real estate context towards a completion-

oriented framework that recognises the project-specific nature of development and the socio-economic vulnerability of homebuyers.

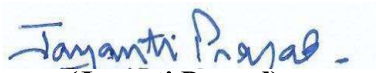
5. In discharging its mandate, the Committee adopted a consultative, evidence-based approach. Multiple meetings were held during which members deliberated on systemic issues arising in real estate insolvency cases. The Committee examined empirical data on the status of real estate insolvency proceedings, reviewed judicial precedents, and analysed recurring causes of delay and litigation. Extensive stakeholder consultations were undertaken with representatives from Central Ministries, RERA authorities, land development authorities, financial institutions, insolvency professionals, Adjudicating Authorities (Judges), industry associations, public sector funding entities, successful resolution applicants and professionals/ experts in the real estate domain. Importantly, the Committee also heard and deliberated with the representatives of homebuyer associations from several long-pending projects, whose first-hand accounts highlighted the social costs of prolonged insolvency proceedings.

6. These consultations revealed areas of broad consensus - such as the need for project-wise admission and resolution, exclusion of completed projects of the CD from insolvency, stronger coordination between RERA and insolvency processes under the Code, and prioritisation of project completion as well as areas of divergence, including the role of promoters, treatment of belated claims, and treatment of non-cooperative stakeholders. The Committee has sought to faithfully reflect these perspectives in its analysis, while grounding its recommendations firmly in statutory principles, judicial guidance and practical feasibility.

7. This Report is confined to the mandate entrusted to the Committee by the Hon'ble Supreme Court, namely, the framing of guidelines for insolvency proceedings in the real estate sector. The Report does not seek to disturb the foundational principles or overall architecture of the Code. While the Committee has, where considered necessary, suggested certain targeted legislative and regulatory refinements, these are intended to strengthen the effective operation of the framework in the specific context of real estate insolvency. Wherever structural constraints have been identified, the Committee has sought to propose calibrated measures - whether legislative, regulatory, or procedural -that remain consistent with the objectives of the Code and promote greater clarity, efficiency and stakeholder balance. The Committee's examination and recommendations are primarily focused on the residential real estate segment, which accounts for the overwhelming majority of real estate insolvency cases and involves heightened public interest considerations, given the direct impact on individual homebuyers' savings and housing security.

8. The Committee is conscious of the inherent limitations of a straitjacket approach in a sector as diverse and fact sensitive as real estate. Projects vary widely in scale, financing models, regulatory environments, and stages of completion. Accordingly, the recommendations contained in this Report are intended to provide principled guidance and process clarity, rather than rigid or one-size-fits-all prescriptions. The Committee also recognises that evolving market conditions, judicial developments, and regulatory reforms may necessitate future review and refinement.

9. This Report represents the Committee's collective assessment of how insolvency proceedings in the real estate sector can be made more effective, predictable, efficient and humane - shifting the emphasis from mere recovery to meaningful completion. The Committee submits this Report in the hope that its recommendations will contribute to a more credible, completion-oriented, and stakeholder-balanced insolvency framework, capable of strengthening confidence among homebuyers and advancing the broader objectives of economic growth and housing security.



(Jayanti Prasad)

Chairperson
Committee on Real Estate Issues
and
Whole Time Member
Insolvency and Bankruptcy Board of India

ACKNOWLEDGMENT

1. I would like to express my profound gratitude to all the esteemed members of the Committee whose collective experience across insolvency regulation, housing and urban development, corporate law and real estate regulation significantly enriched the Committee's work. The Committee benefited from the policy perspectives of Mr. Kuldip Narayan, Joint Secretary, Ministry of Housing and Urban Affairs, particularly on urban development and housing-sector issues, and from the corporate and insolvency law insights of Mr. Denning Babu, Joint Director, Ministry of Corporate Affairs. The Committee also acknowledges the valuable contributions of Ms. Vaishali Singh, Administrator, Haryana Shahari Vikas Pradhikaran, who brought the perspective of development authorities and land-owning agencies. The pan-India regulatory experience of Dr. Ravinder N. Bhatta, Chief Executive Officer, All India Forum of Real Estate Regulatory Authorities, provided important inputs on harmonisation between the Code and the RERA framework. The Committee further benefited from the practical regulatory insights of Mr. Chandan Kumar Singh, Legal Adviser, RERA Uttar Pradesh; Mr. Ashish Dubey, RERA Haryana (Gurugram), and Mr. Piyush Arora, RERA Haryana (Gurugram); particularly on project-level implementation, homebuyer issues and regulatory coordination. The Committee further acknowledges the contribution of Mr. Jithesh John, Executive Director, IBBI, whose experience in insolvency regulation and institutional processes supported the Committee's deliberations.

2. The Committee places on record its appreciation for the participation of external invitees who shared their experience, practical insights and professional perspectives, thereby enriching the Committee's understanding of real estate insolvency from multiple viewpoints. The Committee acknowledges the valuable inputs of former Members of the National Company Law Tribunal (NCLT) - Mr. Avinash Srivastava and Mr. L. N. Gupta—whose judicial experience provided important guidance on adjudicatory trends, procedural challenges and the lessons from the practical application of the Code in real estate matters.

3. The Committee also benefited from the insights of experts and practitioners, including Dr. Ashok Haldia, Former Chairman, Indian Institute of Insolvency Professionals of ICAI, and Mr. Sumant Batra, President, Insolvency Law Academy and a leading Legal Counsel in the insolvency field, who shared their perspectives on systemic issues, jurisprudence and best practices. The views of industry representatives were articulated by Mr. Getamber Anand, Mr. Apoorv Jain and Mr. Ishaan Bhatia of CREDAI, who highlighted developer-side perspectives and market realities. The Committee acknowledges the contribution of Mr. Abdul Kader Suriya, Chief Investment Officer, SWAMIH Fund, whose inputs on government-backed completion funding and project revival were particularly valuable. The Committee also thanks Mr. Haseeth Bathiya, Legal Member, NAREDCO, for his views on industry practices and regulatory coordination.

4. The Committee also places on record its sincere appreciation for the valuable inputs received from senior officers from the Stressed Assets Resolution Group of State Bank of India, Mr. Arun Kumar Yadav, Chief General Manager and Mr. H.K.P. Karimi, Deputy General

Manager, who provided critical insights on lender behaviour, interim finance and creditor decision-making in large real estate insolvencies. The Committee further acknowledges the contribution of Resolution Professionals Mr. Jayesh Sanghrajka and Mr. A. V. Sarma who shared practitioner perspectives on managing complex real estate CIRPs. The Committee also benefited from the insights of successful resolution applicants, including Mr. Sanjeev Ailawadi of Max Estates Limited and Mr. Saransh Dey of the Mantra Group, who provided detailed accounts of bidding, implementation and post-approval execution issues in resolved real estate projects.

5. The perspectives of homebuyers were effectively represented through the participation of Mr. Vishwanath Sharma, President, Lotus Arena Buyers Association; Mr. Ashish Mohan Gupta, President, Jaypee Real Estate Allottees Welfare Society; Mr. Ishwar Kewalramani, Vice President, Jaypee Real Estate Allottees Welfare Society; and Ms. Rashmi Singhal, Secretary, Jaypee Real Estate Allottees Welfare Society. Their inputs ensured that the lived experiences and concerns of allottees remained central to the Committee's deliberations.

6. This Report has been made possible due to the unstinted support, dedication, and expertise of the members of the IBBI team led by Mr. Rajesh Tiwari, General Manager, Ms. Medha Shekar, Assistant General Manager, ably supported by Ms. Muskan, Research Associate, IBBI who did an exceptional job of managing the meetings and consultations of the Committee and also in providing substantive research and drafting support to the Committee.

7. The Committee acknowledges that the collective contributions of all participants were instrumental in enabling a comprehensive examination of the issues relating to real estate insolvency and in shaping the findings and recommendations set out in this Report.



(Jayanti Prasad)

Chairperson
Committee on Real Estate Issues
and
Whole Time Member
Insolvency and Bankruptcy Board of India

EXECUTIVE SUMMARY

1. Nearly a decade after the enactment of the IBC and the RERA Act, India's framework for addressing distress in the real estate sector stands at a decisive crossroads. While these legislations have individually introduced transparency, debtor discipline and consumer protection, experience has demonstrated that the insolvency of real estate enterprises presents challenges fundamentally distinct from those encountered in other sectors. Real estate insolvency is not confined to financial restructuring; it directly implicates and impacts the housing security of millions of individual homebuyers whose primary expectation is delivery of homes rather than monetary recovery.

2. Judicial evolution under the IBC has progressively recognised this uniqueness. The classification of homebuyers as the Financial Creditors (FCs) marked a paradigm shift, acknowledging the commercial reality that homebuyer funds function as project finance. Subsequent jurisprudence has sought to reconcile insolvency principles with project completion imperatives through project-specific resolution approaches and court-monitored completion frameworks, and safeguards against speculative misuse of insolvency remedies. However, these adaptations have largely emerged through case-by-case judicial innovation rather than a settled normative framework, resulting in uneven and delayed outcomes and persistent uncertainty.

3. This Report responds to the directions of the Hon'ble Supreme Court in *Mansi Brar Fernandes v. Shubha Sharma & Ors.*, which called for sector-specific guidelines to put in place a completion-centric and homebuyer-sensitive insolvency regime. The Committee's mandate was to examine systemic bottlenecks in real estate insolvency, assess the adequacy of existing legal and regulatory mechanisms, and recommend measures that align insolvency processes with economic reality, regulatory coherence, and constitutional values.

4. The Committee's examination of insolvency data reveals that the real estate sector constitutes one of the largest and most complex segments within the insolvency ecosystem. Hundreds of real estate cases have been admitted since the Code's inception. A large proportion of these cases have been closed through resolution, settlement, review, withdrawal and liquidation. However, several cases are still ongoing.

5. The consequences of this stagnation are profound. Ongoing and resolved insolvency cases together affect nearly a quarter of a million homebuyers, translating into housing insecurity for close to a million individuals when household size is considered. For these stakeholders, insolvency is not an abstract legal process, but a prolonged period of uncertainty marked by continued rental burdens, loan servicing without possession, and erosion of trust in institutional mechanisms. The Committee therefore approaches insolvency reform in real estate not merely as a commercial necessity but as a matter of public interest.

Core structural issues identified by the Committee

6. The Committee has identified 55 critical issues, discussed in detail in Chapter 3 of this Report, which constitute the primary bottlenecks in the resolution of real estate projects. Some of the significant ones are mentioned as follows:

6.1. Fragmented project structures and multi-entity arrangements

6.1.1. Real estate projects are frequently structured through special purpose vehicles (SPVs), with land ownership, development rights, and financing distributed across multiple related entities. In structures prevalent in jurisdictions such as NOIDA and Greater NOIDA, land is owned by development authorities, while development rights are vested in one group entity, and another group entity may be subject to the insolvency proceedings.

6.1.2. When insolvency proceedings are initiated against the entity holding development rights, development authorities often invoke lease cancellation or other enforcement mechanisms, rendering resolution plans commercially unviable. In several cases, landowners have unilaterally terminated joint development agreements upon commencement of the corporate insolvency resolution process (CIRP) under the Code, leading to prolonged litigation and project stagnation.

6.1.3. Projects of the corporate debtor (CD) that are otherwise solvent or nearing completion also become trapped when the CD has multiple projects under a common insolvency process, as moratorium restrictions and lender control are applied across all projects. Since land constitutes the core asset of real estate projects, unresolved land rights, particularly where land is owned by a related entity rather than the CD, severely undermine title transfer and the feasibility of resolution.

6.2. Absence of reliable technical and cost data before the invitation of resolution plans

6.2.1. Resolution professionals (RPs) and resolution applicants (RAs) have consistently highlighted the absence of reliable technical, planning, and cost-related information at the stage when resolution plans are invited. Independent assessments of cost-to-complete, detailed pending work schedules, and construction sequencing data are generally unavailable.

6.2.2. Information Memorandum (IM) frequently omit critical details relating to approvals, pending regulatory challenges and approval validity timelines, preventing prospective RAs from accurately evaluating project viability. Discrepancies across developer records, RERA databases, and escrow accounts further compound information gaps. As a result, only a limited number of developers participate in many processes, as bidders are unable to price risks or commit to binding timelines without credible baseline data.

6.2.3. This information asymmetry leads to reduced competition, sub-optimal resolution outcomes, and unrealistic completion schedules that ultimately disadvantage homebuyers.

6.3. Frozen escrow accounts and unavailability of funds for construction

6.3.1. Although regulatory frameworks envision project-wise escrow accounts and ring-fenced cash flows, escrow and current accounts are often frozen or rendered inoperative upon commencement of CIRP, even where sufficient funds are available for construction. There is no uniform or enforceable standard operating procedure across States governing the operation of project escrow accounts during insolvency.

6.3.2. Diversion of homebuyer funds across projects remains a persistent concern, with limited mechanisms to recover misapplied and diverted funds. While RERA mandates that project funds be used exclusively for the registered project, enforcement gaps persist in practice. As a result, construction activity is frequently halted despite the availability of funds, directly undermining statutory ring-fencing requirements and leaving homebuyers without access to funds already committed for project completion.

6.4. Absence of standard operating procedures with development authorities

6.4.1. There is no standardised framework governing the conduct of development authorities once a real estate project is admitted into CIRP. Authority responses vary widely, ranging from cooperative restructuring of dues to insistence on immediate payment of principal, penalties, and interest, or initiation of lease cancellation proceedings.

6.4.2. Even after approval of a resolution plan by the NCLT, authorities have, in several cases, refused revalidation of approvals or raised fresh objections outside the CIRP record, forcing stakeholders into further litigation. This unpredictability introduces significant structural risk for the successful Resolution Applicants (SRA), as development rights and title remain unstable even after judicial approval of a resolution plan.

6.5. Expiry of regulatory approvals during CIRP and absence of fast-track revalidation

6.5.1. Regulatory approvals under RERA and local development laws are subject to finite validity periods. Due to prolonged CIRP timelines, such approvals often lapse before a resolution plan is approved. Regulatory authorities have noted that, in many cases, approvals expire solely because of delays inherent in the insolvency process.

6.5.2. Revalidation of approvals thereafter depends on administrative discretion and capacity, which may not align with timelines committed under the resolution plan. In the absence of fast-track revalidation mechanisms, otherwise viable projects remain stalled at the resolution plan implementation stage, creating a critical bottleneck in project revival.

6.6. Unilateral powers exercised by land-owning authorities

6.6.1. Land-owning authorities are not integrated into the commercial decision-making framework of the Committee of Creditors (CoC) but retain significant unilateral powers, including lease termination and escalation of penalties. These powers operate outside the CIRP framework and are frequently exercised post-approval of resolution plans.

6.6.2. In the absence of clear regulated participation, authority involvement remains largely observational during CIRP, while substantive administrative action may later negate approved resolutions, leading to increased litigation and systemic uncertainty.

6.7. Belated claims and post-approval litigation

6.7.1. Real estate insolvency cases involve large and geographically dispersed homebuyer populations, resulting in a substantial volume of belated claims. In several cases, belated claims constitute a significant proportion of the final creditor list.

6.7.2. Belated claimants frequently resist refund-based treatment due to appreciation in property values, triggering prolonged litigation and delaying implementation of approved plans. Continuous inflow of claims destabilises negotiations, inflates liabilities, and undermines the certainty required for the RAs.

6.7.3. Additionally, aggregation of the FCs' claims across multiple projects distorts voting shares within the CoC, diluting homebuyer representation and skewing decision-making.

6.8. Passive functioning of authorised representatives

6.8.1. Authorised representatives (ARs) often function as passive intermediaries, limiting their role to the circulation of documents without structured engagement or guidance to homebuyers. Resolution plans are placed for voting without adequate consultation, leaving allottees insufficiently informed about long-term implications.

6.8.2. As a result, plans containing onerous or one-sided clauses are approved without meaningful deliberation. Post-approval, disputes frequently arise when homebuyers become aware of costs or conditions not clearly understood at the voting stage. There are inadequate codified standards governing AR independence, communication duties, or minimum engagement requirements.

6.9. Post-approval execution failures and lack of effective monitoring

6.9.1. Significant gaps persist between a resolution plan approval and on-ground execution. In several cases, construction remains stalled for years after approval, while successful resolution applicants (SRAs) may impose administrative charges not transparently disclosed in the plan.

6.9.2. Monitoring committees often become ineffective or cease functioning once management control shifts. Homebuyers face substantial difficulty in securing timely judicial intervention for post-approval grievances. There is a need for a more robust mechanism to oversee RA conduct after plan approval or to address non-performance.

6.10. Prolonged NCLT approval timelines and lack of specialised benches

6.10.1. Delays between the CoC approval of a resolution plan and its approval by the NCLT materially impair project viability. Frequent transfers between benches, repeated adjournments and hearings, and procedural inefficiencies prolong uncertainty. During this period, CIRP costs continue to accrue, eroding funds available for construction.

6.10.2. The absence of specialised benches with sector-specific expertise further compounds the problem, as adjudication may not adequately account for the technical and financial realities of a real estate project completion.

6.11. Low participation by resolution applicants

Participation by credible prospective RAs remains limited, with most processes attracting only a small number of bidders. Incomplete information, uncertainty regarding authority conduct, unclear treatment of legacy dues, and limited unsold inventory inhibits reliable financial modelling. Limited competition reduces bargaining power for creditors and homebuyers, resulting in acceptance of sub-optimal plans due to the absence of viable alternatives.

6.12. Reverse CIRP

Reverse CIRP has evolved through judicial practice but lacks statutory recognition under the IBC. Its application raises concerns regarding inconsistency with Section 29A, as defaulting promoters are permitted to retain operational control.

6.13. Uncertainty regarding immunity from past tax and regulatory liabilities

The scope of immunity from pre-CIRP tax and regulatory liabilities remains unclear despite approval of resolution plans and the clean slate principle provided under the Code. Authorities have, in several cases, reopened historical demands post-approval, exposing resolution applicants to unforeseen liabilities. This uncertainty increases funding costs, discourages bidder participation, and necessitates further litigation to establish principles that are expected to flow automatically from plan approval.

6.14. Challenges in post-resolution monitoring by RERA

While RERA is designed for project-level oversight and IBC focuses on time-bound restructuring, the transition between the two frameworks remains unstructured. Post-approval

monitoring mechanisms are weak, leaving a regulatory vacuum during the implementation phase of a resolution plan. The RERAs are not systematically mandated to monitor resolution plan execution, despite their institutional capacity and access to project-level data. This gap leaves homebuyers without effective recourse during the critical post-resolution period.

6.15. **Absence of a unified group insolvency framework for SPV-based structures**

Real estate groups typically operate through multiple SPVs, resulting in fragmented insolvency outcomes across projects. Assets and financing are often held at the group level, while liabilities are ring-fenced at the SPV level, obstructing coherent resolution. Viable projects are frequently dragged into insolvency due to group-level defaults, while cross-subsidisation of cash flows distorts project-specific outcomes. Absence of a group insolvency framework prevents isolation of solvent projects and undermines efficient resolution across interconnected real estate portfolios.

Key recommendations of the Committee

7. The Committee's analysis of the identified 55 critical issues and related remedial recommendations proceed from the premise that value in real estate is realised through completion or resolution, not liquidation. Insolvency law, therefore, must operate as a facilitative framework for project revival rather than a blunt instrument of debt enforcement. The recommended framework, therefore, balances economic substance with legal form. While the Committee has given 155 specific Recommendations, some of the key recommendations are set out, as follows.

7.1. **Project-wise insolvency admission:** The Committee recommends that CIRP in the real estate sector should ordinarily be admitted on a project-wise basis, with each real estate project treated as an independent unit for the purposes of insolvency admission and resolution.

7.1.1. Admission of CIRP may be confined to the defaulting project, and solvent, completed or unrelated projects of the same developer may not be included.

7.1.2. Given the peculiar challenges in the insolvency resolution of real estate cases, as highlighted by this Committee, the MCA and IBBI may consider enabling project-wise admission of CIRP of real estate cases. The Department of Financial Services (DFS) and RERA may consider facilitating project-wise admission by laying down project-wise frameworks such as project-wise lending, maintenance of CDs' accounts project-wise, and project-wise monitoring.

7.1.3. Entity-level (the Corporate Debtor) CIRP encompassing multiple projects may be permitted only in exceptional circumstances, including:

a. substantial inter-linkages or commingling of funds across projects;

b. cross-collateralisation of assets or guarantees; or

c. demonstrable fraud or mismanagement affecting multiple projects.

7.1.4. Where entity-level admission is ordered, the AA may record specific reasons in writing justifying deviation from the project-wise admission approach.

7.2. **Procedural consolidation of land and development rights:** Where the land and development rights are split across different group entities:

7.2.1. The AA may exercise powers to order procedural consolidation of the assets required for the project's completion, treating the land-holding entity and the development entity as a single economic unit for the limited purpose of a resolution plan.

7.2.2. Standard Operating Procedures (SOPs) may be issued to guide landowners and development authorities to resist unilaterally terminating JDAs or leases solely on the ground of CIRP initiation, provided that the current dues of these authorities are addressed in the resolution plan.

7.3. **Mandatory independent technical and cost assessment:** The Committee recommends that immediately upon admission, the IRP/ RP should appoint a reputable, independent technical agency (e.g., engineers, quantity surveyors). This agency should conduct a comprehensive audit to determine the physical progress of construction (tower-wise/unit-wise), detailed Cost-to-Complete estimates based on current market rates, status of all statutory approvals (fire, environment, height clearance) and their remaining validity and inventory of materials on site. This Technical Assessment Report must be an integral part of the IM provided to prospective resolution applicants (PRAs).

7.4. **Mandatory operation of project-wise Escrow Accounts:** The IBBI may specify that escrow accounts linked to the real estate projects under CIRP should not be frozen by RERA just because the CD has been admitted under CIRP. They must remain operational to receive homebuyer receivables and funds for construction.

7.4.1. The RP must operate these accounts in strict compliance with the Section 4(2)(l)(D) of the RERA. Withdrawals must be permitted only for construction and land costs of that specific project, certified by a Chartered Accountant and an Engineer.

7.4.2. In a multi-project CD, the RP must open and maintain separate bank accounts for each project. Cross-utilisation of funds between projects during the CIRP should be strictly prohibited, unless explicitly approved by the CoC of the contributing project.

7.5. **Formulation of SOPs:** The Committee recommends that the Ministry of Housing and Urban Affairs (MoHUA), in coordination with State Governments, may notify unified SOPs for Development Authorities dealing with IBC cases:

7.5.1. *Dues restructuring*: The SOP may prescribe a standard formula for recalculating land dues in insolvency (e.g., waiving penal interest and time extension charges), accepting the principal amount and simple interest as a sustainable resolution payment.

7.5.2. *Moratorium compliance*: Appropriate advisories that lease cancellation proceedings cannot be initiated or continued during the moratorium period.

7.5.3. *Binding nature*: A clarification that once a Resolution Plan is approved by the AA, it is binding on the Development Authority as a statutory creditor. The Development Authority may process approvals (OC/CC/Sub-lease deeds) based on the terms of the approved plan without raising legacy demands.

7.6. **Automatic extension and fast-track revalidation**

7.6.1. The Committee recommends that MoHUA may amend the legislative framework of RERAs to exclude the duration of the CIRP from the calculation of the validity period of licenses and approvals. Upon approval of a resolution plan, all necessary approvals should be deemed valid or eligible for automatic revalidation for the duration of the construction timeline specified in the plan.

7.6.2. A dedicated "Insolvency Clearance Window" should be established within local bodies to process technical revalidations (structural safety checks, fire norms) within a stipulated timeline (e.g., 30 days) to allow immediate resumption of work.

7.7. **Regulatory participation in the CoC and Monitoring Committee:**

7.7.1. Land Authorities should be accorded the status of special invitees to the CoC meetings where land-related issues are discussed. Similarly, they must be included as members of the monitoring committee for implementation of the resolution plan.

7.7.2. Land development authorities are accorded the treatment of secured operational creditors under Section 53 of the Code (as decided by the Hon'ble Supreme Court), thereby entitling them to a higher priority in the distribution of the proceeds ranking above other stakeholders such as unsecured FCs and the Central/ State Government. These authorities are, by and large, treated on the same footing as secured FCs i.e. Banks, financial institutions, etc. Therefore, ideally, land authorities should not attempt to seek recovery of their dues in full, including through litigation that would override or alter the statutory scheme of distribution provided under the Code and would be contrary to the binding and final nature of an approved resolution plan.

7.7.3. The IBBI should reiterate to the land development authorities that the termination of land leases/ development agreements by public authorities is prohibited during the CIRP, provided the RP is compliant with current compliance norms (safety, security). The resolution plan must mandatorily propose a settlement for land dues. If the CoC approves a plan with a haircut on land dues, and the NCLT confirms it, the concerned Authority must be legally barred from terminating the lease based on these settled past dues.

7.8. **List of homebuyers based on available records:** The names of all homebuyers should be automatically included in the list of creditors and disclosed in the IM based on the CD's books of accounts, RERA records or IU (NeSL) records where available. The RP should actively verify and populate the list of creditors from these records. In case of information gaps in CD's records, the RP should also access RERA records. Furthermore, RERAs may strengthen the existing monitoring mechanisms to ensure that developers are filing and updating the details of allottees for all projects, including those entering insolvency.

7.9. **Strengthening Authorised Representative (AR) accountability and engagement**

7.9.1. To enable creditors in a class to make an informed choice at the public announcement stage, the IRP/ RP should provide access to a brief profile of the proposed AR, along with a brief note on the role and duties of an AR.

7.9.2. Regulations must mandate that ARs hold structured consultations (town hall, webinars) with homebuyers before every critical vote, specifically to explain the Resolution Plan's terms, risks, financial and other implications. The AR must circulate summaries of complex legal documents, highlighting key deviations from the original Builder-Buyer Agreement, if any.

7.9.3. The AR may be mandated to submit the record of discussions of meetings held with creditors in the class, to the RP for inclusion in the minutes of the CoC meeting.

7.10. **Robust monitoring and RERA integration**

7.10.1. The resolution plan must mandatorily constitute a Project Monitoring Committee (PMC) comprising representatives of homebuyers, lenders, land authorities, concerned RERA, sector specialists and the SRA.

7.10.2. Upon plan approval, the project's new timeline and specifications must be registered with RERA.

7.10.3. The terms of "plan implementation" must be defined not just by financial settlement but by physical construction milestones.

7.11. **Specialised NCLT benches:** The NCLT may establish Specialised Real Estate Benches in key jurisdictions (Delhi, Mumbai), staffed by Members with expertise in infrastructure and project finance.

7.12. **Improving market participation:** The IM must be a 'Red Herring Prospectus' quality document with enhanced disclosures, such as details of completion status of units, sale status, possession or refund status of units in the project. Further, the regulations should actively encourage homebuyer-led resolution plans. Eligibility criteria should be relaxed for Associations of Allottees bidding for their own projects. Public Sector Undertakings (NBCC, HUDCO) should be encouraged to act as "Project Management Consultants" or RAs to provide an experienced hand for implementing the real estate resolution plan. The SWAMIH Fund and other last-mile financing windows should be integrated into the resolution process to support credible bidders.

7.13. **Phasing-out Reverse CIRP in Favour of Code-compliant models:** The Committee does not recommend "Reverse CIRP" at all, though the same has been practiced in a few cases, under judicial orders. Instead, the Code may allow for project-wise admission of CIRP or as per the framework recommended by this Committee, focus should be on project-wise resolution, where the management is transferred to a professional RP and then to an appropriate RA, ensuring Section 29A compliance.

7.14. **Strict enforcement of "clean slate" principle:** The regulations should explicitly state that the "clean slate" protection extends to all real estate-specific liabilities, including property taxes, external development charges (EDC), and regulatory penalties accrued prior to the plan approval. There should be a waiver of all penal interest and fines upon approval of the resolution plan. Municipalities and Development Authorities may refrain from withholding future approvals (OC/CC) on the grounds of pre-CIRP arrears that were settled under an approved resolution plan.

7.15. **Enhancing data integrity via Information Utility:** Information Utility (IU) should be mandated to store real estate project data, including homebuyer allotments and payment history, in coordination with RERAs and banks, respectively. This data should be an important source for claim verification by the RP. Furthermore, the IU should facilitate the electronic filing of claim forms by homebuyers through its portal. The IU should also share information regarding default by a real estate project and its subsequent admission into CIRP, if that happens, with the concerned homebuyers.

7.16. **Institutionalising the RERA handover**

7.16.1. The regulations should formalise a mechanism where, upon plan approval, the project's monitoring transits the concerned RERA. The resolution plan's timelines and deliverables should be registered with RERA.

7.16.2. RERA may enforce its penal powers to ensure that the timelines committed in the resolution plan are adhered to by the SRA, thereby ensuring that the SRA remains accountable to the homebuyers.

7.17. **Procedural consolidation:** The AA should exercise its inherent powers to order procedural consolidation of the CIRPs for interdependent SPVs within the same real estate group. This allows for a common CoC meeting schedule and coordinated decision-making without merging assets.

7.18. **Conclusion**

The Committee's central conclusion is that real estate insolvency requires a decisive shift from an entity-centric, recovery-oriented paradigm to a project-centric, completion-driven framework. The recommendations seek to harmonise insolvency law with real estate regulation, judicial guidance, and constitutional values, ensuring that the Code functions as an instrument of resolution rather than prolonged uncertainty. The ultimate measure of success, as the Committee emphasises, lies not in procedural metrics but in the delivery of homes, restoration of trust, and revival of stalled economic value.

CHAPTER I: INTRODUCTION

Background

1.1. The real estate sector occupies a distinctive and sensitive status within the insolvency framework under the Code. Unlike most corporate insolvencies, distress in real estate projects directly affects a large number of retail allottees whose life savings are invested in residential housing projects and whose primary interest lies in completion and possession of homes rather than financial recovery. Consequently, real estate insolvencies raise complex questions at the intersection of insolvency law, consumer protection, housing regulation, and constitutional values.

1.2. Over the years, real estate has emerged as one of the largest contributors to insolvency proceedings in terms of the number of cases as well as stakeholder impact. Insolvency proceedings in this sector frequently involve thousands of homebuyers, multiple regulatory authorities, project-specific financing arrangements, and ongoing construction obligations. These characteristics have exposed structural limitations in the application of a corporate-debtor-centric insolvency framework to project-based real estate development.

1.3. The need for a calibrated and sector-sensitive approach has been repeatedly acknowledged by courts, regulators, and stakeholders. In particular, concerns have arisen regarding project-wise resolution, treatment of homebuyers as Financial Creditors (FCs), coordination with RERAs, and balancing resolution objectives with consumer protection.

1.4. This Chapter sets out the context, rationale, and mandate for the Committee's work. The subsequent chapters of the Report examine specific issues, stakeholder submissions, and the Committee's analysis and recommendations in detail.

Directions of the Supreme Court

1.5. The constitution of this Committee finds its immediate genesis in the directions issued by the Hon'ble Supreme Court in the matter of *Mansi Brar Fernandes v. Shubha Sharma & Anr.* (*Civil Appeal No. 3826 of 2020 and connected matters*; *Refer para 21.2(5), page 45 of the Order*), decided on 12 September 2025. In that judgment, the Hon'ble Supreme Court undertook an extensive examination of the functioning of the insolvency framework in real estate cases and underscored the need for systemic reforms to protect the interests of genuine homebuyers while preventing misuse of the Code.

1.6. The Court, while clarifying the distinction between genuine allottees and speculative investors, issued a series of policy-oriented directions calling for coordinated regulatory action, sector-specific guidelines, and institutional capacity building. Of particular relevance, the Court directed that a council comprising representatives from relevant ministries, regulators, domain experts, and industry stakeholders be constituted to suggest commercially viable systemic reforms for real estate insolvency. Pursuant to these directions, the present Committee

was constituted by IBBI to examine the real estate insolvency framework holistically and to recommend measures aimed at improving resolution outcomes, safeguarding homebuyer interests, and ensuring coherence between the Code and sectoral regulatory regimes.

Summary of the *Mansi Brar Fernandes* Judgment

1.7. In *Mansi Brar Fernandes v. Shubha Sharma & Ors.*, the Hon'ble Supreme Court examined whether certain allottees who had entered into buy-back or assured-return arrangements could be treated as "genuine homebuyers" entitled to invoke insolvency resolution through Section 7 of the Code, or whether they were speculative investors misusing the insolvency process as a recovery mechanism.

1.8. The Hon'ble Supreme Court emphasised that the Code is a collective resolution framework and not a tool for individual debt recovery. It held that the determination of whether an allottee is a genuine homebuyer or a speculative investor is fact-specific and must be guided primarily by the intention of the allottee, particularly whether there was a real intent to take possession of a residential unit. Indicative factors identified by the Hon'ble Supreme Court included the presence of buy-back or assured-return clauses, substitution of possession with refund rights, deviation from the RERA Model Agreement, purchase of multiple units, and insistence on high or unrealistic returns.

1.9. Applying these principles, the Hon'ble Supreme Court held that the appellants before it were speculative investors and therefore not entitled to initiate corporate insolvency resolution proceedings under Section 7 of the Code. At the same time, the Court clarified that such investors are not barred from pursuing other remedies under law, including filing claims in an ongoing CIRP, approaching RERA, consumer fora, or civil courts.

1.10. Importantly, the Hon'ble Supreme Court reaffirmed that the right to shelter forms part of the right to life under Article 21 of the Constitution and stressed that housing should not be reduced to a purely speculative commodity. It observed that RERA is the primary forum for addressing homebuyer grievances and that the insolvency framework should ordinarily function as a measure of last resort for resolving distressed projects.

1.11. The judgment also issued wide-ranging systemic directions, including calls for project-wise resolution in real estate insolvency, strengthening of RERA institutions, meaningful representation of allottees in the Committee of Creditors, creation or expansion of revival funds for stalled projects, and formulation of sector-specific insolvency guidelines by the Insolvency and Bankruptcy Board of India (IBBI) in consultation with RERA authorities. An extract of the judgment containing directions and suggestions of the court is placed at **ANNEXURE A** of this Report.

Composition of the Committee

1.12. The Committee was constituted by the IBBI pursuant to the directions of the Hon'ble Supreme Court in the aforementioned matter. The Committee was constituted under the Chairmanship of Mr. Jayanti Prasad, Whole Time Member, IBBI. The Committee comprised representatives from key ministries and institutions with a bearing on real estate insolvency, including the Ministry of Corporate Affairs, the Ministry of Housing and Urban Affairs, IBBI, and Real Estate Regulatory Authorities and land development authorities. The details of the Members of the Committee are placed at **ANNEXURE B** of this Report. This multi-disciplinary composition was intended to ensure that the Committee's deliberations reflect legal, regulatory, financial, and operational perspectives.

Scope of Committee's work

1.13. The Committee was mandated to examine the functioning of the insolvency framework in relation to real estate projects and to recommend measures that would:

- Enhance the effectiveness and timeliness of the resolution of stressed real estate projects;
- Protect the interests of homebuyers;
- Promote project-wise admission and completion-oriented resolution strategies;
- Improve coordination between insolvency institutions and sectoral regulators, particularly RERAs and local development authorities; and
- Suggest systemic and commercially viable reforms consistent with the objectives of the Code.

1.14. The analysis and recommendations set out in this Report are directed largely towards the residential real estate segment, which accounts for a substantial proportion of insolvency proceedings under the Code and carries pronounced public interest implications. Distress in residential projects directly impacts numerous individual allottees, often involving their life savings and primary housing needs. While aspects of the discussion may have relevance for commercial or mixed-use developments, the focus remains on the legal, financial and operational issues characteristic of residential project insolvencies, especially in cases of prolonged delay or stalled construction.

1.15. In discharging its mandate, the Committee adopted a consultative and evidence-based approach. The Committee held multiple meetings over the course of its tenure and engaged extensively with a wide range of stakeholders. These included insolvency professionals, financial institutions, developers, homebuyer representatives, legal experts, and other domain specialists. Stakeholder inputs were received through presentations, written submissions, and

structured deliberations during the meetings. The Committee examined judicial pronouncements, existing statutory and regulatory provisions, market practices, and empirical experiences from ongoing and concluded real estate insolvency cases. The recommendations in this Report are informed by these deliberations and seek to balance legal coherence, commercial feasibility, and the protection of homebuyer interests, consistent with the objectives of the Code.

CHAPTER II: REAL ESTATE INSOLVENCY: OVERVIEW AND ISSUES

Sector profile

2.1. The real estate sector constitutes one of the most significant pillars of India's economic framework, with extensive linkages to employment, credit markets, infrastructure development and household asset creation. Prior to the enactment of the IBC, financial distress in the real estate sector was addressed through a fragmented landscape of consumer fora, civil courts, regulatory authorities and revenue recovery mechanisms. This multiplicity of fora resulted in prolonged timelines, inconsistent outcomes and severe erosion of value, with homebuyers frequently bearing the brunt of stalled or abandoned projects.

2.2. The IBC marked a fundamental shift by introducing a unified, time-bound framework for the resolution of corporate distress through the CIRP. By consolidating insolvency proceedings within a single statutory process, the Code sought to maximise value, ensure predictability and promote resolution over liquidation. However, the application of the IBC to real estate required significant adaptation, given the sector's unique structure and stakeholder composition.

2.3. Real estate developers typically operate multiple projects simultaneously, often at different stages of completion and with project-specific financing, approvals and cash flows. Financial distress may arise in one or more projects, yet initiation of CIRP against the developer as a corporate entity can have spill-over effects across otherwise viable or completed projects. This structural feature of the sector has posed complex challenges for insolvency resolution, particularly in balancing project-wise realities with the entity-centric architecture of the Code.

2.4. A defining development in real estate insolvency under the IBC was the recognition of homebuyers as the Financial Creditors (FCs) through an amendment to the Code in the year 2018. This amendment acknowledged the commercial reality that advances received from allottees function as project finance and that homebuyers bear both completion and timing risks. Granting homebuyers the status of FCs enabled their participation in the CoC with voting rights and conferred them with the power to initiate insolvency proceedings, thereby significantly recalibrating stakeholder dynamics in real estate CIRPs. To balance effective access to insolvency remedies with protection against frivolous or minority-driven proceedings, the Code was further amended in the year 2020 to introduce a threshold for homebuyer-initiated applications. Under this framework, CIRP may be initiated only where at least one hundred allottees or ten per cent of the total allottees in a project, whichever is lower, jointly file the application. This calibrated threshold mechanism sought to ensure that insolvency proceedings reflect collective distress while remaining proportionate to project size.

Volume and distribution of real estate insolvency cases

2.5. A cumulative total of 553 real estate CIRPs have been admitted under the IBC framework as of 30 September 2025. The distribution of these 553 admitted real estate cases across various outcomes under the Code is as follows:

2.5.1. *Cases resolved successfully*: 95 of the 553 admitted real estate cases have concluded through successful resolution, directly affecting approximately 1,40,200 homebuyers whose interests have been restored through either project completion, asset recovery, or alternative stakeholder relief mechanisms. These successfully resolved cases represent instances where the CIRP framework has accomplished the fundamental objective of the insolvency framework: restoration of creditor value and stakeholder relief. The successful resolution cases include both situations where projects have been completed and units delivered to homebuyers, as well as situations where financial recovery mechanisms have been implemented and partial or full homebuyer capital has been recovered.

2.5.2. The resolution of Jaypee Infratech Limited represents the largest and most prominent real estate insolvency case resolved to date under the Code, serving as a benchmark case demonstrating the IBC framework's capacity to deliver comprehensive stakeholder relief in complex, large-scale real estate insolvencies involving vast homebuyer populations and enormous financial claims.

2.5.3. The Jaypee Infratech insolvency involved approximately 21,000 homebuyers, each of whom had invested in residential units under Jaypee Infratech projects with expectations of project completion and unit delivery within contractually specified timelines. The aggregate monetary claims of these 21,000 homebuyers, admitted as financial claims within the insolvency proceeding, aggregated to Rs.12,800 crore, representing an extraordinary concentration of homebuyer capital invested in a single developer entity.

2.5.4. The resolution plan for Jaypee Infratech received formal approval from the NCLT on 7 March 2023. The resolution outcome accomplished a critical objective: all 21,000 homebuyers were to secure possession and delivery of their residential units, under the resolution plan.

2.5.5. The Jaypee Infratech resolution demonstrates the IBC framework's capacity to achieve comprehensive homebuyer relief even in circumstances involving extraordinary financial claims (Rs.12,800 crore), vast homebuyer populations (21,000 individuals), and complex multi-project structures. The successful resolution of this landmark case provides empirical validation that the IBC framework, properly applied with adequate resolution plan structuring and coordinated stakeholder engagement, can accomplish the fundamental insolvency resolution objective: delivery of value to creditors and restoration of stakeholder interests.

2.5.6. *Cases liquidated*: 43 of the 553 admitted real estate cases have proceeded to formal liquidation proceedings, resulting in the winding up of developer entities and distribution of remaining assets to creditors in accordance with statutory priority classifications. Liquidation

proceedings represent the endpoint of failed resolution attempts, indicating that no viable resolution plan was received or no resolution received adequate creditor support and that orderly asset liquidation is the remaining mechanism for creditor recovery. In the real estate sector, the liquidated assets typically include land parcels, partially completed projects, and equipment and materials remaining at project sites.

2.5.7. *Cases withdrawn or closed*: 194 of the 553 admitted real estate cases have been withdrawn from the CIRP process or otherwise closed through settlement/ appeal/ review. These withdrawn and closed cases potentially reflect situations where cases were settled through negotiated agreements or resolved through alternative mechanisms, outside the formal insolvency framework.

2.5.8. *Ongoing cases*: 221 of the 553 admitted real estate cases remain in active CIRP proceedings at various procedural stages, representing cases where the formal insolvency process is continuing. These ongoing cases involve approximately 1,08,887 homebuyers, indicating that nearly half of the total homebuyer population within the IBC real estate insolvency system continues to await resolution outcomes with uncertain timelines and uncertain resolution prospects. The prolonged duration of ongoing cases, many of which have been pending CIRP resolution for multiple years since admission, reflects the complexity of real estate insolvency proceedings and the procedural delays inherent in the adjudicatory system.

2.6. The cumulative impact of the 553 admitted real estate cases extends across a homebuyer population of approximately 2,49,087 individuals, collectively representing substantial financial investments and housing aspirations. This total comprises approximately 1,40,200 homebuyers in the 95 resolved cases and approximately 1,08,887 homebuyers in the 221 ongoing cases. The involvement of such a substantial homebuyer population in real estate insolvency proceedings reflects the systemic nature of the real estate sector financial distress and the pervasive impact of developer financial failures on India's housing aspirants. Each homebuyer represents an individual household whose housing security, capital accumulation, and financial stability have been compromised by a developer's insolvency. The aggregated impact across homebuyers represents social and economic disruption affecting thousands of households and millions of family members.

Legal framework and jurisprudence

Framework under IBC and Regulatory interventions

2.7. The legislative and regulatory framework has progressively strengthened the position of homebuyers in insolvency resolution of real estate projects, with each amendment targeting a specific gap in claim filing, communication, participation, and protection of possession rights. These amendments are summarised in the following paragraphs:

6 August 2018 – Recognition as Financial Creditors

2.7.1. The Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, notified on 6 August 2018, brought homebuyers (allottees under real estate projects) within the definition of "financial creditor" by expanding the scope of "financial debt" under Section 5(8)(f) to expressly include amounts advanced for purchase of units where such amounts have the commercial effect of borrowing. This legislative intervention, prompted by the Hon'ble Supreme Court pronouncement in *Pioneer Urban Land and Infrastructure Ltd. v. Union of India*, elevated homebuyers from an ambiguous status to a class of FCs entitled to initiate CIRP under Section 7 of the Code, vote through an AR in the CoC, and participate meaningfully in resolution decisions, thereby addressing their vulnerability as dispersed retail investors funding project construction through advances.

3 July 2018 – Online Form CA

2.7.2. With effect from 3 July 2018, homebuyers were provided a dedicated, simplified claim form (Form CA) and an online mechanism to submit their claims in the CIRP of real estate entities. This measure recognised homebuyers as a distinct class within FCs and addressed practical difficulties faced by scattered retail allottees in physically filing claims, thereby promoting accessibility and standardisation of information submitted to the IRP/ RP.

16 September 2022 – Communication of insolvency to homebuyers

2.7.3. On 16 September 2022, IBBI amended the regulations to mandate that the interim resolution professional issue a communication, along with a copy of the public announcement, to all creditors, including homebuyers, based on the last available books of account of the CD. This ensured that homebuyers, who may not regularly track regulatory publications, receive direct and timely intimation of the commencement of CIRP, enabling them to file their claims within prescribed timelines and participate effectively in the process.

20 July 2023 – Waiver of regulatory fee for allottee plans

2.7.4. With effect from 20 July 2023, a specific relaxation was introduced whereby the regulatory fee under the CIRP regulations is not payable where the approved resolution plan for a real estate project is submitted by an association or group of allottees of that project. This change reduced the cost burden on homebuyer associations seeking to act as RAs, thereby encouraging collective bidder participation by allottees and aligning the resolution outcome more closely with the interests of end-user homebuyers.

15 February 2024 – Separate Accounts and Project-wise Plans

2.7.5. Amendments notified by IBBI on 15 February 2024 introduced two important safeguards for real estate CIRPs. First, the IRP/ RP is now required to operate a separate bank account for each real estate project of the CD, ensuring project-wise ring-fencing of cash flows

and better tracking of funds related to particular allottees. Second, recognising that each project may warrant a different strategy, the CoC has been expressly empowered to direct the RP to invite separate resolution plans for individual projects, enabling tailored resolutions that can maximise value and address project-specific issues rather than forcing a one-size-fits-all solution.

24 September 2024 – Interim Authorised Representative

2.7.6. On 24 September 2024, a framework for the appointment of an interim AR for creditors in a class, including homebuyers, was introduced by IBBI to bridge the gap between filing of the IRP's application and final approval of the AR by the Adjudicating Authority (NCLT). The interim AR has been accorded the same duties and rights as an AR in CoC meetings during this interregnum, ensuring that the views and voting interests of the class of homebuyers are represented from the very first meetings and that there is no vacuum in their representation at critical decision-making stages.

3 February 2025 – Possession, Facilitators, Authorities and Relaxations

2.7.7. The 3 February 2025 amendments in the relevant regulations by the IBBI brought a suite of real estate-specific measures aimed at improving outcomes for homebuyers in CIRP. First, the RP, with CoC approval and upon fulfilment of contractual and statutory obligations by the concerned homebuyer, can hand over possession of plots, apartments or buildings during the pendency of the resolution process, allowing timely occupation and registration of units instead of forcing allottees to wait until plan approval or process completion.

2.7.8. Second, in large cases with extensive homebuyer participation, the CoC may now direct appointment of "facilitators" for identified sub-classes within a large class of creditors (such as homebuyers), whose role is to act as a link between the AR and the sub-class, facilitate communication, explain the process, and ensure that granular concerns of different segments of allottees are heard and channelled into the CoC deliberations.

2.7.9. Third, the regulations permit the CoC to invite competent land and development authorities (for example, NOIDA, HSVP and similar authorities) to attend its meetings so that their inputs on title, land use, approvals and development conditions can be considered, thereby improving the feasibility of resolution plans and building confidence among stakeholders in their implementation.

2.7.10. Fourth, the RPs are now obliged to prepare, within a fixed period, a detailed report on the status of development rights, approvals and permissions for each real estate project, providing the CoC with a clear picture of the regulatory and development landscape while evaluating resolution options.

2.7.11. Fifth, the CoC has been specifically empowered to relax certain conditions for associations or groups of homebuyers when they act as RAs, including in relation to eligibility

norms, performance security and deposits, thereby lowering entry barriers and enabling genuine allottee-driven rescue proposals to compete on a more level playing field with traditional corporate applicants.

12 February 2024 – Exclusion of homes from liquidation estate

2.7.12. In the context of liquidation, a significant protection for homebuyers was introduced on 12 February 2024 by providing that where the CD has already handed over possession of a unit to an allottee in a real estate project, such unit will not form part of the liquidation estate. This ensures that homes in respect of which possession is granted are ring-fenced from distribution among other creditors, safeguarding the property and occupancy interests of allottees who have effectively stepped into the shoes of owners, and reinforcing certainty for those who have already taken possession before commencement or conduct of liquidation.

Jurisprudence on real estate issues

2.8. The jurisprudence governing real estate insolvency in India has evolved over time addressing key issues. Beginning with the recognition of homebuyers as the FCs, the courts have since developed nuanced principles on issues such as project-wise resolution, filtering of speculative insolvency triggers, treatment of completed projects, and the contours of judicially evolved mechanisms such as reverse CIRP. Jurisprudence has also developed on the intersection of the Code and the RERA Act, each case addressing distinct but interrelated dimensions of sectoral distress. While RERA is structured around project-level regulation, consumer protection and promoter accountability, the IBC provides a framework for the resolution of financial distress at the level of the CD through a creditor-driven, value-maximising process. Judicial interpretation has progressively clarified the manner in which these two regimes coexist and operate in tandem. Collectively, these decisions reflect a calibrated effort by the courts to balance homebuyer interests, creditor equality, and the fundamental objectives of the insolvency framework. Some important case laws relating to real estate insolvencies are summarised in the following paragraphs:

2.9. ***Chitra Sharma v. Union of India (Supreme Court, 2018)***[1]

2.9.1. **Background:** At an early stage of the Jaypee Infratech insolvency, before the statutory recognition of homebuyers as the FCs, thousands of allottees found themselves without representation in the CoC and without an effective way to influence the resolution process. They had invested large sums in multiple projects, many of which had stalled. Parallel RERA and consumer proceedings had been initiated, but the imposition of a moratorium under Section 14 of the Code stayed enforcement against the CD, and there was apprehension that the

[1] Writ Petition (Civil) Nos. 744, 782, 783, 803, 860 & 950-2017; 511-2018 & SLP (C) Nos. 24001, 24002, 36396 & 33267-2017

insolvency process might culminate in outcomes adverse to homebuyers' interests without affording them any meaningful voice.

2.9.2. **Issues Raised:**

2.9.2.1. **Homebuyer-protection –** How homebuyers' interests should be protected in CIRPs admitted before the legislative amendments that recognised them as the FCs, particularly where they are a major stakeholder group in terms of quantum of funding.

2.9.2.2. **RERA-IBC-deadlock –** How to address the enforcement deadlock created when RERA orders and consumer decrees in favour of homebuyers become effectively unenforceable due to moratorium, without homebuyers having any countervailing procedural rights in the insolvency forum.

2.9.2.3. **Interim-safeguards –** What interim judicial safeguards are appropriate pending legislative correction to ensure that resolution plans do not strip homebuyers of possession rights or meaningful recovery.

2.9.3. **Court's View:** The Hon'ble Supreme Court recognised that, in this transitional period, homebuyers were structurally disadvantaged. It directed interim safeguards such as ensuring that any prospective resolution plan explicitly provided for project completion and accounted for the legitimate interests of homebuyers, and that no resolution plan would be approved without taking into account their claims. The Court also signalled to the legislature the need for clearer statutory recognition of homebuyers in the IBC scheme, which was later implemented. Chitra Sharma case thus represents a bridging judgment that sought to mitigate harm to homebuyers pending comprehensive statutory reform.

2.10. ***Pioneer Urban Land & Infrastructure Ltd. v. Union of India (Supreme Court, 2019[2])***

2.10.1. **Background:** *Pioneer Urban Land and Infrastructure Limited and Anr*. filed writ petitions before the Hon'ble Supreme Court challenging the constitutional validity of the 2018 Amendment to the Code. The Amendment classified homebuyers/allottees as "financial creditors" under Section 5(8)(f) and conferred rights to initiate CIRP under Section 7 and participate in the Committee of Creditors through authorised representatives. Before the 2018 amendment to the Code, homebuyers were not expressly recognised as "financial creditors". As a result, applications filed by them under Sections 7 or 9 were often rejected on the ground that their complaints were in the nature of consumer or contractual disputes, rather than financial defaults. In the Pioneer Urban context, multiple groups of allottees challenged this legal position, arguing that the money they had advanced for flats was effectively a source of finance for the project and should be treated as such. They also pointed to the fact that, once

[2] Writ Petition (Civil) No. 43-2019 and other petitions

CIRP was initiated by banks, they were left without any voice in the CoC, even though their aggregate contribution frequently exceeded that of institutional lenders. These concerns came before the Hon'ble Supreme Court through writ petitions challenging the constitutional validity of the amendments that classified allottees as FCs and conferred upon them a right to be represented and to vote in the CoC.

2.10.2. **Issues Raised:**

2.10.2.1. **Creditor-status –** Whether amounts paid by homebuyers to a real estate developer under Builder–Buyer Agreements should be treated as "financial debt" under Section 5(8)(f), thereby conferring upon such homebuyers the legal status of FCs with all associated rights under the Code, including initiation of CIRP and participation in CoC decisions.

2.10.2.2. **Homebuyer-representation –** Whether, given the large number and dispersed nature of homebuyers, the Code could practically and lawfully accommodate their participation in the CoC through ARs, and whether such a model would be consistent with the principles of efficient decision-making under the IBC framework.

2.10.2.3. **Remedy-concurrency –** Whether the availability or use of statutory remedies under RERA or the Consumer Protection Act by homebuyers extinguishes, limits, or otherwise affects their right to invoke the Code, or whether the three regimes operate concurrently up to the stage of admission of a CIRP application.

2.10.2.4. **Decree-effect –** Whether the grant of a decree or recovery certificate in favour of an allottee by a RERA authority or consumer forum converts or alters the character of the underlying obligation in a manner that would either bar or automatically confer FC status under the Code, and how such decrees should be treated within the insolvency process.

2.10.3. **Court's View:** The Hon'ble Supreme Court held that the monies advanced by homebuyers have all the attributes of a financial debt because they are disbursed against the consideration for time-bound delivery of a flat or apartment, thereby involving a time value of money. The Court upheld the constitutional validity of the amendments that classified allottees as FCs and confirmed that they can initiate CIRP under Section 7 and participate in the CoC through ARs. It further clarified that remedies under RERA and the Consumer Protection Act are concurrent with the Code up to admission, and that a RERA or consumer decree does not deprive an allottee of the right to be treated as an FC in insolvency proceedings, provided the underlying transaction meets the statutory definition.

2.11. ***Jaypee Kensington Boulevard Apartments Welfare Association v. NBCC (India) Ltd. (Supreme Court, 2021)***[3]

2.11.1. **Background:** The Jaypee Infratech Limited (JIL) CIRP involved a large expressway-concessionaire and real estate developer with about 20,000 homebuyers and numerous lenders. A resolution plan submitted by NBCC (India) Ltd. was approved by an overwhelming CoC majority, including the AR of homebuyers. However, certain homebuyers' associations, including the Kensington Boulevard Apartments Welfare Association, and some home loan banks challenged the plan. Their concerns related to the adequacy of safeguards for possession, the distribution of value among different categories of creditors, and concerns regarding indirect benefits or influence of the erstwhile promoters in the post-resolution structure. The matter reached the Hon'ble Supreme Court, which had to balance the expectations of homebuyers, the claims of secured lenders, and the statutory scheme prioritising creditor-majority decisions.

2.11.2. **Issues Raised:**

2.11.2.1. **Commercial-wisdom –** Whether, and to what extent, courts and tribunals can interfere with, modify, or substitute the decisions of the CoC in relation to approval of resolution plans, especially where homebuyers contend that the commercial allocation of value is unfair or does not fully protect their possession rights.

2.11.2.2. **Promoter-disqualification –** How Section 29A of the Code should be implemented in complex group situations, and whether entities connected to the defaulting promoters can, directly or indirectly, regain control of the CD through resolution plans or implementation structures, thereby undermining the disqualification regime.

2.11.2.3. **Priority-allocation –** Whether homebuyers, by virtue of their number and the nature of their claims, are entitled to special or superior treatment over other FCs in the distribution waterfall under a resolution plan, and whether the Court can mandate such preferential treatment in the guise of equitable relief.

2.11.2.4. **Timeline-discipline –** How strictly the statutory outer limit for completion of CIRP (then 330 days) should be enforced in large and litigated real estate cases, and whether prolonged challenges by different stakeholders can justify extension of the process beyond that outer limit.

2.11.3. **Court's View:** The Hon'ble Supreme Court reaffirmed that the "commercial wisdom" of the CoC is paramount, and that judicial review of an approved resolution plan is confined to verifying statutory compliance, not reassessing commercial merits. It held that promoters disqualified under Section 29A cannot be permitted to regain control of the CD, directly or

[3] Civil Appeal No. 3395 of 2020

indirectly, through the resolution mechanism. The Court rejected attempts to impose judicially crafted payment preferences in favour of homebuyers that would disturb the statutorily envisaged creditor equality, and emphasised adherence to the statutory timelines. While sensitive to the plight of homebuyers, the Court underscored that their interests must be pursued within the institutional processes established by the Code rather than through ad hoc judicial adjustments to the commercial bargain reached by the CoC. The Court extended the CIRP timeline by 90 days (in exceptional circumstances given 20,000 homebuyers and substantial partial completion of projects) rather than allowing liquidation.

2.12. ***IL&FS Financial Services Ltd. v. HDFC Bank Ltd. (Supreme Court, 2023)***[4]

2.12.1. **Background:** In the IL&FS group resolution, certain subsidiaries had entered into escrow arrangements with HDFC Bank, under which funds were channelled into designated accounts to secure specific obligations, such as bond repayments or structured payments to particular creditors. When insolvency proceedings and group restructuring commenced, the RP asserted that the balances in these escrow accounts formed part of the CD's estate and should be subject to the moratorium and overall resolution strategy. HDFC Bank maintained that the escrow funds were ring-fenced and constituted trust property held for specified beneficiaries and could not be appropriated for general creditor distribution.

2.12.2. **Issues Raised:**

2.12.2.1. **Escrow-characterisation –** Whether funds lying in escrow accounts created under pre-existing contractual arrangements are to be treated as property of the CD for the purposes of Section 14 and the resolution estate, or whether they are held in a fiduciary or trust-like capacity for identified beneficiaries.

2.12.2.2. **Moratorium-scope –** Whether the moratorium imposed under Section 14 of the Code can override or suspend rights arising under escrow and trust arrangements, thereby permitting the RP or creditors to access and apply such funds for general CIRP purposes.

2.12.2.3. **Ring-fencing –** To what extent contractual ring-fencing of funds, especially where they are intended to protect specific creditors or project stakeholders, should be respected during insolvency, and whether such arrangements are compatible with the pari passu and collective principles of the IBC.

2.12.3. **Court's View:** The Hon'ble Supreme Court held that properly constituted escrow accounts can give rise to a form of trust or fiduciary arrangement under which the funds are effectively segregated from the general assets of the CD. It concluded that monies standing to the credit of such escrows are not unencumbered property of the debtor and therefore do not

[4] Civil Appeal No(s). 4708 OF 2022

automatically fall within the moratorium's ambit as assets available for general creditor distribution. The Court ruled that Section 14 does not nullify or rewrite contractual rights of third parties in respect of property that is not beneficially owned by the CD. By recognising the integrity of escrow structures, the judgment affirms the principle of ring-fencing and has direct resonance for RERA-mandated project escrows, reinforcing the protection of homebuyer funds even where the developer is undergoing insolvency.

2.13. ***Vishal Chelani & Ors. v. Debashis Nanda[5] (Supreme Court, 2023)***

2.13.1. Background: Canara Bank filed a Section 7 IBC application against Bulland Buildtech Pvt. Ltd., which was admitted by NCLT, commencing CIRP and appointing an IRP/RP. The appellants (including Vishal Chelani) were allottees in the Bulland "Elevates" project who had earlier approached UPRERA, obtained an order for refund with interest, and a recovery certificate under Section 40 of the UP RERA Act. After initiation of CIRP, these homebuyers lodged claims before the RP; however, the resolution plan classified and treated homebuyers who had UPRERA decrees differently (and less favourably) from other allottees who had not sought RERA relief. NCLT rejected their challenge to the plan, and NCLAT upheld NCLT's view, accepting the RP's proposal to treat them in a distinct category on the footing that they were decree-holders and no longer "homebuyers in a class".

2.13.2. Issues Raised

2.13.2.1. **Homebuyer-classification-** Whether homebuyers who have obtained a refund order and recovery certificate from UPRERA cease to be "allottees"/homebuyers in a class and instead become a separate category of FCs (or decree-holders) for the purposes of the CIRP and resolution plan under the IBC.

2.13.2.2. **Differential Treatment-** Whether the RP and CoC can, in a resolution plan, validly differentiate between (a) homebuyers who pursued RERA and obtained decrees and (b) other similarly placed homebuyers, thereby giving substantially different payouts to these sub-groups.

2.13.2.3. **Decree Status-** How Section 5(8)(f) IBC (residual "financial debt"), read with the homebuyer amendments, and prior Supreme Court precedents on recovery certificates as financial debt apply to homebuyers who have obtained RERA decrees.

2.13.3. **Court's View:** The Hon'ble Supreme Court held that an allottee/homebuyer who has secured a refund decree and recovery certificate under RERA continues to be an FC within the same class of homebuyers; mere conversion of the underlying claim into a decree does not change the essential character of the debt or the creditor. On a plain reading of Section 5(8)(f)

[5] Civil Appeal No. 3806 of 2023

IBC, the Court found no legislative basis to carve out sub-classes of FCs within homebuyers and specifically rejected the proposition that RERA decree-holding homebuyers could be treated as a separate, inferior category in the resolution plan. Relying on its earlier decision that liabilities arising from recovery certificates constitute "financial debt", the Court clarified that while such certificate-holders are FCs, their status as homebuyers in a class remains intact, and therefore parity of treatment with other homebuyers in the plan is required. Consequently, the Hon'ble Supreme Court set aside the NCLAT order, which had affirmed the differential treatment and held that the resolution plan could not discriminate against RERA decree-holding homebuyers vis-à-vis other allottees, thereby affirming equal treatment of all homebuyers under the IBC framework.

2.14. ***Elegna Co-operative Housing and Commercial Society Ltd. v. Edelweiss Asset Reconstruction Company Ltd. & Anr. (2026)***[6]

2.14.1. **Background:** The appeals arose from a real estate insolvency involving a substantially completed residential-cum-commercial project, *Takshashila Elegna*, developed by Takshashila Heights India Pvt. Ltd. An FC-initiated proceedings under Section 7 of the Code, after defaults under restructured loan arrangements. The NCLT declined admission, holding that the IBC was being invoked as a recovery mechanism and that insolvency would prejudice homebuyers in a largely completed project. The NCLAT reversed this decision and admitted CIRP, while rejecting an intervention application filed by a cooperative society representing homebuyers from one tower of the project. The society and the CD separately appealed to the Supreme Court.

2.14.2. **Issues Raised:**

2.14.2.1. **Admission of CIRP in real estate projects –** Whether a Section 7 application can be refused on grounds of project viability, substantial completion, or potential prejudice to homebuyers, notwithstanding the existence of debt and default.

2.14.2.2. **Recovery versus resolution –** Whether invocation of IBC by an asset reconstruction company, alongside SARFAESI and DRT proceedings, amounts to misuse of the Code as a recovery tool.

2.14.2.3. **Homebuyer participation and locus –** Whether a cooperative housing society or association of allottees has a right to intervene in Section 7 proceedings or related appeals, particularly at the pre-admission stage.

[6] Civil Appeal Nos. 10261 and 10012 of 2025

2.14.2.4. **Balancing creditor rights and homebuyer interests –** How the objectives of resolution and revival under the IBC interact with the completion-centric expectations of homebuyers in real estate projects.

2.14.3. **Court's View:** The Hon'ble Supreme Court reaffirmed that the trigger for admission under Section 7 of the IBC is the existence of a financial debt and the occurrence of default, and that once these conditions are established, admission is mandatory. Considerations such as project viability, stage of construction, availability of receivables, or potential hardship to homebuyers are extraneous at the admission stage and fall within the domain of the Committee of Creditors at later stages.

2.14.4. The Court further held that the mere fact that the FC had earlier pursued remedies under SARFAESI or before the DRT does not render the invocation of the IBC impermissible. Parallel remedies are legally permissible, and unless malaise intent or abuse of process is established under Section 65 of the Code, a Section 7 application cannot be rejected on this ground alone.

2.14.5. On homebuyer participation, the Court held that proceedings under Section 7 remain *in personam* until admission, and that third-party intervention at the pre-admission stage is not a matter of right. A cooperative society or association of allottees does not automatically acquire locus to intervene at this stage, particularly when the Code provides a structured mechanism for collective representation of homebuyers as FCs after admission through authorised representatives in the CoC.

2.14.6. **Directions issued by the Court**: With a view to advancing transparency, ensuring accountability, and safeguarding the interests of homebuyers, the following directions were issued by the Court:

2.14.6.1. The Information Memorandum shall mandatorily disclose comprehensive and complete details of all allottees.

2.14.6.2. Where the Committee of Creditors, upon due consideration, finds it not viable to approve handover of possession in terms of Regulation 4E of the CIRP Regulations, it shall mandatorily record cogent and specific reasons in writing for such a decision.

2.14.6.3. Any recommendation for liquidation by the Committee of Creditors shall be accompanied by a reasoned justification recorded in writing, evidencing proper application of mind and due consideration of all viable alternatives, in consonance with the objective of the Code.

2.15. ***Alok Sharma (AR of Homebuyers) v. IP Construction Pvt. Ltd. (NCLAT, 2020)***[7]

2.15.1. **Background:** In the "Coral Brio" project developed by IP Construction Pvt. Ltd., a large number of homebuyers had paid the full sale consideration for their property bookings as early as 2015. However, due to disputes with lenders and regulatory issues, registered sale deeds were not executed, and possession was only partially handed over. Upon commencement of CIRP in 2019, the Resolution Professional took the view that executing conveyances in favour of fully paid allottees would diminish the value of the estate and prejudice other creditors. The authorised representative, Alok Sharma, challenged this stance, arguing that the allottees had acquired equitable ownership and that it would be inequitable and contrary to the Code's objectives to keep them indefinitely in limbo.

2.15.2. **Issues Raised:**

2.15.2.1. **Equitable-ownership** – Whether fully paid-up homebuyers acquire an equitable interest in their units that should be recognised and respected during CIRP, including by permitting execution of registered sale deeds despite the moratorium.

2.15.2.2. **RP-discretion** – How far the RP's discretion extends in determining whether to execute conveyances or to treat the units as part of the common insolvency estate, and what principles should guide that discretion in real estate contexts.

2.15.2.3. **Moratorium-limits** – Whether the Section 14 moratorium prevents the formalisation of pre-existing rights in favour of homebuyers who have already substantially fulfilled their financial obligations.

2.15.2.4. **AR-advocacy** – What role an authorised representative should play in advocating for such rights, including the coordination of class claims and presentation of equitable considerations to appellate fora.

2.15.3. **Court's View:** NCLAT held that, where homebuyers have paid the entire sale consideration and the only remaining act is execution of the sale deed, their equitable rights should not be subordinated indefinitely to the abstract goal of preserving the estate. The court directed that the Resolution Professional can and should execute sale deeds in such cases, subject to legitimate claims of secured creditors from that project being adequately safeguarded. It clarified that the moratorium does not prevent the recognition or completion of pre-existing rights in favour of stakeholders who are not seeking fresh enforcement, but the formalisation of what has already been earned. This decision underscores that the Code's objective of revival must be balanced with the legitimate expectations of fully compliant homebuyers.

[7] Company Appeal (AT) (Insolvency) No. 350 of 2020

2.16. ***Rajib Biswas v. Arena Superstructures Pvt. Ltd. (NCLAT, 2023)***[8]

2.16.1. **Background:** In the Lotus Arena CIRP, a group of homebuyers led by Rajib Biswas raised concerns about the functioning of the authorised representative, alleging that he had not adequately explained the resolution plan, had not convened meaningful interactions, and had failed to effectively convey the class's concerns to the CoC. They also complained about opacity in claim verification and how voting shares were allocated. These grievances were symptomatic of broader anxieties about whether homebuyers, as a class, were genuinely able to exercise their rights under the Code through the AR mechanism.

2.16.2. **Issues Raised:**

2.16.2.1. **AR-role –** What the substantive role of an authorised representative for homebuyers should be in a real estate CIRP, and whether the AR is expected to provide active advice and engagement or merely to transmit documents and record votes.

2.16.2.2. **Informed-consent –** How the Code's requirement of class voting through an AR can be reconciled with the practical need to ensure that homebuyers actually understand the structure and consequences of the resolution plan before their votes are cast.

2.16.2.3. **Transparency –** What standards of transparency and record-keeping are required in relation to consultations between the AR and homebuyers, and in the communication of homebuyer feedback to the CoC and the Resolution Professional.

2.16.2.4. **Class Finality vs. Individual Decree Rights –** Can homebuyers with RERA recovery certificates override class decisions made by authorised representatives and seek individual refunds or differential treatment.

2.16.2.5. **Status of Decree Holders in CIRP –** Are homebuyers with RERA decrees a separate class or integrated within the broader homebuyer class for CIRP purposes.

2.16.2.6. **Decretal Amount Claims vs. Plan Provisions –** Where approved plans contain refund provisions for allottees seeking cancellation, can decree holders demand full decretal amounts as precedent conditions, or must they accept plan-prescribed treatment.

2.16.3. **Court's View:** NCLAT held that the authorised representative is not a mere post-box but a fiduciary tasked with safeguarding the interests of the class. The Tribunal stated that the AR must, to the extent practicable, organise consultations, explain the key features of proposed plans in simple terms, and ensure that voting directions reflect an informed decision of the homebuyers. It further directed that the AR should maintain records of such consultations and ensure that material concerns of the class are placed before the CoC. While not disturbing the

[8] Company Appeal (AT) (Ins) No. 1488 of 2022 & I.A. No. 4701 of 2022

CIRP outcomes already achieved, NCLAT used this case to lay down clear behavioural expectations from ARs, which have prospective value for all real estate CIRPs. The Tribunal emphasised that individual circumstances, including decree-holder or RERA recovery certificate status, do not create a separate class or override the collective decision-making mechanism under the Code. Since the resolution plan already provided a structured mechanism for allottees seeking voluntary exit to claim refund the Tribunal held that no separate directions were warranted and that the application had become infructuous.

2.17. ***Sabari Realty Pvt. Ltd. v. Sivana Realty Pvt. Ltd. (NCLAT, 2023)***[9]

2.17.1. **Background:** In the CIRP of Sivana Realty Pvt. Ltd., the approved resolution plan classified homebuyers into "affected" and "unaffected" categories, primarily based on whether the units they had booked were subject to live mortgages without lender NOCs. Affected allottees faced certain compromises on their entitlements due to unresolved title risks, while unaffected allottees received relatively more straightforward treatment. A minority of homebuyers challenged this classification, contending that, as allottees registered under RERA, they should be treated identically, irrespective of underlying encumbrances.

2.17.2. **Issues Raised:**

2.17.2.1. **Differential-treatment –** Whether a resolution plan may validly provide for differential treatment among homebuyers based on objective factors such as the existence of subsisting mortgages, lender NOCs, or other encumbrances affecting particular units.

2.17.2.2. **RERA-vs-security –** How RERA allotments and registration interact with the security interests of FCs in the same underlying property, and whether RERA status alone can override the commercial and legal realities of such encumbrances in the context of a resolution plan.

2.17.2.3. **CoC-autonomy –** The extent to which the CoC is free to design nuanced and fact-specific treatment structures within a creditor class, and the limits, if any, that equality and fairness principles impose on such classification.

2.17.2.4. **Binding-effect –** Whether such classifications bind dissenting or minority homebuyers once a plan is approved by the requisite majority and found compliant with Section 30(2) of the Code.

2.17.3. **Court's View:** NCLAT upheld the plan, finding that the classification between affected and unaffected homebuyers was grounded in real and legally significant differences in title risk and security position. It held that the Code does not require uniform treatment where factual circumstances demonstrate material distinctions within a creditor category, provided the

[9] Company Appeal (AT) Insolvency No. 1162 of 2023, 1178 of 2023 and 1179 of 2023

classification is rational and not arbitrary. The Tribunal observed that RERA registration affords important protections but does not automatically displace the rights of secured creditors or the commercial wisdom of the CoC in structuring risk allocation. It reiterated that, once a resolution plan meeting statutory requirements is approved, all stakeholders, including dissenting homebuyers, are bound by its terms. This decision reinforces CoC autonomy to design sophisticated solutions in complex capital structures, even where such solutions entail differentiated outcomes among homebuyers.

2.18. ***Jaypee Greens Krescent Homes Buyers Welfare Association v. Jaypee Infratech Ltd. (NCLT, 2019)***[10]

2.18.1. **Background:** Within the broader Jaypee Infratech CIRP, homebuyers in the "Krescent Homes" project formed an association and approached the NCLT with complaints concerning the claim verification process and the functioning of their authorised representative. They pointed out that numerous genuine homebuyer claims had been rejected or discounted by the Resolution Professional on technical grounds, such as minor payment defaults or documentation deficiencies, and that the authorised representative had not effectively challenged these determinations or adequately explained their consequences to the affected allottees.

2.18.2. The association emphasised that the rejection or reduction of claims directly affected the computation of voting shares in the CoC and hence the collective negotiating power of homebuyers. They contended that both the RP and the AR owed heightened duties of transparency and diligence in such a large and complex real estate insolvency.

2.18.3. **Issues Raised:**

2.18.3.1. **Claim-verification** – What processes and safeguards should govern the verification of homebuyer claims in large real estate CIRPs, particularly with respect to opportunities to cure defects and the obligation to provide reasoned orders for claim rejection or reduction.

2.18.3.2. **AR-diligence** – To what extent an authorised representative is expected to scrutinise the claim decisions of the Resolution Professional, raise objections where appropriate, and ensure that the homebuyers' class is fully informed about the status and implications of claim adjudication.

[10] CA No.223-2018 and CA No. 266-2018 in CP No. (IB) 77-ALD-2017

2.18.3.3. **Voting-share-impact –** How errors or shortcomings in claim verification and AR performance can undermine the fairness of CoC voting by diluting the legitimate voting strength of homebuyers as a class.

2.18.4. **Court's View:** The NCLT held that the RP must adopt transparent, fair, and participative procedures for claim verification, especially where tens of thousands of allottees are concerned. It directed that speaking orders be provided, that opportunities to cure defects be afforded, and that orders be issued in respect of any rejected or reduced claims. The Tribunal further stressed that the authorised representative has a positive duty to review and question claim determinations where warranted, as part of his fiduciary role to the class. This order gave concrete operational content to the general principles articulated in the *Pioneer* case concerning homebuyer participation.

2.19. ***M/s. Dhankalash Distributors Private Limited v. Arena Superstructures Pvt. Ltd. (NCLT, 2023)***[11]

2.19.1. **Background:** The "Lotus Arena" project in Noida involved 858 homebuyers and substantial dues to the NOIDA development authority. When CIRP was initiated against the developer, several practical difficulties emerged. Claims from homebuyers continued to be filed beyond the initial timelines, creating uncertainty about the total liability. There were also disputes about the precise quantum and treatment of the authority's dues and about how the authorised representative for homebuyers was conducting consultations and explaining the plan.

2.19.2. A resolution plan was approved, the central feature of which was delivery of completed flats to homebuyers, with monetary adjustments only in limited scenarios. The plan's success presupposed that NOIDA would cooperate in the revalidation of approvals and that the universe of claims would be stabilised.

2.19.3. **Issues Raised:**

2.19.3.1. **Belated-claims –** How the insolvency process should deal with homebuyer claims submitted after the stipulated timelines, and whether such belated claims can be admitted on the same footing as timely claims without prejudicing the certainty required by resolution applicants and other creditors.

2.19.3.2. **Authority-coordination –** How dues and statutory functions of development authorities such as NOIDA should be integrated into resolution plans, including whether such

[11] IA No.3392, 4615 & 5361(PB)-2021, IA No. 3556 & 5979-2022, Ivn. P-04-2023 in CP (IB) No.875(PB)-2020

authorities are bound to revalidate approvals in support of an NCLT-approved plan and how their claims should be treated relative to FCs and homebuyers.

2.19.3.3. **AR-accountability –** What standards of conduct and engagement are expected from an authorised representative of homebuyers in large real estate CIRPs, particularly in terms of explaining complex commercial terms, collating feedback, and ensuring informed voting by the class.

2.19.3.4. **In-kind-distribution –** Whether resolution plans may legitimately provide that homebuyers receive value primarily through the allotment and completion of flats, rather than through monetary recovery, and how this approach fits within the framework of Sections 30 and 31 of the Code.

2.19.4. **Court's View:** The NCLT approved the plan, emphasising that, in a residential real estate context, completion and delivery of flats often constitute the most appropriate form of relief for homebuyers. It held that a reasonable claim cut-off is necessary for plan feasibility and that belated claims may be treated differently, provided the criteria are transparent and non-arbitrary. The Tribunal directed NOIDA to cooperate in the implementation of the approved plan, including in the revalidation of approvals, while clarifying that the authority's legitimate dues would be dealt with as per the plan. On the role of the AR, the NCLT stressed that he must actively facilitate understanding among homebuyers and not merely circulate documents, thereby reinforcing the emerging jurisprudence on AR duties.

2.20. ***Whispering Towers Flat Owners Association v. Abhay Narayan Manudhane (RP of HDIL) (NCLT,2024)***[12]

2.20.1. **Background:** HDIL, a large real estate and infrastructure developer, entered CIRP with more than two dozen stalled and semi-complete projects. Over several years, repeated attempts to attract a resolution applicant for the company as a whole failed. Meanwhile, distinct projects such as "Whispering Towers" had their own financial profiles, land arrangements, and homebuyer bases. The flat owners' association of Whispering Towers argued that they should not remain indefinitely hostage to the fate of the entire corporate group and requested that the project be treated as a distinct vertical, capable of independent resolution.

2.20.2. The RP and CoC considered a proposal to split the assets and liabilities of HDIL into multiple "verticals" corresponding to individual projects or clusters. This approach required judicial endorsement to ensure its compatibility with the Code, particularly in respect of creditor claims and asset allocation.

[12] I.A. 1045 of 2023 In C.P. No. (IB) 27/MB/C-III/2019

2.20.3. **Issues Raised:**

2.20.3.1. **Vertical-segregation –** Whether the Code permits the division of a single CD's assets and liabilities into separate project-wise or vertical-wise resolution units, each with its own information memorandum and creditor constitution, without resorting to a formal group insolvency framework.

2.20.3.2. **Project-viability –** How to ensure that projects which are individually viable and capable of attracting resolution applicants are not indefinitely stalled because no bidder is willing to assume the aggregated risk of the entire portfolio of the CD.

2.20.3.3. **Creditor-alignment –** How claims of creditors that span multiple projects, such as banks with cross-collateralised exposures, should be addressed when assets are segregated into verticals, and whether such segregation is compatible with fair and equitable treatment of similarly situated creditors.

2.20.3.4. **Homebuyer-relief –** Whether project-wise segregation can accelerate relief for homebuyers in particular projects without undermining the collective insolvency process for the CD as a whole.

2.20.4. **Court's View:** The NCLT accepted that, in the specific circumstances of HDIL, it was both permissible and desirable to adopt a project-wise vertical approach to resolution. It held that the Code does not insist on an "all or nothing" resolution of a CD's entire business and that, where factual circumstances demonstrate divergent viability across projects, vertical bifurcation can further the objective of value maximisation and timely relief. The court authorised the preparation of separate information memorandum and the constitution of project-specific creditor groups for the purposes of inviting resolution plans. In doing so, it recognised that the interests of homebuyers in individual projects may be better served by allowing those projects to move ahead independently, rather than awaiting a comprehensive and possibly unattainable group solution.

Report of the Committee to examine the issues related to Legacy Stalled Real Estate Projects

2.21. The Ministry of Housing and Urban Affairs (MoHUA) had constituted a high-level Expert Committee under the Chairmanship of Mr. Amitabh Kant, G-20 Sherpa and former CEO of NITI Aayog, vide Order dated 31 March 2023, following a decision made at the 3rd meeting of the Central Advisory Council (CAC) held on 12 April 2022 under the Chairmanship of the Hon'ble Minister of Housing and Urban Affairs. The Committee's mandate was to holistically examine all issues related to legacy stalled real estate projects and recommend practical, implementable measures for their completion and timely handover of homes to homebuyers.

2.22. The Committee's deliberations across substantive meetings with diverse stakeholders like State Authorities, RERA, developers, homebuyer associations, banks, and financial institutions identified critical systemic failures which are summarised, as follows:

2.22.1. *Lack of Financial Viability*: The primary root cause was insufficient project viability caused by cost overruns, time delays, and accumulated interest/penalties, which made projects economically unrecoverable for developers and unattractive to financiers.

2.22.2. *Inadequate IBC Efficacy*: Since the enactment of the Code, approximately 340 real estate cases had been referred to NCLT, yet only 31 had been resolved by 2023, with the process proving prohibitively slow and destructive of asset value. Under IBC, both financial and operational creditors absorb haircuts while developers' equity is written off, yet even senior creditors (such as land authorities) recover only approximately 27% of their dues, according to a Cushman and Wakefield study cited by the Committee.

2.22.3. *Overlapping Stakeholder Interests and Regulatory Gaps*: The convergence of diverse and often divergent interests—developers facing cost pressures, banks reluctant to cede charge to SWAMIH, land authorities losing revenue due to moratoriums, and homebuyers lacking recourse, created gridlock that neither RERA regulations nor IBC processes could efficiently resolve.

2.22.4. *Structural Barriers to Resolution*: Administrative hurdles (NOCs, completion certificates), punitive policies (capitalised interest, time extension charges, penal interest), absence of project-wise resolution frameworks, and the exclusion of genuine homebuyer voices from resolution decisions prevented pre-insolvency rehabilitation.

2.23. The Committee concluded that all stakeholders, including developers, financial institutions, land authorities, and government, must collectively accept equitable (pari-passu) haircuts to restore project financial viability, and crucially, that the Code should be employed only as a measure of last resort, with priority given to structured rehabilitation and specialised frameworks. The Committee's recommendation framework was explicitly organised into seven coordinated pillars. The detailed recommendations (*refer to paragraph 8, page 2 of the main Report*) are placed at **ANNEXURE C** of this Report.

2.24. This Committee has carefully examined the findings and recommendations of the Amitabh Kant Committee Report. This Committee broadly reiterates and aligns itself with the Amitabh Kant Committee's core approach, especially the emphasis on **project-centric resolution**, priority to completion over value extraction, equitable burden-sharing among stakeholders, and the recognition that the IBC should operate as a measure of last resort in the real estate sector. Several recommendations of the Amitabh Kant Committee - including project-wise treatment, exclusion of occupied projects, clean-slate protection for resolution applicants, enhanced role of RERA in monitoring and revival, and the need for specialised institutional mechanisms - find direct reflection in the issues examined and recommendations made in this Report. The Committee considers that the Amitabh Kant Committee's framework

provides a complementary policy foundation, while this Report seeks to operationalise and refine these principles specifically within the insolvency ecosystem under the Code and the Regulations made thereunder.

CHAPTER III: ISSUES, ANALYSIS AND RECOMMENDATIONS

A. Core Objective of Real Estate Insolvency

A1. Priority to Project Resolution over Liquidation in Real Estate Insolvency

Issue Description

3.1. One of the central challenges in insolvency resolution is the eventuality of the CD moving towards liquidation when resolution efforts fail to materialise within prescribed timelines. In the real estate context, liquidation often results in partially constructed or abandoned structures, irreversible value destruction, and severe prejudice to homebuyers who have invested their life savings with the expectation of obtaining a shelter rather than financial returns.

3.2. Unlike most other sectors, real estate insolvency directly implicates and impacts the interests of retail consumers and raises broader public policy considerations. Liquidation of a real estate CD rarely results in meaningful recoveries for homebuyers and typically leads to prolonged disputes over land, approvals, and unfinished construction. Stakeholders have therefore emphasised that insolvency proceedings in real estate must be oriented towards *completion and delivery of homes* as the primary objective, with liquidation resorted to only as an exceptional measure.

Existing Legal and Regulatory Position

3.3. The Code recognises resolution as the preferred outcome of insolvency proceedings, with liquidation as a measure of last resort. This philosophy is embedded in the statutory framework and is particularly relevant in the real estate sector.

3.4. Key aspects of the existing legal provisions include:

3.4.1. **Primacy of Resolution under the Code**: Section 53 of the IBC treats liquidation as a terminal process, while the entire CIRP architecture under Chapter II of the Code is designed to preserve the CD as a going concern and maximise value through resolution.

3.4.2. **Regulation 37 of the CIRP Regulations, 2016**: Permits resolution plans to provide for restructuring, transfer of assets, or sale of specific assets or business units, thereby enabling completion of individual projects rather than the sale of the entire enterprise.

3.4.3. **Regulation 39C and 39D**: Allow the CoC to explore compromise, arrangement, or alternative resolution strategies before liquidation, reinforcing the preference for non-liquidation outcomes.

3.4.4. **Real estate–specific practice**: In multiple cases, the Adjudicating Authorities have encouraged revival through construction completion, induction of new developers, or allottee-led plans instead of liquidation, recognising that liquidation seldom serves stakeholder interests in this sector.

3.5. Thus, while liquidation remains a statutorily available outcome, the existing framework implicitly supports completion-oriented resolution in real estate insolvency.

Judicial Guidance

3.6. Courts have repeatedly underscored that liquidation of real estate projects must be avoided where completion is feasible, given the unique nature of homebuyer interests and the societal importance of housing.

3.7. Key judicial pronouncements include:

3.7.1. **Mansi Brar Fernandes v. Shubha Sharma & Ors. (Supreme Court, 2025)** The Hon'ble Supreme Court held that real estate insolvency must prioritise completion of projects and protection of genuine homebuyers and provide recognition to homebuyers of the Right to Shelter under Article 21.

3.7.2. **Chitra Sharma v. Union of India (Jaypee Infratech case)** The Hon'ble Supreme Court adopted a completion-centric approach, facilitating funding and supervision mechanisms to ensure the completion of stalled housing projects rather than the liquidation of the developer.

3.7.3. **Pioneer Urban Land and Infrastructure Ltd. v. Union of India (2019)** While examining the status of homebuyers under the IBC, the Court recognised that the Code's application to real estate must be informed by the objective of ensuring completion and delivery of homes, not merely recovery of money.

3.7.4. **Elegna Co-operative Housing and Commercial Society Ltd. v. Edelweiss Asset Reconstruction Company Ltd. & Anr. (2026):** The Hon'ble Supreme Court has directed that any recommendation for liquidation by the Committee of Creditors shall be accompanied by a reasoned justification recorded in writing, evidencing proper application of mind and due consideration of all viable alternatives, in consonance with the objective of the Code.

3.8. Collectively, these decisions reflect a consistent judicial preference for completion over liquidation in real estate insolvency.

Stakeholder Submissions and Committee Deliberations

3.9. Stakeholders across categories expressed near-unanimous concern regarding the liquidation of real estate projects:

3.9.1. **Homebuyer associations** emphasised that liquidation offers no meaningful relief, as homebuyers typically rank low in liquidation waterfalls and lose the prospect of obtaining a home altogether.

3.9.2. **FCs** acknowledged that liquidation of partially constructed projects yields poor recoveries due to depressed asset values, regulatory encumbrances, and title uncertainties.

3.9.3. **Resolution professionals and developers** highlighted that even heavily stalled projects often remain viable if construction can be restarted with appropriate funding and regulatory support.

Analysis and Rationale

3.10. The Committee is of the view that prioritising project completion over liquidation is justified on the following grounds:

3.10.1. **Value maximisation**: Completion of construction significantly enhances asset value compared to the sale of unfinished structures or land parcels.

3.10.2. **Protection of homebuyers**: For homebuyers, possession of a completed home is qualitatively different from monetary recovery, and they cannot be adequately compensated through liquidation proceeds.

3.10.3. **Public policy and constitutional considerations**: Housing is integrally linked to the right to life and shelter under Article 21 of the Constitution, warranting a distinct insolvency approach.

3.10.4. **Systemic stability**: Frequent liquidation of housing projects erodes confidence in the real estate sector, undermines consumer trust and is detrimental to the economy.

Recommendations of the Committee

3.11. ***Recommendation Nos. 1, 2, 3 and 4***

3.11.1. ***Resolution-first principle: Insolvency proceedings in the real estate sector should be expressly guided by a "resolution-first" principle, with liquidation treated only as a last resort.***

3.11.2. ***Heightened threshold for liquidation: Liquidation of a real estate project should be permitted only where the project is demonstrably unviable for completion, and no resolution applicant, allottee-led plan, or public-sector intervention is feasible.***

3.11.3. ***Mandatory exploration of revival options: Before approving liquidation, the CoC and the AA should record that all reasonable options for project completion - including induction of new developers, allottee-led plans, or structured funding support—have been duly explored.***

3.11.4. ***Guidance to RPs: RPs should be mandated to prioritise completion-oriented resolution strategies and explicitly assess the feasibility of construction completion in their reports.***

B. Homebuyers – Differential treatment based on intent

B1. Distinguishing "Genuine" Homebuyers from "Speculative" Investors and Protection of Homebuyers

Issue Description

3.12. A recurring concern in real estate insolvency proceedings is the perceived misuse of the IBC by certain allottees who are characterised as "speculative investors" rather than "genuine homebuyers" seeking possession of residential units. Stakeholders have argued that insolvency protections under the Code should be confined to end-users and that investors motivated by assured returns, buy-back arrangements, or excessive financial gain should be excluded to prevent the IBC from being used as a recovery or pressure tool.

3.13. At the same time, there is widespread recognition of the need to strengthen protections for homebuyers as a class, given their vulnerability, informational asymmetry, and the centrality of housing to the right to shelter. This has led to proposals advocating differentiated treatment of "genuine" and "speculative" allottees, with insolvency benefits reserved only for the former.

Existing Legal and Regulatory Position

3.14. Under the IBC, allottees of real estate projects are treated as FCs by virtue of the provision under Section 5(8)(f), read with the explanation inserted in the year2018. The Code does not distinguish between categories of allottees based on intent, usage, or contractual structure.

3.15. Key features of the existing framework include:

3.15.1. **Uniform statutory status**: All allottees who have paid amounts to the developer are treated as FCs, irrespective of whether the allotment is for self-use, investment, or mixed purposes.

3.15.2. **Threshold safeguards**: The provisos to Section 7(1) of the Code introduced in the year 2019 impose numerical thresholds (100 allottees or 10% of total allottees) to prevent frivolous or isolated insolvency triggers, serving as a structural filter rather than a subjective classification.

3.15.3. **Collective decision-making through the CoC**: Once admitted, homebuyer interests are aggregated and represented through the ARs, ensuring collective rather than individual enforcement.

3.15.4. **No regulatory test of "genuineness"**: Neither the Code nor the CIRP Regulations prescribe any criteria or mechanism for determining whether an allottee is a genuine homebuyer or a speculative investor.

3.16. Thus, the statutory and regulatory framework does not require subjective differentiation and relies instead on procedural and collective safeguards.

Judicial Guidance

3.17. Judicial pronouncements have acknowledged concerns regarding speculative use of the IBC but have also cautioned against rigid or mechanical exclusion of allottees based on contractual features alone.

3.17.1. **Pioneer Urban Land and Infrastructure Ltd. v. Union of India (2019)** The Hon'ble Supreme Court recognised the possibility of speculative misuse but held that once a prima facie default is shown, CD must establish financial viability and capability to continue as a going concern. The Court rejected blanket exclusion of certain categories of allottees.

3.17.2. **Mansi Brar Fernandes v. Shubha Sharma & Ors. (2025)** The Hon'ble Supreme Court examined the distinction between speculative investors and genuine homebuyers at the *admission stage* of Section 7 proceedings and identified indicative factors such as assured returns and buy-back clauses. However, the Court emphasised that such a determination is fact-specific, context-driven, and dependent on contractual intent and conduct, rather than amenable to a rigid rule-based classification.

3.17.3. **Chitra Sharma v. Union of India** and **Jaypee Infratech line of cases** The Hon'ble Supreme Court consistently prioritised protection of homebuyers as a class, without fragmenting them into sub-categories for differential statutory treatment.

3.18. The jurisprudence thus supports **case-specific scrutiny by adjudicatory forums** but does not lend itself to a uniform regulatory definition of "speculative" versus "genuine" homebuyers.

Stakeholder Submissions and Committee Deliberations

3.19. During consultations, stakeholders expressed divergent views:

3.19.1. **Some FCs and developers** advocated excluding allottees with assured returns, buy-back clauses, or multiple units from insolvency protections, arguing that such arrangements resemble financial investments.

3.19.2. **Homebuyer associations** strongly opposed any categorisation, highlighting that: contractual terms are often dictated by developers; buyers may enter into return-linked arrangements due to market conditions, lack of bargaining power, or delayed possession; post-facto classification would lead to uncertainty, exclusion, and extensive litigation.

3.19.3. **Resolution professionals and regulators** cautioned that introducing a genuineness test would significantly increase admission-stage disputes, factual inquiries, and delays, undermining the time-bound nature of CIRP.

3.20. After detailed deliberations, the Committee reached a consensus that **a clear, objective, and enforceable distinction between speculative and genuine homebuyers is not feasible at the regulatory level and is more an adjudicatory issue**.

Analysis and Rationale

3.21. The Committee's conclusion is based on the following considerations:

3.21.1. **Subjectivity and evidentiary complexity**: Determining intent—whether an allottee intended self-occupation, investment, or mixed use—is inherently subjective and often indeterminable at the time of insolvency.

3.21.2. **Developer-driven contract structures**: Clauses such as assured returns or buy-back options are frequently standardised offerings devised by developers, not indicators of buyer sophistication or speculative intent.

3.21.3. **Risk of inconsistent and arbitrary outcomes**: Regulatory classification would inevitably result in inconsistent treatment of similarly placed allottees and invite prolonged litigation at the admission stage.

3.21.4. **Conflict with the collective insolvency framework**: The IBC is designed as a collective process. Fragmenting homebuyers into "deserving" and "undeserving" categories undermines collective resolution and complicates CoC functioning.

3.21.5. **Adequacy of existing safeguards**: Threshold requirements, CoC voting, judicial scrutiny at admission, and plan approval standards already provide sufficient checks against abuse without excluding classes of allottees.

3.21.6. **Public policy and constitutional context**: Given the right to shelter and the socio-economic significance of housing, exclusionary approaches risk undermining consumer confidence and access to remedies.

Recommendations of the Committee

3.22. ***Recommendation Nos. 5, 6, 7, 8 and 9***

3.22.1. ***The Committee is of the considered view that the issue of differentiation between a "genuine" or "speculative" applicant for real estate cases merits examination, given the socio-economic significance of this sector. In this light, the Committee recommends that, at the stage of admission of an application of a real estate CD, the AA may, where considered necessary, examine the nature of the transaction to determine whether the applicant is "genuine" or "speculative". For such a limited purpose, the AA may be guided by the following indicative criteria laid down by the Hon'ble Supreme Court in the Mansi Brar judgment:***

> ***(a) If the agreement substitutes possession with a buyback or refund option, or any other special arrangement, the allottee is likely a speculative investor.***
> ***(b) Insistence on a refund with high interest, coupled with refusal to accept possession, would indicate speculation.***
> ***(c) Purchase of multiple units, especially in double digits, shall invite greater scrutiny, though it is not conclusive. If the terms of the agreement provide for possession or refund in the event of failure to give possession alone, this factor may not be held against the allottee.***
> ***(d) Special rights, preferential treatment, or unusual privileges to the allottee would signal investment intent.***
> ***(e) Deviation from the RERA Model Agreement shall be a crucial indicator as to the nature of the transaction – the greater the departure, the greater the likelihood of speculation.***
> ***(f) Unrealistic interest rates and promises of 20 – 25% returns over a short duration are indicative of speculation.***

3.22.2. ***All allottees recognised as FCs under the Code should continue to receive uniform statutory treatment, subject to existing threshold and procedural safeguards.***

3.22.3. ***Concerns of misuse should be addressed through process safeguards, including rigorous admission-stage scrutiny by the AA; enforcement of numerical thresholds under Section 7 of the Code; collective decision-making through the ARs and the CoC; careful evaluation of resolution plans to ensure homebuyer-centric outcomes.***

3.22.4. ***Strengthened homebuyer protection should be outcome-focused, by ensuring time-bound possession or fair refund through resolution plans; completion-first approaches to real estate insolvency; effective representation and consultation of homebuyers in the CIRP.***

3.22.5. ***Judicial discretion should be preserved, allowing the AA to address egregious cases of abuse on a case-by-case basis, without embedding rigid classifications in subordinate legislation or guidelines.***

C. RERA–IBC Coordination and Regulatory Alignment

C1. Strengthening Synergy and Coordination between RERA and the IBC Framework

Issue Description

3.23. The real estate sector in India is governed by two distinct but intersecting statutory frameworks:

3.23.1. The RERA Act, which focuses on consumer protection, transparency, and regulation of real estate projects; and

3.23.2. The IBC, which provides a time-bound mechanism for the resolution of insolvency of corporate persons.

3.24. In real estate insolvency cases, both regimes often operate simultaneously over the same project, stakeholders, and factual matrix. However, the absence of structured institutional coordination between the RERA authorities and insolvency fora (NCLT/NCLAT/IBBI) has led to procedural friction, duplication of efforts, and uncertainty for stakeholders.

3.25. Upon commencement of CIRP, management of the CD vests in the RP. In certain instances, questions have arisen regarding the manner in which continuing obligations under RERA, the rules framed thereunder, and directions issued by the concerned RERA Authority are to be complied with during the insolvency process. It has also been observed that parties sometimes proceed on the assumption that the initiation of insolvency proceedings may dilute or temporarily displace sectoral regulatory requirements, which can give rise to uncertainty and potential gaps in compliance.

Existing Legal and Regulatory Status

3.26. The current legal framework treats RERA and the IBC as **separate and independent statutes**, each with distinct objectives and enforcement mechanisms:

3.26.1. **RERA framework**: RERA mandates registration of real estate projects, maintenance of escrow accounts, disclosure of project information, and adjudication of homebuyer grievances, including delays, refunds, and compensation.

3.26.2. **IBC framework**: The IBC provides for collective insolvency resolution through a moratorium under Section 14 of the Code, appointment of an IP, constitution of the CoC, and approval of a resolution plan by the AA. Further, Section 17(2)(e) of the Code obligates the RP to ensure that the CD remains compliant with the requirements of all applicable laws during the conduct of the CIRP, including RERA compliance in case of real estate cases.

Stakeholder Submissions and Committee Deliberations

3.27. Stakeholders highlighted several operational challenges arising from the lack of RERA-IBC coordination:

3.27.1. **Homebuyers and ARs** reported conflicting directions from RERA authorities and RPs regarding possession, completion timelines, and refunds.

3.27.2. **RPs** noted difficulties in accessing accurate and updated project data, list of allottees, escrow balances, and approval status, all of which are maintained with RERA or local authorities.

3.27.3. **RAs** flagged uncertainty arising from post-approval regulatory demands, stop-work orders, or enforcement actions by RERA or planning authorities, which undermine resolution feasibility.

3.27.4. **Regulators and public authorities** acknowledged that RERA processes are often not calibrated to the timelines and exigencies of CIRP. However, it was also flagged that the Code does not envisage any blanket suspension of sector-specific regulatory regimes by reason of insolvency. Accordingly, real estate projects that are registered under RERA continue to be governed by the statutory framework relating to registration, disclosures, utilisation of funds, and adherence to directions of the RERA. The commencement of CIRP, therefore, does not dilute the supervisory jurisdiction of RERA; rather, regulatory oversight and insolvency administration must operate in coordination to secure lawful and orderly project completion.

3.28. The Committee deliberated that the absence of coordination is a **structural rather than legal** gap and can be addressed through administrative and procedural mechanisms without statutory amendment.

Analysis and Rationale

3.29. The Committee's analysis rests on the following considerations:

3.29.1. **Complementary objectives**: RERA seeks to protect homebuyers and ensure project transparency, while the IBC seeks to revive distressed entities and maximise value. These objectives are aligned with real estate insolvency, where project completion is the preferred outcome.

3.29.2. **Information asymmetry and duplication**: RERA authorities maintain granular project-level data, while IPs are required to independently verify claims and project status, leading to duplication and delay.

3.29.3. **Conflicting timelines and enforcement actions**: RERA-imposed timelines, penalties, or enforcement actions may continue mechanically during CIRP, even where such actions are inconsistent with the moratorium or approved resolution plans.

3.29.4. **Uncertainty for resolution applicants**: Lack of regulatory clarity post-plan approval deters credible bidders and increases risk premiums, adversely affecting resolution outcomes.

3.29.5. **Feasibility of non-statutory coordination**: Structured coordination can be achieved through guidelines, SOPs, and institutional interfaces without diluting the statutory autonomy of either regime.

Recommendations of the Committee

3.30. ***Recommendation Nos. 10, 11, 12, 13 and 14***

3.30.1. ***Institutional consultation framework: IBBI should establish a formal consultation mechanism with Central and State RERA authorities for real estate insolvency matters, including periodic coordination meetings and designated nodal officers.***

3.30.2. ***Information Sharing Protocols: Standardised protocols should be developed for:***

a. ***sharing RERA-registered project data, allottee lists, escrow details, and approval status with the RPs;***

b. ***recognising RERA records as authoritative inputs for insolvency processes, subject to verification.***

3.30.3. ***RERA Compliances during CIRP: The Committee emphasises that the RP, who assumes the management and operations of the CD, should ensure that the requirements of the RERA Act, the rules and regulations made thereunder, and the directions issued by the concerned RERA authority are complied with during CIRP.***

3.30.4. ***Role of RERA in Resolution and Monitoring: RERA authorities may be:***

a. ***enabled to nominate representatives in the COC meetings as observers;***

b. ***consulted during preparation and evaluation of resolution plans for regulatory feasibility and provided an opportunity, if they so wish, to submit their views on the same in writing;***

c. represented in project monitoring committees post-plan approval to facilitate timely approvals and compliance.

3.30.5. ***Guidelines on Post-Resolution Regulatory Certainty: Clear guidance should be issued by RERAs to ensure that once a resolution plan is approved:***

a. Regulatory obligations are enforced prospectively;

b. Past non-compliances are addressed in accordance with the plan, without reopening settled issues.

C2. Uniformity and Harmonisation of RERA Rules and Standard Operating Procedures across States

Issue Description

3.31. The Real Estate (Regulation and Development) Act, 2016 (RERA Act) was enacted as a central legislation to introduce transparency, accountability, and consumer protection in the real estate sector across India. However, while the Act lays down a common statutory framework, its implementation is carried out through **State-specific Rules, Regulations, and Standard Operating Procedures (SOPs)** notified by individual States and Union Territories.

3.32. Over time, significant divergence has emerged in how RERA is operationalised across States—particularly with respect to escrow mechanisms, project disclosures, timelines, enforcement practices, and regulatory processes. In the context of insolvency proceedings under IBC, these divergences create material challenges for the RPs, homebuyers, lenders, and RAs, especially where projects are subject to insolvency while remaining regulated under RERA.

Existing Legal and Regulatory Position

Central Framework with State-Level Variations

3.33. RERA establishes uniform obligations relating to project registration, disclosures, escrow account of project funds, and consumer remedies. However, Section 84 of the Act empowers States to frame Rules for implementation, resulting in **substantial State-level variation** in regulatory practices.

3.34. Illustrative examples of divergence include the following:

(a) Escrow and Project Fund Management

i. The central framework mandates the deposit of **70% of amounts realised from allottees** into a project-specific account.

ii. **Tamil Nadu RERA** has introduced a **three-bank-account regime** (collection, separate, and transaction accounts), imposing stricter fund-tracking requirements than most States.

iii. **Maharashtra RERA (MahaRERA)** follows the 70% escrow norm but permits withdrawals based on certified progress, supported by a robust online disclosure system.

Karnataka RERA requires separate escrow accounts for each registered project phase, preventing cross-phase fund diversion but significantly increasing account management complexity for multi-phase developments.

(b) Disclosure and Reporting Requirements

i. MahaRERA mandates extensive, periodic disclosures through a centralised digital portal.

ii. Several States follow less granular reporting standards, making it difficult for the RPs to access reliable and uniform project data.

(d) Interest, Compensation, and Penalty Regimes

i. **Tamil Nadu RERA** applies SBI MCLR-linked interest for delays.

ii. **Haryana RERA** uses SBI's highest lending rate as the benchmark.

iii. **Uttar Pradesh RERA** follows a case-dependent approach**.**

(e) Grievance Redressal and Enforcement Practices

i. Some States require pre-litigation steps or follow distinct recovery mechanisms for RERA orders.

ii. Disposal timelines and enforcement practices vary widely depending on tribunal capacity and administrative arrangements.

Stakeholder Submissions and Committee Deliberations

3.35. During consultations, stakeholders consistently highlighted the lack of uniformity in RERA practices as a key impediment:

3.35.1. **RPs** flagged difficulties in navigating divergent escrow norms, reporting formats, and approval requirements across States.

3.35.2. **RAs** noted that regulatory uncertainty inflates risk premiums and discourages participation.

3.35.3. **Homebuyer associations** expressed concern that uneven enforcement leads to unequal protection for similarly placed allottees.

3.35.4. **Public authorities and regulators** acknowledged that while State autonomy must be preserved, insolvency situations warrant greater standardisation.

3.36. The Committee noted a broad consensus that harmonisation is essential, particularly for aspects directly affecting insolvency resolution.

Analysis and Rationale

3.37. The Committee's analysis rests on the following considerations:

3.37.1. **Pan-India character of insolvency proceedings**: The IBC operates uniformly across jurisdictions, while divergent RERA practices undermine consistency in resolution outcomes.

3.37.2. **Need for regulatory predictability**: Harmonised rules reduce uncertainty for RAs and improve the quality and viability of resolution plans.

3.37.3. **Efficiency and speed**: Standardised escrow norms, disclosures, and timelines enable faster verification, monitoring, and implementation.

3.37.4. **Equitable homebuyer protection**: Uniform practices ensure similarly placed homebuyers are treated consistently, irrespective of geography**.**

3.37.5. **Federal feasibility**: Harmonisation can be achieved through model rules, advisories, and coordinated SOPs without legislative amendment or encroachment on State powers.

Recommendations of the Committee

3.38. ***Recommendation Nos. 15, 16 and 17***

3.38.1. ***Model RERA SOPs be developed by MOHUA, in consultation with State RERA authorities, for aspects impacting insolvency proceedings, including escrow operation, disclosures, timelines, and treatment of stalled projects.***

3.38.2. ***Harmonised treatment be adopted for projects under CIRP, particularly regarding extension of registrations, recalibration of timelines, and regulatory approvals.***

3.38.3. ***Uniform data and disclosure standards are to be prescribed by RERAs to facilitate seamless integration with insolvency processes.***

D. Project-Wise Insolvency Framework

D1. Project-Wise Admission of Corporate Insolvency Resolution Process in Real Estate

Issue Description

3.39. Real estate development is intrinsically project centric. Developers typically undertake multiple projects concurrently, each resting on distinct land parcels, statutory approvals, escrow mechanisms, financing arrangements, construction timelines and homebuyer constituencies. Despite this operational reality, insolvency proceedings under the IBC are presently initiated against the real estate developer as a single CD, resulting in the commencement of a unified CIRP at the entity level.

3.40. This entity-centric admission leads to significant distortions in real estate insolvency. Default or distress in one project often results in solvent, completed, or near-completion projects being drawn into insolvency proceedings, even where such projects are independently viable and compliant. The consequences include disruption of ongoing construction, uncertainty for unrelated homebuyers, erosion of project value, and avoidable litigation. The issue assumes heightened importance in real estate due to the large number of individual homebuyers involved, whose interests are directly linked to specific projects rather than to the developer as a corporate entity.

3.41. While post-admission project-wise resolution has evolved through regulatory flexibility and judicial innovation, the admission of CIRP continues to operate at the level of the CD. The Committee therefore examined whether the objectives of the Code would be better served by recognising **project-wise admission of CIRP in real estate insolvency**, rather than as a post-admission project-wise Resolution Plan option.

Existing Legal and Regulatory Status

Entity-Level Admission under the Code

3.42. The Code provides for the initiation of insolvency proceedings against a "corporate debtor" as a legal entity. There is no express statutory provision enabling admission of CIRP in respect of an individual real estate project. Consequently, admission of an application under Sections 7, 9 or 10 ordinarily results in commencement of CIRP against the developer as a whole, irrespective of whether the default pertains to one or to several projects.

3.43. This structure reflects the general design of the Code, which is sector-agnostic and entity-centric. However, in the real estate sector, this approach may not be ideal with the economic and regulatory reality that projects function as discrete units with ring-fenced cash flows and stakeholders.

Project-Wise Resolution under CIRP Regulations (Post-Admission)

3.44. Recognising the peculiarities of real estate insolvency, the CIRP Regulations introduced flexibility **after admission** of the CIRP. In particular, Regulation 36A(4A) enables the invitation of expressions of interest for one or more units or assets of the CD and has been extensively relied upon to invite project-specific resolution plans in real estate cases.

3.45. In addition, Regulations 37 and 38 permit resolution plans to provide for restructuring, transfer or reorganisation of assets and liabilities, including on a segmented or project-wise basis, subject to compliance with the Code. These provisions have allowed the RPs and the CoCs to structure project-wise resolution plans within an entity-level CIRP.

3.46. While these provisions have been instrumental in mitigating the rigidity of entity-level insolvency, they operate **only after the CD has already been admitted into CIRP**. They do not prevent solvent or unrelated projects from being drawn into insolvency ab-initio, nor do they provide certainty to homebuyers and other stakeholders at the admission stage.

Interface with the RERA Framework

3.47. Under the Real Estate (Regulation and Development) Act, 2016, each real estate project is registered and regulated as a distinct unit, with project-specific disclosures, escrow requirements and compliance obligations. Homebuyers' rights, developer obligations and regulatory oversight are all anchored at the project level.

3.48. The current insolvency framework, which admits CIRP at the entity level and subsequently attempts project-wise segregation after admission for the purpose of resolution, therefore operates in strain with the present RERA architecture. The Committee noted that aligning insolvency admission itself with the project-centric logic of RERA would promote regulatory coherence and reduce uncertainty.

Judicial and Practical Experience

3.49. Courts and Tribunals have repeatedly acknowledged that real estate insolvency presents unique challenges requiring project-centric solutions. In several landmark matters, judicial fora have facilitated project-wise interventions to protect homebuyers and ensure completion of viable projects. While these outcomes demonstrate judicial recognition of project-wise resolution as a desirable approach, they have largely been achieved through case-specific orders and court-supervised mechanisms. The Hon'ble Supreme Court in *Mansi Brar Fernandes v. Shubha Sharma* has observed that real estate insolvency should, as a rule, proceed on a project-specific basis rather than against the entire corporate debtor, except in exceptional circumstances.

Stakeholder Submissions and Views

3.50. While there was broad support for a project-centric approach to insolvency in real estate, stakeholders also highlighted important structural and legal complexities that warrant careful calibration.

Support for Project-Wise Admission

3.51. A substantial majority of stakeholders supported the principle that insolvency proceedings in real estate should, as far as possible, be confined to the defaulting project rather than the CD as a whole. Key submissions included the following:

3.51.1. **Homebuyer associations** strongly advocated project-wise admission, emphasising that entity-level CIRP unfairly subjects thousands of homebuyers of solvent or completed projects to moratoriums, stalled approvals, and prolonged uncertainty, despite no default in their respective projects. They submitted that project-wise admission is essential to protect third-party rights and to ensure that viable projects are not sacrificed to unrelated financial distress.

3.51.2. **RERA authorities** highlighted that the real estate regulatory framework is fundamentally project centric. Each project is registered, monitored, and regulated independently under RERA. From a regulatory standpoint, extending insolvency to non-defaulting projects undermines both regulatory discipline and consumer protection.

3.51.3. **Financial institutions and alternative investment funds** submitted that project-wise admission aligns more closely with commercial reality, as lending and security structures are typically project-specific. Ring-fencing projects at the admission stage improves valuation clarity, reduces contingent liabilities, and enhances the attractiveness of distressed projects to potential resolution applicants.

3.51.4. **IPs and RAs** noted that project-wise admission simplifies claims management, cost-to-complete assessment, cash-flow tracking, and construction monitoring. They submitted that entity-level CIRP creates avoidable complexity by pooling unrelated liabilities and assets, thereby deterring serious bidders and delaying resolution.

Cautionary views and identified challenges

3.52. Alongside support for project-wise admission, certain stakeholders raised important concerns regarding its feasibility within the existing corporate law framework:

3.52.1. **Corporate law and accounting challenges** were highlighted by legal experts and former members of the AA. It was pointed out that a CD is constituted as a single legal entity, with unified books of accounts, statutory filings, and contractual obligations. Carving out one project for insolvency admission raises complex questions relating to:

a. segregation of assets and liabilities without formal corporate restructuring;

b. treatment of common expenses, inter-project advances, and shared borrowings;

c. consistency with accounting standards and audit requirements; and

d. potential implications for shareholders and other creditors not linked to the defaulting project.

3.52.2. **Risk of fragmentation and abuse** was also flagged. Some stakeholders cautioned that indiscriminate project-wise admission could incentivise strategic behaviour, where promoters seek to isolate distressed projects while retaining control over profitable ones, notwithstanding fund commingling or cross-collateralisation.

3.52.3. **Group and SPV structures** prevalent in real estate were noted as an additional complexity. In many cases, land ownership, development rights, or licenses are held by related entities or SPVs. Stakeholders submitted that a rigid project-wise admission rule, without mechanisms for consolidation or coordinated proceedings, could impede resolution rather than facilitate it.

Emerging Consensus

3.53. Despite these concerns, stakeholders broadly agreed that the existing entity-centric admission framework produces disproportionate harm in the real estate sector and that project-wise admission, if accompanied by clear eligibility criteria, safeguards, and exceptions, would better serve the objectives of the Code. There was consensus that the present reliance on post-admission project-wise resolution under the CIRP Regulations is not a complete solution and does not adequately address the systemic issues arising at the admission stage itself.

Analysis and Considerations of the Committee

3.54. The Committee carefully examined the competing considerations emerging from stakeholder submissions.

Economic and Sectoral Reality of Real Estate

3.55. The Committee notes that real estate development is fundamentally **project-centric**, not entity-centric. Each project typically has:

a. distinct land parcels and development rights;

b. separate approvals and regulatory compliance;

c. project-specific financing, escrow arrangements, and cash flows; and

d. a clearly identifiable class of homebuyers whose rights are confined to that project.

3.56. From an economic and functional perspective, the project—not the corporate entity—is the true unit of value creation and resolution. Subjecting multiple independent projects to a single insolvency process therefore obscures this reality and may lead to sub-optimal outcomes.

Limitations of the Present Framework

3.57. While the CIRP Regulations permit project-wise resolution post-admission, the Committee finds that this may not lead to the most efficient outcomes for real estate cases. Entity-level admission triggers moratoriums, freezes approvals, and creates uncertainty for all projects, including those that are viable or substantially complete. Homebuyers of such projects suffer collateral damage even before any project-wise segregation is judicially recognised.

3.58. The Committee also observes that reliance on case-by-case judicial innovation has resulted in inconsistent outcomes across jurisdictions, undermining predictability and stakeholder confidence.

Addressing Corporate Law and Accounting Concerns

3.59. The Committee acknowledges the legitimacy of concerns relating to corporate personality, accounting standards, and asset-liability segregation. However, it is of the considered view that these challenges are not insurmountable and should not justify continuation of the present framework as it is.

3.60. In the Committee's assessment:

a. Project-wise admission need not imply fragmentation of the corporate entity for all purposes, but rather a limited and functional segmentation for insolvency resolution.

b. Objective criteria—such as separate land, approvals, escrow accounts, and identifiable homebuyer and creditor pools—can be prescribed to determine eligibility for project-wise admission.

c. Exceptional cases involving pervasive fund commingling, cross-collateralisation, or fraud may justifiably warrant entity-level admission, with reasons recorded by the AA.

Alignment with judicial direction and public interest

3.61. The Committee places significant weight on the consistent judicial emphasis on project completion and protection of homebuyers as the central objectives of real estate insolvency. The directions of the Hon'ble Supreme Court in *Mansi Brar Fernandes* and earlier cases reflect an expectation that insolvency mechanisms in real estate must evolve beyond rigid corporate formalism and respond to sector-specific realities.

3.62. In the Committee's view, project-wise admission is not a departure from the Code's objectives but a **necessary adaptation** to ensure that time-bound resolution and value maximisation are meaningfully achieved in the real estate sector.

Recommendations of the Committee

3.63. ***Recommendation Nos. 18, 19, 20, 21 and 22***

3.63.1. ***The Committee is of the considered view that CIRP in the real estate sector should ordinarily be admitted on a project-wise basis, with each real estate project treated as an independent unit for the purposes of insolvency admission and resolution.***

3.63.2. ***Admission of CIRP may be confined to the defaulting project, and solvent, completed or unrelated projects of the same developer may not be included.***

3.63.3. ***Entity-level CIRP encompassing multiple projects may be permitted only in exceptional circumstances, including:***

- ***a. substantial inter-linkages or commingling of funds across projects;***
- ***b. cross-collateralisation of assets or guarantees; or***
- ***c. demonstrable fraud or mismanagement affecting multiple projects.***

3.63.4. ***Where entity-level admission is ordered, the AA may record specific reasons in writing justifying deviation from the project-wise approach.***

3.63.5. ***Given the peculiar challenges in the real estate sector, as noted by the Committee above, the MCA may consider enabling project-wise admission of CIRP for real estate cases. DFS and RERA may consider facilitating project-wise admission by laying down project specific frameworks that facilitate project-wise lending, maintenance of CDs accounts project-wise, and project-wise monitoring.***

D2. Exclusion of Completed or Occupied Projects from CIRP

Issue Description

3.64. A critical and recurring concern identified by the Committee is the initiation or continuation of insolvency proceedings in respect of real estate projects that are already completed, substantially completed, or occupied by allottees. Under the existing entity-level admission framework, such projects are often subsumed within the CIRP of the developer, even where they are not commercially distressed and have no direct nexus with the defaulting insolvent project.

3.65. This problem is intrinsically linked to the absence of **project-wise admission of CIRP**. When the CD as a whole is admitted into insolvency, all projects—irrespective of their stage of completion or financial health—become subject to moratorium and insolvency administration. As a result, even projects where possession has been handed over, and residents are living in the premises, are exposed to legal and operational disruption.

3.66. Stakeholders highlighted that completed or occupied projects do not present a resolution or revival problem that insolvency law is designed to address. The issues that may subsist in such projects - such as pending occupancy or completion certificates, execution of conveyance deeds, or compliance with development conditions—are regulatory and administrative in nature and are more appropriately addressed under RERA or by local authorities rather than through CIRP.

3.67. Accordingly, the Committee considers exclusion of completed or occupied projects not as an isolated reform, but as a **necessary and integral consequence of adopting project-wise admission of CIRP in real estate cases**.

Existing Legal and Regulatory Position

3.68. The Code does not expressly distinguish between completed and ongoing real estate projects at the stage of admission. Insolvency is initiated against the CD as a legal entity, and the moratorium under Section 14 applies across all its assets and operations.

3.69. However, the underlying scheme of the Code, read with the CIRP Regulations and judicial interpretation, supports a purposive distinction between projects that are **operationally and financially distressed** and those that are not. Key aspects include:

3.69.1. **Objective of CIRP**: The Code is intended to resolve insolvency and financial distress through reorganisation or revival. A completed or occupied project that is not generating operational distress does not ordinarily require insolvency intervention.

3.69.2. **Project-wise resolution under CIRP Regulations**: Regulations 36A, 37 and 38 permit resolution plans to be structured in respect of specific assets or business units of the CD. Judicial practice has extended this flexibility to real estate projects, implicitly recognising that not all projects of a developer are similarly situated.

3.69.3. **Impact of moratorium**: Once a completed project is drawn into CIRP, the moratorium often freezes maintenance arrangements, the functioning of resident welfare associations, and execution of conveyance deeds, causing significant hardship to residents who are already in possession.

Judicial Guidance

3.70. Judicial fora have consistently cautioned against indiscriminate application of insolvency proceedings to real estate projects, especially where such application unsettles completed developments and harms resident communities.

3.71. The Hon'ble Supreme Court in **Mansi Brar Fernandes v. Shubha Sharma & Ors.** emphasised that real estate insolvency should ordinarily proceed on a project-specific basis and that solvent or completed projects should not be dragged into insolvency due to unrelated defaults. The Court underlined that the IBC is not a mechanism for regulatory clean-up or administrative regularisation.

3.72. Earlier decisions of **Chitra Sharma v. Union of India** and **Jaypee Kensington Boulevard Apartments Welfare Association V. NBCC India Ltd.**, the Hon'ble Supreme Court recognised that substantially completed or near-completion real estate projects present a different situation from stalled projects.

Stakeholder Submissions and Committee Deliberations

3.73. During consultations and Committee meetings, stakeholders uniformly linked the hardship caused to residents directly to the entity-level admission of CIRP:

3.73.1. **Homebuyer associations** highlighted severe disruption caused when occupied projects are included in CIRP, including stoppage of essential services, inability to form or operate RWAs, and prolonged delays in execution of conveyance deeds.

3.73.2. **FCs** acknowledged that completed projects rarely contribute to resolution value and often become sources of avoidable litigation and administrative burden.

3.73.3. **RPs** submitted that managing occupied projects within CIRP significantly increases complexity without advancing resolution outcomes, diverting attention and resources from genuinely distressed projects.

3.74. The Committee deliberated that insolvency adjudication is ill-suited to resolve post-completion regulatory issues, which lie squarely within the domain of RERA authorities, municipal bodies and development authorities. Inclusion of such projects in CIRP was seen as an unintended consequence of the entity-level admission framework rather than a deliberate policy choice.

Analysis and Rationale of the Committee

3.75. The Committee considers exclusion of completed or occupied projects to be a **necessary safeguard to operationalise project-wise admission of CIRP** in real estate cases.

3.76. In the Committee's assessment:

3.76.1. **Functional irrelevance to insolvency**: Completed or occupied projects do not require revival, restructuring or business reorganisation—the core concerns of CIRP.

3.76.2. **Disproportionate harm**: Inclusion of such projects in CIRP causes disproportionate harm to homebuyers who have already taken possession and are not beneficiaries of insolvency resolution.

3.76.3. **Regulatory misalignment**: Issues such as OC/CC, layout regularisation, and conveyance are regulatory in nature and cannot be effectively resolved through insolvency proceedings.

3.76.4. **Logical corollary of project-wise admission**: If insolvency is to be admitted project-wise, it necessarily follows that projects which are completed or substantially completed and occupied should ordinarily fall outside the insolvency net.

3.77. At the same time, the Committee recognises that exceptional circumstances—such as demonstrable fraud, pervasive commingling of funds, or unresolved title disputes directly affecting residents—may justify limited insolvency intervention. Such cases, however, must remain the exception and not the rule.

Recommendations of the Committee

3.78. ***Recommendation Nos. 23, 24, 25, 26 and 27***

3.78.1. ***Ordinary exclusion: Completed or substantially completed and occupied real estate projects should ordinarily be excluded from initiation or continuation of CIRP.***

3.78.2. ***Admission-stage filtering: At the stage of admission, the AA may examine whether the alleged default pertains to a project that is completed or substantially completed and, if so, decline admission or confine CIRP to the defaulting project alone.***

3.78.3. ***Mandatory carve-outs: Where a CD is admitted into CIRP in respect of one or more projects, the AA may expressly carve out completed or occupied projects, permitting:***

- ***a. continuation of maintenance and essential services,***
- ***b. formation and functioning of RWAs,***
- ***c. execution of conveyance deeds and completion of regulatory compliances.***

3.78.4. ***Regulatory resolution route: Outstanding issues in completed or occupied projects should be addressed through RERA authorities, municipal bodies or development authorities, and not through insolvency proceedings.***

3.78.5. ***Exceptional inclusion with reasons: Inclusion of completed projects in CIRP should be permitted only in exceptional circumstances, with detailed reasons recorded in writing demonstrating necessity, proportionality and absence of viable regulatory alternatives.***

D3. Ring-Fencing of assets and cash flows in Real Estate Insolvency

Issue Description

3.79. One of the most persistent causes of distress in the real estate sector is the **diversion and commingling of funds across multiple projects** undertaken by the same developer. Homebuyer advances and lender funds raised for a specific project are often utilised to finance other projects, service unrelated debts, or meet general corporate expenses. This practice leads to stalled construction, erosion of stakeholder confidence, and cascading defaults.

3.80. In insolvency proceedings, the absence of clear ring-fencing further complicates resolution. Where assets, receivables, and cash flows of multiple projects are intermingled, resolution professionals face difficulty in:

- identifying project-specific assets and liabilities;
- verifying claims accurately; and
- structuring viable, project-centric resolution plans.

3.81. Mandatory **project-wise ring-fencing of assets and cash flows** is therefore essential to ensure transparency, accountability, and effective resolution in real estate insolvency.

Existing Legal and Regulatory Status

RERA Framework

3.82. The Real Estate (Regulation and Development) Act, 2016, already incorporates the principle of ring-fencing at the project level. Section 4(2)(l)(D) of RERA mandates that:

- **70% of the amounts realised from allottees must be deposited in a separate account**, to be used only for land and construction costs of that specific project.
- Withdrawals are permitted only in proportion to the percentage of completion and subject to certification by an engineer, architect, and chartered accountant.

3.83. This provision recognises that project-wise financial discipline is critical to protecting homebuyers and ensuring completion.

IBC and CIRP Regulations

3.84. The **CIRP Regulations provide flexibility for project-specific resolution**, particularly in real estate insolvency:

a. **Regulation 4D** requires the IRP or RP, as the case may be, to operate a separate bank account for each real estate project.

b. **Regulation 35A (Preferential, Undervalued, Fraudulent and Extortionate Transactions)** empowers RPs to examine diversion of funds and seek clawback.

c. **Regulations 37 and 38** permit resolution plans to provide for restructuring and segregation of assets and liabilities on a project basis.

d. **Regulation 36 (Information Memorandum)** requires disclosure of assets, liabilities, cash flows, and receivables, enabling identification of project-wise financials where records are maintained.

Practical Gaps

3.85. Committee deliberations noted that:

- escrow discipline under RERA often weakens post-default;
- CIRP bank accounts are frequently consolidated at the CD level, and
- Lack of real-time cash-flow tracking enables continued leakage of project funds even during insolvency.

Stakeholder Submissions and Committee Deliberations

3.86. During this Committee consultations:

3.86.1. **Homebuyer associations** strongly advocated mandatory escrow and project-wise bank accounts during CIRP to prevent further diversion.

3.86.2. **FCs** supported cash-flow segregation to enable accurate assessment of project viability and funding needs.

3.86.3. **RPs** noted that lack of ring-fencing increases litigation, delays resolution, and discourages resolution applicants.

3.86.4. **RAs** indicated that clear project-level financial viability is a prerequisite for bidding.

3.87. The Committee observed **near-unanimous support** for strengthening ring-fencing norms both prior to and during the CIRP.

Analysis and Rationale

3.88. The Committee's analysis highlights the following:

3.88.1. **Foundation for project-wise CIRP**: Project-specific resolution is ineffective unless assets and cash flows are clearly segregated.

3.88.2. **Protection of homebuyer funds**: Ring-fencing ensures that homebuyer advances are utilised only for completion of the project they invested in.
3.88.3. **Transparency and audit trail**: Separate bank accounts and cash-flow tracking enable real-time monitoring, audit, and reduce disputes on fund usage.

3.88.4. **Identification of fraudulent transactions**: Clear segregation assists in identifying and clawing back preferential or fraudulent transactions.

3.88.5. **Improved market confidence**: Predictable and transparent financial structures enhance participation by the lenders and the resolution applicants.

Recommendations of the Committee

3.89. ***Recommendation Nos. 28, 29, 30, 31 and 32***

3.89.1. ***Mandatory project-wise ring-fencing be institutionalised for real estate insolvency, including:***

a. ***Project-wise lending by creditors and its monitoring***

b. ***separate escrow accounts for each project;***

c. ***separate bank accounts for receipts and expenditures relating to a project; and***

d. ***project-wise accounting of receivables, payables, and cash flows.***

3.89.2. ***During CIRP, the RPs shall operate and maintain project-wise accounts, with withdrawals linked to construction milestones and approved budgets.***

3.89.3. ***Cash-flow tracking and periodic disclosure by the RP to the CoC, homebuyers (through the ARs), and the AA be mandated.***

3.89.4. ***Diversion of project funds during the CIRP is treated as a serious contravention, attracting avoidance actions and personal accountability.***

3.89.5. ***IBBI should harmonise RERA escrow principles with insolvency processes, ensuring continuity of financial discipline, post-admission of a real estate project.***

E. Possession, Refunds and Allottee Choice

E1. Possession of Substantially Completed Units during CIRP

Issue Description

3.90. A recurring challenge in real estate insolvency is the prolonged deprivation of possession to homebuyers in projects that are **substantially complete but technically stalled** due to pending statutory approvals, such as the Occupancy Certificate (OC) or Completion Certificate (CC). Once a real estate project enters CIRP, possession is often frozen entirely, even where units are habitable and construction is largely complete.

3.91. For many homebuyers, especially those who have already paid a substantial portion of the consideration, **early possession with minor pending works** is preferable to indefinite waiting for completion of all formalities under insolvency proceedings. The rigid insistence on OC/CC before possession during CIRP frequently results in increased hardship to homebuyers, accumulation of maintenance and interest burdens, deterioration of completed structures, and avoidable delays in value realisation.

3.92. The issue, therefore, concerns whether, and under what safeguards, **possession of substantially completed units may be permitted during the CIRP**, without undermining safety, regulatory oversight, or the interests of other stakeholders.

Existing Legal and Regulatory Status

Status under RERA

3.93. Under RERA, possession is ordinarily linked to the issuance of OC/CC by the competent authority. RERA emphasises consumer protection, safety standards, and compliance with building norms. However, RERA also recognises practical realities and empowers authorities to permit phased completion, regularise deviations in certain circumstances, and oversee project completion through regulatory supervision.

3.94. Notably, RERA does not expressly prohibit **limited or conditional possession** where construction is substantially complete, subject to safeguards and undertakings.

Status under IBC and the CIRP Regulations

3.95. The Code does not expressly address possession of real estate units during the CIRP. Traditionally, the moratorium under Section 14 of the Code meant that direct enforcement actions against the CD's assets were restricted once the CIRP commenced. This created uncertainty as to whether possession or transfer of completed units could be undertaken during the insolvency process, even where homebuyers had fully complied with their contractual obligations.

3.96. To address this longstanding issue and strike a balance between asset preservation and consumer protection, the **Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2025** introduced **Regulation 4E** into the CIRP Regulations, 2016.

3.97. **Regulation 4E** empowers the **Resolution Professional (RP)**, *after obtaining the approval of the Committee of Creditors (CoC) with not less than 66 % of the total votes*, to **hand over possession of plots, apartments, buildings or any instruments agreed to be transferred under a real estate project to allottees** who have fulfilled their contractual obligations, and to **facilitate registration** where requested by the allottee.

3.98. Key elements of this provision include:

- The RP **must obtain CoC approval (at least 66 % voting share)** before possession is handed over.
- Handover is permitted when the homebuyer has performed all obligations under the agreement.
- The RP can assist in facilitating registration of the property in favour of the allottee, even during CIRP.
- The regulation clarifies that such handover, when conducted in accordance with regulatory requirements and the CoC approval, **does not violate the moratorium** under Section 14 of the Code.

3.99. Regulation 4E represents a significant shift in the regulatory position, explicitly permitting early possession subject to safeguards and creditor consent. Regulation 4E now provides the **first explicit regulatory mechanism** enabling homebuyers to secure possession during the CIRP without waiting for resolution plan approval or project completion.

3.100. Further, the Hon'ble Supreme Court in the matter of *Mansi Brar Fernandes vs. Shubha Sharma and Anr.* had observed that possession of a dwelling unit remains the *sine qua non* of a genuine homebuyer's intent. It directed that "*... IBBI shall also devise a mechanism to enable handover of possession to willing allottees where substantial units in a project are complete.*"

Practical Status during the CIRP

3.101. In practice, the RPs tend to adopt a conservative approach, refraining from handing over possession due to fear of regulatory non-compliance, uncertainty regarding liabilities, absence of express statutory guidance, and risk of personal accountability. This regulatory vacuum has resulted in inconsistent outcomes across projects and jurisdictions.

Judicial Guidance

3.102. The Hon'ble Supreme Court in the matter of *Elegna Co-operative Housing and Commercial Society Ltd. v. Edelweiss Asset Reconstruction Company Ltd. & Anr.* has directed that where the Committee of Creditors, upon due consideration, finds it not viable to approve handover of possession in terms of Regulation 4E of the CIRP Regulations, it shall mandatorily record cogent and specific reasons in writing for such decision.

Stakeholder Submissions and Committee Deliberations

3.103. During stakeholder consultations and Committee meetings:

3.103.1. **Homebuyer associations** strongly supported early possession, stating that many allottees are willing to undertake minor finishing work themselves.

3.103.2. **RPs** indicated that early possession reduces maintenance costs, vandalism risks, and litigation pressure.

3.103.3. **Land and development authorities** emphasised the need for safety, fire norms, and structural compliance.

3.103.4. **RERA authorities** supported a coordinated approach involving certification and regulatory supervision.

3.104. The Committee noted broad agreement that possession should not be mechanically tied to completion of the entire insolvency process.

Analysis and Rationale

3.105. The Committee's analysis is based on the following considerations:

(i) **Homebuyer Welfare**: Housing is a basic necessity, and prolonged denial of possession causes severe social and financial distress.

(ii) **Value Preservation**: Occupied and maintained units retain value better than abandoned structures.

(iii) **Reduction of Litigation**: Early possession addresses the primary grievance of allottees, significantly reducing disputes and court interventions.

(iv) **Alignment with Completion-First Philosophy**: Allowing possession is consistent with the objective of prioritising project completion over liquidation.

3.106. The Committee notes that Regulation 4E of the CIRP Regulations, 2016 (as amended) is a progressive step, as it expressly enables the RP to hand over possession of plots, apartments or buildings to allottees during CIRP, subject to approval of the CoC by a vote of not less than sixty-six per cent.

3.107. However, based on stakeholder consultations and deliberations reflected in the Committee's meetings, the Committee is of the view that the requirement of prior CoC approval may, in certain circumstances, unnecessarily delay possession and defeat the objective of timely relief to homebuyers, particularly where:

- the unit is substantially complete;
- the allottee has discharged all payment and contractual obligations;
- handing over possession does not adversely affect the value of the remaining project or the interests of other stakeholders; and
- possession would reduce maintenance costs and liabilities of the CD during CIRP.

3.108. The Committee is of the view that handover of possession in such cases should be treated as an act in furtherance of value preservation and consumer protection, and not as a commercial or financial decision requiring creditor approval. Further, in view of the order of the Hon'ble Supreme Court in the *Elegna Co-operative Housing and Commercial Society Ltd. v. Edelweiss Asset Reconstruction Company Ltd. & Anr.,* the Committee was of the view that instead of the CoC, the RP may be required to record cogent and specific reasons for not giving possession to a willing allottee who has met all obligations.

Recommendations of the Committee

3.109. ***Recommendation Nos. 33 and 34***

3.109.1. ***The Committee recommends that, provided that where a unit in a real estate project is complete on or before the insolvency commencement date, the regulatory framework may be further liberalised to permit the RP to hand over possession of substantially completed units to eligible allottees, without requiring prior approval of the CoC.***

3.109.2. ***The Committee recommends that where the RP, upon due consideration, finds it not viable to approve handover of possession, he shall mandatorily record cogent and specific reasons in writing for such decision.***

E2. Classification of Homebuyers Based on Relief Sought

Issue Description

3.110. Real estate insolvency proceedings involve a diverse and heterogeneous group of homebuyers whose expectations and interests may not be uniform. While all allottees are classified as FCs under the Code, they often seek **distinct forms of relief**, such as:

- possession of the dwelling unit,
- execution of conveyance/registry, or
- refund of amounts paid, with or without interest.

3.111. Treating all homebuyers as a single undifferentiated class for purposes of resolution planning, voting and implementation has led to conflicts of interest, impractical resolution structures, and post-approval litigation. The issue is whether the insolvency framework should permit and recognise **classification of homebuyers based on the nature of relief sought**, so as to enable transparent, feasible and equitable resolution outcomes.

Existing Legal and Regulatory Status

Status under the IBC and the CIRP Regulations

3.112. Under the IBC, homebuyers are treated as a class of FCs and are represented through an AR in the CoC. The Code and the CIRP Regulations do not currently mandate or prohibit sub-classification of homebuyers based on relief sought.

3.113. Resolution plans may provide differential treatment to different classes of creditors, provided such treatment complies with Section 30(2) and is not discriminatory. In practice, resolution plans have occasionally adopted informal distinctions between continuing allottees (seeking possession) and exiting allottees (seeking refund).

Stakeholder Submissions and Committee Deliberations

3.114. During the stakeholder consultations by this Committee, the following views were expressed:

3.114.1. **Homebuyer representatives** emphasised that forcing refund-seekers and possession-seekers into a single voting block leads to mistrust, disputes and litigation. Failure to classify homebuyers based on relief sought results in refund-seeking allottees voting against

completion-oriented plans; possession-seeking allottees opposing refund-heavy plans that undermine project viability; delays in execution of conveyance and possession due to unresolved objections from minority segments.

3.114.2. **RAs** highlighted that the absence of upfront classification complicates financial modelling, escrow planning and sequencing of construction.

3.114.3. **RPs** noted that classification based on relief sought would significantly reduce disputes during claim verification and plan implementation.

3.115. The Committee noted broad support for a structured and transparent classification mechanism, provided it does not fragment the CoC or undermine collective resolution. However, the Committee was of the view that all homebuyers as FCs form a single class and must exercise voting rights collectively through an AR. Introducing sub-classifications within this class in the CoC would be inconsistent with the statutory framework, undermine collective decision-making, and risk fragmentation in real estate insolvency processes. Differences in individual preferences should instead be addressed, where feasible, within the terms of the resolution plan and its implementation, without altering the uniform voting structure prescribed under the Code.

Recommendations of the Committee

3.116. ***Recommendation Nos. 35, 36, 37 and 38***

3.116.1. ***The Committee does not recommend any distinction among homebuyers for voting purposes in the CoC, based on whether they seek a refund or possession.***

3.116.2. ***In real estate CIRPs, RPs may be mandated to classify homebuyers into sub-categories based on the nature of relief sought, such as:***

a. allottees seeking possession of units,

b. allottees seeking execution of conveyance/ registry, and

c. allottees seeking refund of amounts paid.

3.116.3. ***Homebuyers should be required to exercise the choice between possession or refund within a specified timeframe, to be prescribed by regulations or guidelines, failing which a default option may apply.***

3.116.4. ***The IM should provide project-wise disclosures on whether the homebuyers have opted for possession, refund or others in their claim forms.***

E3. Allottee Choice in resolution plan –Possession or Refund

Issue Description

3.117. A recurring challenge in real estate insolvency proceedings is the heterogeneity of homebuyer interests. While some allottees primarily seek possession of their homes, others—owing to prolonged delays, changed personal and financial circumstances, or loss of confidence in the developer—prefer refund of their investment with interest.

3.118. In the absence of a structured framework recognising these divergent preferences, resolution plans often adopt a uniform approach, leading to dissatisfaction among sections of allottees, increased litigation, and delays in resolution plan implementation.

3.119. The issue, therefore, is whether and how the insolvency framework should explicitly recognise and accommodate allottee choice between refund and possession in the resolution plans.

Existing Legal and Regulatory Status

3.120. The Code recognises homebuyers as FCs but does not differentiate among them based on the nature of relief sought. In practice, resolution applicants often structure plans that prioritise project completion and possession for continuing allottees and provide refund options to dissenting or exiting allottees, subject to haircut and timelines. However, the absence of regulatory clarity has resulted in inconsistent approach across cases.

Stakeholder Submissions and Committee Deliberations

3.121. Stakeholder consultations and Committee deliberations highlighted several challenges:

- Forced continuation in projects by unwilling allottees leads to resistance, non-cooperation and litigation.
- Blanket refund mechanisms strain project viability and cash flows.
- Lack of upfront choice complicates claim estimation and resolution planning.

3.122. During consultations, the following viewpoints emerged:

3.122.1. **Homebuyer associations** emphasised the need for autonomy and choice, noting that prolonged insolvency without possession causes severe financial and emotional hardship.

3.122.2. **Resolution applicants and lenders** supported structured choice mechanisms, provided such choices are exercised within defined timelines and reflected transparently in the resolution plan.

3.122.3. **Resolution Professionals** highlighted that early classification of allottees based on relief sought would materially improve feasibility assessment and plan implementation.

3.123. The Committee noted a broad consensus that recognising allottee choice upfront would reduce post-approval disputes, litigation and enforcement challenges.

Recommendations of the Committee

3.124. ***Recommendation Nos. 39, 40 and 41***

3.124.1. ***Resolution plans in real estate CIRPs should be required to provide clear options to homebuyers, enabling them to elect between continuation in the project for possession of the unit, or exit from the project through refund of the amount paid, with interest as may be determined in the resolution plan.***

3.124.2. ***Resolution applicants may structure differential timelines, consideration, or modalities for refund-seeking and possession-seeking allottees, provided the treatment is transparent, rational, and non-discriminatory.***

3.124.3. ***The AR and the RP should ensure proper dissemination of plan details to allottees; facilitation of informed choice; and accurate aggregation of claims based on the relief elected.***

F. Admission Thresholds and Initiation of CIRP

F1. Threshold for Initiating Real Estate CIRP

Issue Description

3.125. During this Committee's consultations, several stakeholders suggested that the minimum default requirement for triggering insolvency proceedings in the real estate sector should be revisited. Real estate projects are capital-intensive, long-gestation ventures involving numerous interdependent stakeholders, including large bodies of homebuyers, lenders, contractors and public authorities. Initiation of CIRP has immediate and far-reaching consequences: management displacement, moratorium, market signalling effects, funding disruption and reputational impact on the project.

3.126. Concerns were expressed that the existing threshold of ₹1 crore, when applied to this sector, may allow insolvency to be triggered in situations where the aggregate financial stress of the project is not of a magnitude that justifies invoking a collective resolution mechanism. The resulting process may interrupt ongoing construction, deter fresh finance, and reduce the possibility of consensual or regulatory solutions outside insolvency.

Existing Legal and Regulatory Status

3.127. Section 4 of the Code prescribes a minimum default threshold of ₹1 crore for the initiation of CIRP across all sectors. In the context of real estate allottees, the first proviso to Section 7(1), introduced by the Insolvency and Bankruptcy Code (Amendment) Act, 2020, further mandates that applications by allottees must be filed jointly by not less than one hundred allottees or not less than ten per cent of the total number of allottees in the same real estate project, whichever is less.

3.128. The legislative intent behind this dual threshold framework was to address the unique characteristics of the real estate sector by preventing frivolous, speculative or individualised triggers of insolvency, while preserving access to the insolvency mechanism for genuinely distressed projects.

Stakeholder Views

3.129. A substantial segment of FCs, developers, and industry representatives submitted that, despite the numerical threshold, the present monetary requirement remains relatively modest when compared with the scale of typical real estate projects, where total project outlays often run into hundreds or thousands of crores. They argued that the admission of CIRP in such circumstances can sometimes be disproportionate to the size of the default, particularly where restructuring or completion may be possible without resort to insolvency.

3.130. It was emphasised that the commencement of CIRP frequently leads to immediate freezing of commercial flexibility, difficulties in obtaining interim finance, and hesitation among contractors and authorities. Even where the project is viable, the insolvency tag itself may impair market confidence and sales velocity. According to these stakeholders, a higher threshold would better reflect the economic realities of the sector and ensure that CIRP is invoked primarily in cases of serious and systemic distress rather than as a pressure tactic.

3.131. Homebuyer representatives expressed understandable concern that raising the threshold should not dilute their ability to seek remedies in genuine cases of abandonment. However, several participants acknowledged that insolvency is not always the fastest route to possession and that premature triggers can, in fact, prolong completion timelines and possession of dwelling units.

Committee Deliberations

3.132. The Committee deliberated on the nature of real estate development and the consequences of insolvency admission. Unlike many other industries, the primary value in real estate lies in the completion of construction and delivery to end users.

3.133. The Committee observed that the ₹1 crore benchmark was fixed as a general threshold across sectors. In real estate, however, individual ticket sizes, construction costs, land

premiums and statutory dues are significantly higher. A default of ₹1 crore may not necessarily indicate that the enterprise or even the project is irretrievably insolvent. At the same time, the process consequences of admission are profound.

3.134. The Committee also noted that the Code has progressively moved towards calibrated access to insolvency in the real estate context, as reflected in the introduction of numerical thresholds for allottees and in judicial emphasis on filtering speculative or strategic triggers. Raising the monetary threshold can be viewed as a continuation of this policy trajectory toward ensuring that insolvency remains a remedy of last resort.

3.135. Importantly, the Committee formed the view that a higher threshold may encourage greater use of consensual restructuring, RERA-based supervision, and other revival mechanisms before parties resort to the CIRP. This could reduce value-destructive admissions while preserving insolvency for situations where distress is substantial.

3.136. After considering various alternatives, the Committee concluded that enhancement of the threshold to ₹5 crore would create a more appropriate filter for real estate matters, better aligned with sectoral scale and risk, while still leaving the remedy available in cases of genuine and material default.

Recommendation of the Committee

3.137. ***Recommendation No. 42***

The MCA may consider enhancing the minimum threshold amount of default for initiation of CIRP from ₹1 crore to ₹5 crore, in case of real estate projects. The Committee believes that such recalibration would more accurately reflect the capital structure and economic magnitude of real estate development, reduce premature or tactical admissions, promote exploration of completion-oriented solutions outside insolvency, and reserve the CIRP mechanism for cases involving substantial financial stress warranting collective intervention under the Code.

F2. Speculative or Junior Stakeholders Triggering CIRP

Issue Description

3.138. Certain stakeholders have suggested that the insolvency framework should further restrict the ability of "speculative" or "junior" stakeholders—such as minority creditors, junior lenders, or investors with limited economic exposure—to initiate CIRP proceedings. The underlying concern is that such stakeholders may use insolvency proceedings strategically, not with the objective of resolution, but as a pressure tactic to extract settlements or gain leverage disproportionate to their economic stake.

Existing Legal and Regulatory Status

3.139. The Code is premised on the principle that **any financial or operational creditor meeting the statutory requirements is entitled to invoke the insolvency process** upon occurrence of a default. The Code does not differentiate between "senior" and "junior" creditors, nor does it exclude any category of creditor based on perceived motivation, provided the legal requirements for initiation are satisfied.

3.140. In the context of real estate, additional safeguards already exist. Applications by allottees under Section 7 are subject to a numerical threshold, requiring a minimum number or percentage of allottees to jointly file an application. Further, the minimum default threshold under Section 4 of the Code applies uniformly. These provisions collectively act as filters against frivolous or isolated triggers of insolvency.

3.141. Beyond these statutory safeguards, the Code vests the Adjudicating Authority with discretion at the admission stage to examine whether a default has occurred and whether the application is complete and maintainable in law.

Judicial Guidance

3.142. Judicial authorities have consistently held that **insolvency proceedings cannot be denied merely based on the size, seniority, or perceived motivation of the applicant**, so long as a legally enforceable default is established.

3.143. In **Innoventive Industries Ltd. v. ICICI Bank**, the Hon'ble Supreme Court clarified that at the admission stage, the Adjudicating Authority is concerned primarily with the existence of default and compliance with statutory requirements, not with the commercial wisdom or motives of the applicant. Similarly, in **Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd.**, the Hon'ble Supreme Court cautioned against expanding the scope of scrutiny beyond what the Code expressly mandates.

3.144. In the real estate context, while the Hon'ble Supreme Court in **Mansi Brar Fernandes v. Shubha Sharma & Ors.** emphasised the need to identify speculative investors at the admission stage, it did so in the specific context of determining whether an applicant qualifies as a genuine allottee for purposes of invoking Section 7. It created a specific categorical exception within the real estate context: it held that allottees entering into buyback agreements, assured return clauses, or MOUs deviating from RERA model agreements are 'speculative investors' and can be excluded at the admission stage itself from triggering CIRP under Section 7, based on their contractual intent and profit motivation. This exclusion is limited to real estate allottees and operates at the admission stage, distinguishing speculative investment strategies from genuine housing intentions.

3.145. Judicial guidance thus supports **case-specific scrutiny** of applications, rather than categorical exclusion of classes of creditors from accessing the insolvency framework.

Stakeholder Views and Committee Deliberations

3.146. During consultations, some stakeholders—particularly developers and certain institutional lenders—argued that junior or minority creditors should be restricted from triggering CIRP, as such actions may destabilise projects and adversely affect majority stakeholders. Conversely, other stakeholders cautioned that introducing such restrictions would undermine the creditor-neutral architecture of the Code and could be misused to shield defaulting entities from timely insolvency intervention.

3.147. The Committee carefully examined these perspectives in light of the statutory design of the Code and its objectives. The Committee does not agree with the suggestion to restrict the ability of speculative or junior stakeholders to initiate CIRP through categorical exclusions or additional statutory barriers.

3.148. The Committee is of the considered view that **introducing restrictions based on creditor seniority, size of exposure, or perceived strategic intent would be inconsistent with the foundational principles of the Code**, which is designed as a creditor-neutral and rule-based framework. Such restrictions could lead to subjective determinations, increase litigation at the admission stage, and create uncertainty regarding access to insolvency remedies.

3.149. The Committee further notes that concerns relating to misuse of CIRP as a pressure tactic are already addressed through:

- the existence of minimum default and numerical thresholds;
- scrutiny by the Adjudicating Authority at the admission stage; and
- evolving judicial standards distinguishing genuine insolvency triggers from abusive filings.

3.150. Rather than introducing new exclusions, the Committee is of the view that **effective application of existing safeguards**, coupled with careful judicial scrutiny of the nature of the transaction and the existence of default, provides a more balanced and legally sound approach.

Recommendation of the Committee

3.151. ***Recommendation No. 43***

The Committee recommends that no additional restrictions be imposed on the ability of creditors to initiate CIRP on the basis of their size, seniority, or perceived strategic interest, and that the existing statutory framework be allowed to operate as intended.

G. Claims Management and Information Integrity

G1. Uniform Date of Default for Homebuyers

Issue Description

3.152. Stakeholders have suggested that uniform criteria should be prescribed for determining the "date of default" in homebuyer-initiated insolvency proceedings. It has been proposed that, where construction of a real estate project has been discontinued, the date of stoppage of construction should be treated as a deemed date of default for all allottees. The rationale advanced is that the absence of a uniform rule leads to ambiguity in the computation of limitation periods, uncertainty at the admission stage, and inconsistent adjudication across cases.

Existing Legal and Regulatory Status

3.153. Under the Code, the concept of "default" is defined as non-payment of debt when whole or any part of the instalment has become due and payable and is not paid. In the context of homebuyers, the determination of default is inherently linked to the contractual terms contained in the agreement for sale or builder-buyer agreement, read with applicable statutory obligations under RERA.

3.154. At present, the date of default in homebuyer cases may arise from multiple factual situations, including delay beyond the committed date of possession, failure to refund amounts upon lawful withdrawal, or breach of payment or delivery obligations. Courts and tribunals assess the date of default on a **case-by-case basis**, taking into account contractual terms, conduct of parties, regulatory extensions, force majeure events, and surrounding circumstances.

3.155. There is no statutory concept of a "deemed default" based solely on stoppage of construction, nor does the Code prescribe uniform criteria applicable across all real estate projects.

Stakeholder Views and Committee Deliberations

3.156. During consultations, some stakeholders argued that the absence of uniformity allows developers to manipulate timelines and delay insolvency proceedings through technical defences on limitation. Others cautioned that prescribing a deemed or uniform date of default would ignore legitimate distinctions between projects, such as phased construction, regulatory extensions, force majeure events, and variations in contractual commitments.

3.157. The Committee examined these views in detail and noted that while inconsistency in adjudication is a concern, it largely arises from factual complexity rather than the absence of a uniform rule.

3.158. The Committee does not agree with the suggestion to prescribe uniform criteria for determining the date of default for homebuyers or to treat the date of construction discontinuation as a deemed date of default.

3.159. The Committee is of the considered view that **default in homebuyer cases is intrinsically fact-dependent and contract-specific**, and any attempt to impose a uniform or deemed date of default would risk producing arbitrary and inequitable outcomes. Treating construction discontinuation as an automatic default may unfairly prejudice developers in cases involving temporary stoppages, regulatory delays, force majeure events, or phased development structures. It could result in premature or unwarranted initiation of insolvency proceedings.

Recommendation of the Committee

3.160. ***Recommendation No. 44***

The Committee recommends that the AA continue to determine the date of default in homebuyer cases on a case-by-case basis, guided by contractual terms, statutory obligations, and judicial precedent. Emphasis should instead be placed on consistent application of existing legal principles and scrutiny at the admission stage, rather than creation of rigid, sector-specific rules.

G2. Cut-off Dates and Treatment of Belated Claims

Issue Description

3.161. During stakeholder consultations, divergent views were expressed on the treatment of belated claims in real estate insolvency proceedings. One set of stakeholders advocated for a **strict cut-off date**, after which no claims should be admitted, emphasising the need for finality and certainty in the resolution process. Another set supported a **more liberal approach**, suggesting an additional window for filing late claims up to the stage of request for resolution plans (RFRP) or even till approval of the resolution plan, citing practical difficulties faced by dispersed homebuyers in becoming aware of insolvency proceedings and filing claims in time.

3.162. This divergence reflects the inherent tension between ensuring procedural finality for an efficient resolution process and accommodating the realities of large, fragmented creditor base in real estate projects.

Existing Legal and Regulatory Status

3.163. The Committee notes that the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 already contain a calibrated mechanism to address this issue. **Regulation 12(2)** expressly provides that a creditor who fails

to submit a claim within the time stipulated in the public announcement may submit such claim **"on or before the approval of a resolution plan by the committee"**.

3.164. Thus, the regulatory framework consciously allows flexibility beyond the initial claims period, while simultaneously prescribing a clear outer limit linked to the approval of the resolution plan by the CoC. This balances inclusivity with the need for certainty in the resolution process.

Analysis of the Committee

3.165. After careful consideration, the Committee is of the view that **no further extension or modification of the existing claims framework is warranted**. The window for filing claims, as already provided under **Regulation 12(2) of the CIRP Regulations, 2016**, which permits submission of claims up to the approval of the resolution plan by the Committee of Creditors, is sufficient to address the practical challenges faced by homebuyers, while also preserving certainty and discipline in the insolvency process.

3.166. At the same time, the Committee recognises that in large real estate projects, a significant number of allottees may fail to formally submit claims despite being reflected in the records of the CD or the concerned RERA authority. Excluding such allottees from the resolution framework solely on the ground of non-filing of claims would be inconsistent with the homebuyer-centric objectives of the Code and may lead to avoidable inequities and post-resolution disputes and litigation.

Recommendations of the Committee

3.167. ***Recommendation Nos. 45, 46 and 47***

3.167.1. ***The Committee recommends that all allottees whose details are reflected in the books of the CD, project records, RERA records or IU records—whether or not they have formally filed claims—must be duly provided for in the resolution plan. The resolution plan should clearly specify the manner in which such allottees are to be dealt with, including their entitlement to possession, refund, or any other relief, on principles that are fair, transparent, and consistent with similarly placed allottees who have filed claims.***

3.167.2. ***To operationalise this approach, the Committee further recommends that the RP shall compile and disclose, in the Information Memorandum, a comprehensive project-wise list of all allottees, drawing from the records of the CD, RERA registrations, IU records and other statutory or contractual project documentation. This will ensure that resolution applicants are fully apprised of the universe of homebuyer stakeholders at the bidding stage and that resolution plans are framed based on complete and reliable information.***

3.167.3. ***The Committee does not, however, recommend reopening or extending the claims filing timelines beyond the framework already prescribed under the CIRP***

Regulations. The objective should be to ensure inclusive and equitable treatment through accurate information and plan structuring, rather than through perpetual extension of procedural timelines.

G3. Priority of RERA Records in case of inconsistency

Issue Description

3.168. In real estate insolvency proceedings, significant challenges arise due to gaps, inaccuracies, or inconsistencies in the records maintained by the CD. These challenges are particularly acute in large projects involving numerous homebuyers, where issues commonly surface in relation to the identification of allottees, amounts received, status of bookings, stage of construction, and validity of approvals. Such deficiencies complicate claim collation, delay preparation of the IM, and often become a source of dispute and litigation during the formulation and implementation of resolution plans.

3.169. During stakeholder consultations, it was noted that statutory disclosures available with the concerned RERA often contain relevant project-level information that may assist in addressing these gaps. At the same time, concerns were raised that assigning automatic primacy to RERA records in cases of inconsistency could lead to unintended consequences, including exclusion or non-admission of legitimate claims, particularly those of homebuyers.

Existing Legal and Regulatory Status

3.170. Under the Real Estate (Regulation and Development) Act, 2016, promoters are required to register projects with RERA and make periodic disclosures regarding project approvals, construction progress, timelines, escrow arrangements, and allottee-related details. These disclosures are statutory in nature and subject to regulatory oversight.

3.171. Under the Code and the CIRP Regulations, the Resolution Professional is required to collate claims primarily based on the records of the CD and supporting documents furnished by claimants. The existing framework does not prescribe any hierarchy or priority between CD records and RERA records, nor does it contemplate rejection of claims solely based on inconsistencies between the two.

Stakeholder Views

3.172. Stakeholders broadly agreed that RERA records can be a useful reference point where CD records are incomplete or unreliable. However, strong reservations were expressed against an assertion that would accord overriding priority to RERA records, on the ground that such an approach could enable Resolution Professionals to mechanically rely on statutory disclosures without adequately examining individual claims and supporting evidence, thereby prejudicing homebuyers and other creditors.

Analysis and Considerations of the Committee

3.173. The Committee carefully examined the balance between improving data reliability and safeguarding the integrity of the claim admission process. It was observed that while RERA records are valuable, they are not immune from delay, error, or incompleteness, particularly in long-stalled projects or where disclosures have not been regularly updated. Conversely, CD records, though primary, may also suffer from deficiencies in distressed situations.

3.174. The Committee is therefore of the view that the RP must actively reconcile available sources of information and exercise independent judgment, ensuring that information gaps do not result in denial or dilution of legitimate creditor claims.

Recommendations of the Committee

3.175. ***Recommendation Nos. 48, 49 and 50***

3.175.1. ***The Committee recommends that, in real estate insolvency proceedings, where there are material information gaps or deficiencies in the records of the CD, the RP should appropriately refer to and draw upon relevant records available with the concerned RERA authority as a supplementary source of information.***

3.175.2. ***At the same time, the Committee does not recommend giving automatic precedence to RERA records over the records of the CD in cases of inconsistency. Claim admission should not be denied or restricted solely based on discrepancies between these two sources.***

3.175.3. ***The Committee further recommends that RPs be required to undertake a reasoned reconciliation of CD records, RERA disclosures, and claim-related documentation submitted by creditors, and to transparently disclose material discrepancies and the basis of their assessment in the IM.***

G4. Automatic admission of claims reflected in records

Issue Description

3.176. A few stakeholders suggested that claims appearing in the audited books of the CD or in project ledgers—particularly in the case of homebuyers—should be **automatically admitted** in the insolvency process, even where no formal claim has been filed. The rationale advanced was that such an approach would reduce procedural burden on homebuyers, minimise litigation arising from claim rejections, and enable quicker finalisation of the claims universe in large real estate insolvencies involving thousands of allottees.

Existing Legal and Regulatory Status

3.177. The Committee notes that the Code and the CIRP Regulations establish a **claim-based insolvency framework**, under which admission or rejection of claims is premised on the **filing of a claim by the creditor**. Regulation 7, Regulation 8, and Regulation 9 of the CIRP Regulations prescribe the manner in which different classes of creditors are required to submit claims, while Regulation 13 mandates the Resolution Professional to verify claims received and either admit or reject them, in whole or in part.

3.178. There is **no provision under the Code or the CIRP Regulations that contemplates automatic admission of claims** solely based on their reflection in the books of the CD or in project-level accounting records. The filing of a claim serves important procedural and substantive functions, including affirmation of the creditor's intent to participate in the insolvency process, specification of the relief sought, and submission of supporting documentation.

3.179. Judicial authorities have consistently emphasised that insolvency proceedings under the IBC are **claim-driven** and that the Resolution Professional's duty to verify and admit claims arises only once a claim is duly submitted. Courts and tribunals have cautioned that the mere presence of an entry in the books of the CD cannot, by itself, be treated as conclusive proof of an admitted liability for insolvency purposes, particularly where such records may be disputed, incomplete, or unreliable.

3.180. At the same time, appellate fora have recognised that CD records and statutory disclosures may be used by the Resolution Professional as **reference material** for verification and reconciliation of claims that are actually filed, but not as a substitute for the claims-filing process itself.

Analysis and Considerations of the Committee

3.181. The Committee does **not agree** with the suggestion for automatic admission of claims reflected in the audited books or project ledgers of the CD.

3.182. The Committee is of the considered view that **automatic admission of claims would be inconsistent with the statutory scheme of the IBC**, which requires claims to be admitted or rejected only upon being formally filed and verified in accordance with the CIRP Regulations. Introducing automatic admission would dilute the discipline of the claims process, create uncertainty regarding the nature and quantum of liabilities, and potentially expose the insolvency process to inflated, erroneous, or contested claims.

3.183. However, the Committee reiterates that **CD records and RERA data should be actively utilised by the RP for identification of stakeholders, issuance of individual notices, and reconciliation of filed claims**, as already recommended. Such records should

inform the preparation of the IM and the formulation of resolution plans, but they **cannot replace the requirement of claim filing**.

Recommendation of the Committee

3.184. ***Recommendation No. 51***

The Committee recommends retention of the existing claims framework under the Code and Regulations, while strengthening procedural safeguards—such as improved disclosure, individual communication, and equitable treatment in resolution plans—to ensure that genuine homebuyers are not prejudiced due to procedural lapses, without undermining the integrity of the insolvency process.

G5. Simplified homebuyers claim processes

Issue Description

3.185. Stakeholders highlighted that homebuyers, who constitute a large and diverse class of creditors in real estate insolvency proceedings, often face practical difficulties in navigating the claims filing process under the Code. Unlike institutional creditors, most homebuyers lack legal or financial expertise and are unfamiliar with insolvency procedures, formats, and documentation requirements. These challenges are compounded in projects involving hundreds or thousands of allottees dispersed across locations.

3.186. To address these concerns, stakeholders suggested (i) the introduction of a **simplified, homebuyer-specific claim form**, and (ii) **facilitating filing through Information Utility (IU)**.

Existing Legal and Regulatory Status

3.187. Under the CIRP Regulations, homebuyers, being FCs other than financial institutions, are required to file claims in Form CA. While this form is less complex than those applicable to institutional creditors, it still requires supporting documentation and familiarity with insolvency terminology.

3.188. Judicial authorities have repeatedly acknowledged that homebuyers stand on a different footing from banks and financial institutions and that insolvency processes must be applied in a manner that does not impose disproportionate procedural burdens on them. The Courts have emphasised that insolvency is a collective, remedial mechanism and not a technical maze, particularly for non-institutional stakeholders.

3.189. Appellate fora have cautioned that procedural requirements should not defeat substantive rights, especially where the creditor's status and transaction are otherwise evident from project records, agreements for sale, or statutory disclosures.

3.190. The Committee agrees with the need to **simplify the claims filing process for homebuyers**, without diluting the integrity or discipline of the insolvency framework.

Recommendations of the Committee

3.191. ***Recommendation Nos. 52, 53, 54, 55 and 56***

3.191.1. ***The IBBI should consider prescribing a simplified, homebuyer-specific claim form, written in simple language, with minimal documentary requirements, amenable to the typical transaction structure of real estate allottees. Such a form should clearly indicate the options available to homebuyers—such as seeking possession, refund, or other relief—and should be easy to complete without professional assistance.***

3.191.2. ***The Committee recommends that the IBBI consider enabling Information Utility NeSL, to provide a simplified, electronic claim-filing facility specifically designed for homebuyers. Such a facility may allow homebuyers to submit claims through a centralised digital portal, with simplified data fields, guided workflows, and standardised document uploads, thereby reducing procedural complexity and reliance on intermediaries.***

3.191.3. ***To operationalise this approach, the Committee further recommends that Form CA for homebuyers may also be centralised on the Information Utility platform, so that homebuyers across projects and jurisdictions can file claims through a single, uniform interface. This would also facilitate efficient aggregation, verification, and retrieval of claim data by the RPs.***

3.191.4. ***The Committee notes that effective implementation of such a mechanism would require reliable project-level identifiers and therefore recommends that IU be enabled to link homebuyer claims to unique project identification numbers under RERA. Integration of RERA project registration numbers would allow claims to be mapped accurately to specific projects, improve data integrity, and support project-wise insolvency processes in real estate cases.***

3.191.5. ***The Committee reiterates that participation of homebuyers through IU should remain facilitative and enabling, and not mandatory. Non-filing through an IU should not prejudice the admission or treatment of a homebuyer's claim.***

G6. Treatment of claims of Banks and diversion of project funds

Issue Description

3.192. Stakeholders raised two related concerns in the context of real estate insolvency proceedings. First, it was suggested that claims of Banks should be admitted only to the extent that loan proceeds were actually deployed in the concerned real estate project, on the grounds that Banks often extend financing at a group or corporate level, portions of which may be

diverted to other projects or entities. Second, stakeholders strongly emphasised that diversion of homebuyer funds collected for a specific project should be treated as a fraudulent transaction, warranting recovery and clawback.

3.193. These suggestions were advanced with the objective of protecting homebuyers, ensuring project-level financial discipline, and preventing misuse of funds in real estate development projects.

Existing Legal and Regulatory Status

3.194. Under the Code, FCs' claims are admitted on the basis of legally enforceable debt owed by the CD, supported by loan agreements, security documents, IU records and disbursement records. The Code does not envisage project-wise bifurcation of an FC's claim at the admission stage based on end-use of funds, particularly where lending has been extended to the CD as a legal entity.

3.195. At the same time, the Code contains robust provisions to address fraudulent, preferential, undervalued, extortionate or wrongful transactions, including through Sections 43 to 51 and Section 66, which empower the Resolution Professional to seek appropriate reliefs, including reversal of transactions and clawback to the assets of the CD.

3.196. The Real Estate (Regulation and Development) Act, 2016, establishes a strict project-wise financial discipline. Section 4(2)(l)(D) of RERA mandates that seventy per cent of the amounts realised from allottees for a real estate project must be deposited in a separate account, to be used only for the cost of construction and land cost of that project, and withdrawals must be in proportion to project progress and certified by an engineer, architect, and chartered accountant. The State RERA Rules further operationalise this requirement and impose penal consequences for diversion or misuse of project funds.

Recommendations of the Committee

3.197. The Committee does **not agree** with the suggestion that Bank claims should be admitted only to the extent that loan proceeds were demonstrably deployed in the concerned real estate project. The Committee is of the view that such an approach would be inconsistent with the structure of the Code, which recognises financial creditors' claims based on legally enforceable debt owed by the CD, irrespective of subsequent utilisation of funds. Introducing project-level admissibility tests for Bank claims would create uncertainty, invite extensive factual disputes at the admission stage, and undermine credit discipline.

3.198. However, the Committee fully agrees that diversion of homebuyer funds or project-specific monies must be treated as a serious violation warranting stringent action.

3.199. ***Recommendation Nos. 57 and 58***

3.199.1. ***The Committee recommends that where amounts collected from allottees in violation of RERA's escrow and utilisation requirements are found to have been diverted, such transactions should be expressly examined by the RP as potential fraudulent or wrongful transactions under the Code and appropriate applications for clawback and recovery should be pursued.***

3.199.2. ***The Committee further recommends that RPs, in real estate insolvency cases, should actively examine compliance with Section 4(2)(l)(D) of RERA and the applicable State RERA Rules, including certification of withdrawals and end-use of funds. Findings of diversion or misuse should be clearly disclosed in the IM and placed before the CoC, and corrective action should be initiated through avoidance proceedings or coordination with the concerned authorities, as appropriate.***

H. Land Authority-Related Issues

H1. Landowner Rights and Joint Development Agreements (JDAs)

Issue Description

3.200. In several real estate insolvency cases, projects are undertaken on land that is either owned by third parties or developed pursuant to Joint Development Agreements (JDAs), lease deeds, or development licences. Stakeholders raised concerns that landowners or development authorities often exercise unilateral termination or cancellation rights during the pendency of CIRP, citing pre-CIRP defaults in payment of premiums, lease rent, or revenue share. Such actions frequently derail ongoing resolution processes, jeopardise project completion, and cause prejudice to homebuyers.

3.201. **It was therefore suggested that** JDA termination rights be regulated during CIRP **and that** unilateral lease cancellations be restrained once insolvency proceedings are admitted**.**

Existing Legal and Regulatory Status

3.202. Upon admission of CIRP, Section 14 of the Code imposes a moratorium prohibiting recovery, enforcement of security interests, and actions to foreclose, recover or enforce any right over the property of the CD. Where development rights, leasehold interests, or subsisting JDAs constitute assets of the CD, unilateral termination during moratorium has the effect of extinguishing value that the insolvency process seeks to preserve.

3.203. At the same time, land ownership is a constitutionally protected right, and the Code does not extinguish proprietary interests of landowners. The legal framework, therefore, requires a careful balance between preserving the resolution process and protecting legitimate landowner rights**.**

Judicial Guidance

3.204. Judicial authorities have repeatedly cautioned against unilateral termination of land rights or development agreements during the CIRP. In Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta, the Hon'ble Supreme Court held that termination of contracts solely on account of insolvency, where such termination would defeat the resolution process, is impermissible. While the case did not concern real estate per se, the principle has been applied in insolvency cases involving JDAs and development agreements.

3.205. In matters involving development authorities, the NCLAT has held that post-CIRP cancellation of leases or development rights based on pre-CIRP dues is inconsistent with the moratorium, as such actions undermine the resolution process and adversely affect other stakeholders, including homebuyers.

Recommendations of the Committee

3.206. ***Recommendation Nos. 59 and 60***

3.206.1. ***The Committee recommends that termination of JDAs, development agreements, or cancellation of leasehold rights during CIRP should not be permitted solely based on pre-CIRP defaults, except with prior approval of the Adjudicating Authority. Any exercise of termination rights during CIRP should be subject to judicial scrutiny to ensure that it does not frustrate project completion or the resolution process.***

3.206.2. ***The Committee further recommends that landowners and development authorities be treated as key stakeholders whose rights must be addressed through the resolution plan, rather than enforced unilaterally during CIRP. This approach balances the protection of landowner interests with the overriding objective of project completion and value maximisation.***

H2. Finality of dues of Development Authorities

Issue Description

3.207. Stakeholders highlighted recurring instances where development authorities such as NOIDA, Greater NOIDA and other urban development bodies raise **fresh or retrospective demands**—including interest, penalties or revised premiums—after a resolution plan has been approved by the AA. Such post-approval claims often arise despite prior settlements being incorporated in the resolution plan and materially affect the viability of resolution plan implementation and project revival. It was therefore suggested that settlements with development authorities, once incorporated in an approved resolution plan, must attain finality**.**

Existing Legal and Regulatory Status

3.208. In resolution processes concerning real estate projects, land development authorities such as NOIDA, Greater Noida Industrial Development Authority (GNIDA), and Yamuna Expressway Industrial Development Authority (YEIDA) are accorded the treatment of secured operational creditors (through orders of the Hon'ble Supreme Court) under Section 53 of the Code, thereby entitling them to a higher priority in the distribution of the proceeds ranking above other stakeholders such as unsecured FCs and Central/State Government. These authorities are, by and large, treated on the same footing as secured FCs, i.e. Banks, financial institutions, etc.

3.209. Under Section 31 of the Code, once a resolution plan is approved by the AA, it becomes binding on the CD and all stakeholders, including Central and State Governments, local authorities, and statutory bodies to whom dues are owed. The statutory intent is to ensure certainty and provide a clean slate to the resolution applicant, subject to the terms of the approved plan.

3.210. The Hon'ble Supreme Court in **Ghanashyam Mishra and Sons Pvt. Ltd. vs. Edelweiss Asset Reconstruction Company Ltd**., authoritatively held that all claims, including statutory dues, that are not provided for in the approved resolution plan stand extinguished, and no authority is entitled to initiate or continue proceedings in respect of such claims thereafter.

Recommendation of the Committee

3.211. ***Recommendation Nos. 61 and 62***

3.211.1. ***The Committee strongly recommends that treatment of*** *dues of the land-owning and development authorities, once incorporated in an approved resolution plan, must be treated as final and binding****, and no retrospective or additional demands should be raised thereafter in respect of the same period or obligations.***

3.211.2. ***The Committee further recommends IBBI to issue clear*** *regulatory guidance* ***to State Governments and appropriate bodies, emphasising the binding nature of approved resolution plans , to reduce post-resolution litigation and enhance certainty for resolution applicants in real estate insolvency cases.***

H3. Participation of Land-Owning and Development Authorities in the Resolution Process

Issue Description

3.212. In real estate insolvency proceedings, land-owning and development authorities such as NOIDA, Greater NOIDA, and other statutory urban development bodies play a determinative role in the feasibility and implementation of resolution plans. Their involvement

arises from control over land titles, grant and renewal of leases, approval of layouts and building plans, and issuance of completion or occupation certificates. Stakeholders therefore suggested that such authorities should have a structured and predictable role in the insolvency resolution process to avoid delays arising from lack of coordination, regulatory uncertainty, or post-approval disputes and litigation.

Existing Legal and Regulatory Status

3.213. Under the Code, membership and voting rights in the CoC are determined strictly based on classification as the FCs under Section 5(8) of the Code. Development authorities' dues—such as lease premium, ground rent, interest, penalties, or transfer charges—have consistently been treated as operational debt, and such authorities have been adjudicated to be secured operational creditors, and these do not form part of the CoC as voting members.

3.214. At the same time, the CIRP Regulations, 2016 expressly provide for the participation of real estate regulators in the CoC meetings, recognising the unique nature of real estate insolvency. Regulation 18(4) of the CIRP Regulations specifically provides as follows: *"Where the corporate debtor has any real estate project, the committee may direct the resolution professional to invite the 'competent authority' as defined in clause (p) of section 2 of the Real Estate (Regulation and Development) Act, 2016 related to such project to attend such meeting(s) of the committee, as the committee may decide, without voting rights, for providing inputs on matters associated with the development of such project."*

3.215. This provision reflects a conscious regulatory design to ensure that RERA and land authorities are institutionally integrated into the insolvency resolution process for real estate projects, while preserving the commercial decision-making authority of the FCs. The role of the competent authority is advisory in nature, intended to assist the CoC and the Resolution Professional on issues relating to project development, regulatory compliance, timelines, and approvals.

Recommendations of the Committee

3.216. The Committee does not recommend any alteration to the statutory classification of land-owning or development authorities as operational creditors, nor does it recommend conferring voting rights upon them in the Committee of Creditors.

3.217. However, the Committee **reiterates and emphasises the importance of consistent and purposive application of Regulation 18(4) of the CIRP Regulations in real estate insolvency cases**. The Committee is of the view that disciplined use of Regulation 18(4) will significantly enhance coordination between the insolvency framework and the real estate regulatory regime, reduce post-approval friction, and improve the credibility and implementation of resolution plans in real estate insolvency proceedings.

3.218. ***Recommendation Nos. 63 and 64***

3.218.1. ***The Committee recommends that, in real estate insolvency cases, development authorities and the concerned RERA authority should actively participate in meetings of the CoC as non-voting participants. Such authorities should proactively engage with the CoC and the RP, in line with the enabling framework under the CIRP Regulations. Such participation should enable the competent authority to provide timely inputs on:***

a. ***regulatory compliance under RERA;***

b. ***status of project registration and approvals;***

c. ***feasibility of proposed construction timelines;***

d. ***requirements for completion and occupation certification; and***

e. ***alignment of the resolution plan with consumer protection objectives.***

3.218.2. ***The Committee further recommends that the scope of participation of the competent authority be clearly delineated as advisory, so that while regulatory inputs are duly considered, commercial decisions and voting remain exclusively with the FCs, in accordance with the Code.***

I. Slum rehabilitation issues

I1. Treatment of Slum Dwellers in Real Estate Insolvency

Issue Description

3.219. In real estate insolvency cases involving slum redevelopment or rehabilitation projects, concerns were raised regarding the treatment of slum dwellers whose entitlement arises not from a financial transaction but from statutory rehabilitation obligations. Stakeholders emphasised that slum dwellers are frequently affected by insolvency proceedings despite not being conventional creditors under the Code, leading to uncertainty regarding their rights and the manner in which rehabilitation commitments are to be honoured during and after the CIRP.

Existing Legal and Regulatory Status

3.220. Under the Code, only persons to whom a financial debt or operational debt is owed qualify as creditors. Slum dwellers do not fall within the definition of either FCs under Section 5(7) read with Section 5(8), or operational creditors under Section 5(20) read with Section 5(21) of the Code. Their rights are not monetary claims against the CD but **rehabilitation entitlements arising from statutory schemes**, particularly under state slum rehabilitation laws and policies.

3.221. In jurisdictions such as Maharashtra, slum redevelopment is governed by specialised statutory frameworks administered by authorities such as the Slum Rehabilitation Authority (SRA), which certify the eligibility of slum dwellers and prescribe rehabilitation obligations as an integral component of the development project.

Judicial Guidance

3.222. Judicial authorities have consistently recognised that slum dwellers' rights in redevelopment projects are **distinct from creditor claims** and must be protected as part of the project's statutory and social obligations. Courts have emphasised that insolvency proceedings cannot be permitted to extinguish or sidestep rehabilitation commitments embedded in project approvals, as these obligations form the very foundation on which development rights are granted.

3.223. At the same time, tribunals have clarified that slum dwellers cannot be inducted into the Committee of Creditors or treated as financial or operational creditors, as doing so would be inconsistent with the statutory scheme of the Code.

Recommendations of the Committee

3.224. The Committee is of the considered view that the rights and entitlements of slum dwellers arise from statutory rehabilitation and resettlement frameworks and are distinct in character from financial or commercial claims addressed under the Code. Accordingly, the Committee emphasises that such rehabilitation obligations should be preserved and addressed through appropriate provisions in the resolution plan, rather than being reduced to or substituted by monetary claims within the insolvency process.

3.225. ***Recommendation Nos. 65 and 66***

3.225.1. ***The Committee strongly recommends that rehabilitation obligations towards slum dwellers must be mandatorily provided for in resolution plans wherever the real estate project involves slum redevelopment or rehabilitation components. Resolution plans should clearly specify the manner, timelines, and responsibility for completion of rehabilitation units, consistent with the approvals granted by the competent authority.***

3.225.2. ***The Committee further recommends that Resolution Professionals ensure that statutory rehabilitation obligations are identified, and disclosed in the IM, and preserved as non-negotiable project requirements, so that insolvency resolution does not result in displacement of vulnerable populations or dilution of public welfare objectives embedded in slum redevelopment schemes.***

I2. Mandatory Inclusion of Slum Rehabilitation Authorities and Slum Dweller Representatives

Issue Description

3.226. Stakeholders highlighted that insolvency proceedings in slum redevelopment projects often suffer from a lack of institutional coordination with slum rehabilitation authorities and the absence of structured representation of slum dwellers. This results in delays, post-approval disputes, and uncertainty regarding compliance with rehabilitation obligations, thereby undermining both project completion and social welfare objectives.

3.227. It was therefore suggested that Slum Rehabilitation Authorities and recognised slum dweller representatives be mandatorily involved as participants in the meetings of the CoC, with no voting rights and plan monitoring committee in real estate insolvency proceedings involving rehabilitation projects.

Existing Legal and Regulatory Status

3.228. Slum redevelopment projects are approved, monitored, and regulated by designated statutory authorities, such as the Slum Rehabilitation Authority in Maharashtra, which certify eligibility of slum dwellers, approves rehabilitation layouts, and oversees compliance with statutory conditions. These authorities exercise continuing regulatory oversight over the project even after insolvency commencement.

3.229. While the Code does not classify Slum Rehabilitation Authorities or slum dwellers as creditors, the CIRP framework permits involvement of non-creditor stakeholders whose participation is necessary for effective resolution and implementation of resolution plans, particularly in sector-specific insolvencies.

Recommendations of the Committee

3.230. ***Recommendation Nos. 67 and 68***

3.230.1. ***The Committee recommends that in real estate insolvency cases involving slum redevelopment or rehabilitation projects, the concerned Slum Rehabilitation Authority should be engaged as a participant in CoC meetings with no voting rights, particularly at stages relating to formulation, approval, and implementation of the resolution plan, and included in the plan monitoring committee.***

3.230.2. ***The Committee further recommends that recognised slum dweller societies or representatives, as certified by the competent authority, be associated with the process in an appropriate and structured manner, to ensure transparency, accurate identification of beneficiaries, and smooth implementation of rehabilitation obligations. Such participation should be advisory and facilitative in nature, aimed at:***

a. ***ensuring that rehabilitation commitments are clearly incorporated in the IM and subsequently in the resolution plan;***

b. ***resolving eligibility and compliance issues at an early stage; and***

c. ***preventing post-approval disputes and litigation that could delay or derail project completion.***

3.231. The Committee emphasises that this approach does not alter the creditor hierarchy under the Code but rather ensures that **statutory rehabilitation obligations and public interest considerations are effectively integrated into the insolvency resolution process**, thereby enhancing the feasibility, legitimacy, and social acceptability of real estate resolution plans.

J. Authorised Representatives and Homebuyer Participation

J1. Strengthening Independence and Accountability of Authorised Representatives (ARs)

Issue Description

3.232. In real estate insolvency proceedings, homebuyers participate in the CIRP primarily through an AR, who acts as the sole interface between a large and dispersed class of retail allottees and the CoC. While structured consultation mechanisms address *how* homebuyers' views are elicited before key decisions, the effectiveness of such consultation is ultimately dependent on the independence, diligence, and accountability of the AR who facilitates and represents those views.

3.233. Stakeholder experience placed before the Committee indicates that, in several CIRPs, deficiencies in the conduct of the AR such as inadequate disclosures, limited engagement beyond procedural voting, and insufficient explanation of complex resolution proposals—have undermined homebuyer confidence in the representation framework. These concerns are distinct from, but closely related to, the absence of structured consultation processes. Even where consultation is formally undertaken, the absence of clear standards governing AR independence and reporting weakens the credibility of outcomes.

3.234. Given the scale of homebuyer participation and the long-term consequences of insolvency outcomes on possession, financial obligations, and legal rights, the AR's role must go beyond mechanical aggregation of votes and function as a fiduciary-like representation mechanism within the insolvency framework.

Existing Legal and Regulatory Status

3.235. The Code recognises homebuyers as the FCs forming a class and provides for the appointment of an AR to attend the CoC meetings and cast votes on their behalf. The CIRP

Regulations prescribe the mechanism for the selection of the AR, dissemination of notices and agenda, conduct of electronic voting, and casting of votes based on instructions received from creditors in the class.

3.236. Recent regulatory amendments have strengthened informational obligations by requiring the ARs to circulate agenda items and explain salient aspects of resolution plans and other proposals before voting. These provisions are intended to reduce information asymmetry and ensure informed participation. However, the regulatory framework does not presently prescribe explicit independence standards for the ARs, such as mandatory disclosure of prior professional or commercial relationships with the CD, FCs, or resolution applicants. Nor does it lay down comprehensive norms on periodic reporting, documentation of engagement, or accountability for failures in representation.

3.237. While the regulations enable consultation, they do not ensure its quality or integrity. The absence of clear independence and accountability benchmarks results in uneven practices across the CIRPs and weakens confidence in the representative mechanism.

Stakeholder Submissions and Views

3.238. Homebuyer associations consistently emphasised that the AR is the fulcrum of effective homebuyer participation and that deficiencies in independence or accountability directly translate into disenfranchisement of allottees. They submitted that the ARs should be subject to clear disclosure obligations regarding potential conflicts of interest and should be required to actively explain the legal and commercial implications of the CoC decisions, particularly resolution plans.

3.239. Stakeholders highlighted that, in several cases, homebuyers approved plans without fully appreciating embedded conditions, deferred possession schedules, or future financial commitments, due to limited guidance from the ARs. It was pointed out that even where consultations were nominally held, the absence of structured reporting and audit trail made it difficult to assess whether homebuyer concerns were meaningfully reflected in the voting decisions.

3.240. Regulators, experts, and former adjudicating authority members stressed that the ARs in real estate CIRPs perform a function akin to a fiduciary intermediary for retail stakeholders and should therefore be held to higher standards of independence, diligence, and transparency than what is presently articulated in the regulations. They emphasised that strengthened AR accountability would complement, rather than duplicate, structured consultation mechanisms.

Analysis and Considerations of the Committee

3.241. The Committee considers that structured consultation with homebuyers and the AR accountability are complementary but distinct pillars of effective homebuyer participation. While structured consultation ensures that homebuyer views are systematically elicited before

key decisions, robust standards for AR independence and accountability ensure that such consultation is conducted impartially, explained competently, and represented faithfully in the CoC deliberations.

3.242. The Committee is of the view that without clear independence standards and reporting obligations, structured consultation risks becoming a procedural formality rather than a substantive safeguard. Conversely, imposing accountability obligations on the ARs without prescribing consultation processes would not adequately address the information and participation deficits faced by homebuyers.

3.243. At the same time, the Committee recognises that ARs operate within tight statutory timelines and resource constraints. Any enhancement of obligations must therefore be proportionate, technology-enabled, and capable of uniform implementation without delaying the CIRP.

Recommendations of the Committee

3.244. The Committee recommends that the regulatory framework governing the ARs in real estate insolvency proceedings be strengthened to ensure independence, transparency, and accountability.

3.245. ***Recommendation Nos. 69, 70, 71, 71, 72, 73 and 74***

3.245.1. ***The Committee recommends enabling creditors in a class to make an informed choice of selecting an AR by providing access to a brief profile of the proposed authorised representatives along with a brief note on the role and duties of an authorised representative.***

3.245.2. ***The Committee recommends that the ARs be subject to explicit independence standards, including mandatory disclosure of any past or present professional, financial, or other material relationships with the CD, major FCs, PRAs, or related parties. Such disclosures should be made at the time of appointment and communicated to all homebuyers.***

3.245.3. ***The Committee further recommends that ARs be required to adhere to minimum communication and reporting standards, including issuance of an initial explanatory note outlining their role and responsibilities, periodic updates on material developments in the CIRP, and reasoned summaries explaining the basis on which voting decisions would be cast on behalf of the class. These obligations should operate alongside, and not substitute, the structured consultation processes prescribed for key CoC decisions.***

3.245.4. ***The Committee recommends requiring the AR to submit the record of discussions of meetings held with creditors in the class, to the IRP/RP for inclusion in the minutes of the CoC meeting.***

3.245.5. ***The ARs should also be required to maintain proper records of communications, voting instructions, and explanatory materials, creating an audit trail to support transparency and accountability.***

3.245.6. ***Material or repeated non-compliance with disclosure, consultation, or reporting obligations should be treated as a serious professional lapse and attract appropriate regulatory scrutiny and disciplinary action, with due regard to the prejudice caused to homebuyers.***

J2. Facilitation and Legal Awareness for Homebuyers in Real Estate Insolvency

Issue Description

3.246. Real estate insolvency proceedings under the Code involve complex legal, financial, and technical issues, including complex resolution plans, project-specific funding arrangements, differentiated treatment of stakeholders and conditional implementation milestones. For most homebuyers—who are retail consumers rather than well informed financial experts —these complexities pose significant challenges to meaningful participation in the CIRP.

3.247. Many homebuyers may lack the legal and financial literacy required to fully understand the CIRP documentation, voting implications, and the long-term consequences of resolution plans. In the absence of structured facilitation or accessible explanatory tools, homebuyers often rely on incomplete summaries, informal peer discussions, or ad hoc legal advice. This may result in uninformed voting, subsequent grievances, and post-approval litigation, thereby undermining the objective of timely, stable, and consensual resolution of stressed real estate projects.

Existing Legal and Regulatory Status

3.248. The existing framework primarily focuses on the transmission of information and procedural participation. It does not expressly provide for dedicated facilitation or legal awareness mechanisms—such as standardised explanatory materials, trained facilitators, or coordinated guidance—to assist homebuyers in understanding complex legal and financial aspects of real estate insolvency proceedings. Nor does it prescribe qualitative standards for explanations or structured legal support for homebuyers beyond the role performed by the ARs.

Stakeholder Submissions and Views

3.249. Homebuyer associations strongly emphasised the need for structured facilitation and legal awareness support, noting that most allottees are first-time participants in insolvency proceedings. They submitted that the circulation of lengthy documents and voting links, without contextual explanation, is insufficient and often counterproductive. Stakeholders

suggested the use of facilitators, plain-language summaries, and structured explanatory sessions to enable informed decision-making.

3.250. Experts and regulators concurred that enhanced legal awareness would improve the quality and legitimacy of the CoC decisions, reduce post-approval disputes and litigation. It was noted that informed stakeholders are more likely to accept commercially viable outcomes when they understand the trade-offs involved, whereas inadequate facilitation often leads to resistance and litigation at the resolution plan implementation stage.

Analysis and Considerations of the Committee

3.251. The Committee is of the view that facilitation and legal awareness are essential enablers of meaningful homebuyer participation in real estate insolvency proceedings. These measures complement, but do not substitute, the reforms relating to structured consultation with homebuyers and the strengthening of the AR independence and accountability.

3.252. The Committee recognises that facilitation mechanisms must be scalable, technology-enabled, and capable of operating within the time-bound framework of the CIRP, without imposing disproportionate costs on the resolution estate.

Recommendations of the Committee

3.253. ***Recommendation Nos. 75, 76 and 77***

3.253.1. ***In large real estate CIRPs involving substantial numbers of homebuyers, the Committee recommends that Authorised Representatives be expressly permitted and encouraged, with approval of the Committee of Creditors, to engage suitably qualified facilitators or legal experts to assist in explaining legal and financial issues to homebuyers through group sessions, webinars, interactive briefings, or written explanatory notes. The Committee further recommends that reasonable costs incurred for such facilitation be treated as CIRP costs, subject to appropriate oversight.***

3.253.2. ***The Committee also recommends that IBBI, in coordination with RERA authorities, develop sector-specific guidance documents, model presentations, and online awareness modules explaining homebuyer rights, obligations, and choices in real estate insolvency proceedings. These materials should be designed for use by Resolution Professionals and Authorised Representatives to ensure consistency, accessibility, and clarity in communications with the homebuyers.***

3.253.3. ***Further, the Committee recommends that minimum content standards be prescribed for communications by the Authorised Representatives when circulating resolution plans and the key CoC agenda items. Such communications should mandatorily include simple explanations of proposed possession timelines, additional financial***

contributions (if any), differential treatment of categories of homebuyers, and material risks, conditions, or contingencies attached to the resolution plan.

K. Resolution Professionals and Process Governance

K1. Project-Specific Resolution Professionals and Project-Level Oversight

Issue Description

3.254. Real estate CDs frequently undertake multiple projects, each involving distinct land parcels, regulatory approvals, financing arrangements, contractors, and homebuyer cohorts. These projects often differ significantly in stage of completion, viability, and stakeholder composition. In insolvency proceedings involving such developers, particularly where project-wise resolution is contemplated, the challenge lies in ensuring adequate project-level focus and oversight within the CIRP.

3.255. Stakeholders highlighted that, in large multi-project developers, a single RP managing all projects may face capacity constraints, resulting in uneven attention, delayed decision-making, and difficulty in tailoring resolution strategies to project-specific realities. These concerns are accentuated in real estate insolvency, where outcomes are closely linked to construction progress, regulatory coordination, and engagement with project-level homebuyers and authorities.

Existing Legal and Regulatory Status

3.256. The Code provides for the appointment of a single IRP and, thereafter, a single RP in respect of a CD admitted to CIRP. The RP is entrusted with managing the affairs of the CD as a whole, preserving assets, collating claims, preparing the IM, and conducting the resolution process under the supervision of the CoC.

3.257. The CIRP Regulations do not provide for the appointment of multiple RPs for different projects of the same CD. However, they permit the RP, with CoC approval, to appoint professionals, advisors, consultants, and other support personnel to assist in discharging duties. In practice, RPs in real estate CIRPs routinely engage project managers, engineers, architects, valuers, legal advisors, and site-level teams to oversee individual projects under a unified RP structure.

Stakeholder Submissions and Views

3.258. Stakeholders broadly supported the need for stronger project-level oversight in real estate insolvency. Homebuyer representatives and practitioners submitted that project-wise supervision improves responsiveness to local conditions, coordination with RERA and land authorities, and monitoring of construction and cash flows. It was suggested that in cases

involving multiple large projects, a project-specific approach to professional oversight is essential for effective resolution.

3.259. At the same time, concerns were raised that the appointment of multiple RPs within a single CIRP could increase costs, create coordination challenges, and dilute accountability, unless accompanied by clear allocation of responsibilities and reporting lines. Several stakeholders, therefore, favoured strengthening project-level support structures under a single RP, rather than fragmenting the statutory role of the RP.

Analysis and Considerations of the Committee

3.260. The Committee notes that its recommendation for **project-wise admission of CIRP** provides a natural and legally coherent basis for **project-specific appointment of RPs**. Where CIRP is admitted separately for distinct projects, each such CIRP may appropriately be managed by its own RP, consistent with the Code.

3.261. However, where the **entire CD is admitted to CIRP**, the Committee recognises that the Code envisages **only one RP**. In such cases, introducing multiple RPs for different projects would be inconsistent with the current statutory architecture and may create fragmentation in decision-making and the CoC governance.

3.262. The Committee observes that, even within the existing framework, RPs already adopt **project-wise operational structures** by appointing assistants, project managers, engineers, and consultants to oversee individual projects. This practice aligns with the operational realities of real estate insolvency and can be strengthened through formal recognition and guidance.

3.263. The Committee also notes that **Insolvency Professional Entities (IPEs)** are particularly well-suited to manage large, complex real estate CIRPs involving multiple projects, as they can deploy multidisciplinary teams, ensure continuity, and maintain internal controls across projects, while preserving a single point of statutory accountability.

Recommendations of the Committee

3.264. The Committee recommends that the framework for the appointment and functioning of RPs in real estate insolvency be applied and strengthened in a manner consistent with project-wise resolution principles and the existing statutory structure.

3.265. ***Recommendation Nos. 78, 79 and 80***

3.265.1. ***Where CIRP is admitted on a project-wise basis, the Committee recommends that each such project-wise CIRP be managed by a separate RP, preferably a sector specialist, appointed in accordance with the Code and Regulations.***

3.265.2. ***Where the entire CD is admitted to CIRP, the Committee recommends that a single RP continue to be appointed for all projects, in line with the Code. In such cases, the Committee recommends that the RP be expressly enabled and encouraged to appoint project-level assistants, technical experts, and support teams to oversee individual projects, a practice already followed under the existing regulatory framework.***

3.265.3. ***The Committee further recommends that, in large multi-project real estate CIRPs, preference be given to appointment of IPEs as RPs, given their capacity to deploy specialised, project-wise teams while maintaining unified control, governance, and accountability.***

3.266. The Committee is of the view that this approach appropriately balances **project-level focus and operational efficiency** with the need for **statutory coherence, cost control, and clear accountability**, and is fully consistent with both the Code and the Committee's broader recommendations on project-wise insolvency resolution in the real estate sector.

K2. Operational Autonomy of Resolution Professionals

Issue Description

3.267. Real estate insolvency proceedings require the RP to manage projects as going concerns, including engagement with contractors, coordination with regulatory authorities, and supervision of construction activities. Given the time-sensitive nature of construction and approvals, stakeholders expressed concerns that delays may arise where the RPs adopt an overly cautious approach and seek frequent directions or approvals for operational matters.

3.268. At the same time, real estate projects involve significant public interest, large numbers of retail homebuyers, and high-value assets, making operational decisions particularly sensitive. Any imbalance between autonomy and oversight has the potential to affect project timelines, stakeholder confidence, and the integrity of the insolvency process.

Existing Legal and Regulatory Status

3.269. Under the Code, the RP is vested with wide managerial powers to preserve and protect the assets of the CD and to manage its operations as a going concern during the CIRP. Section 25 of the Code places responsibility on the RP to take custody and control of assets, appoint professionals, raise interim finance (with approval), and perform such actions as may be specified by the Board.

3.270. At the same time, Section 28 of the Code provides a clearly defined set of actions that require prior approval of the CoC, including matters that materially affect the rights of creditors or the value of the estate. The CIRP Regulations further require transparency, reporting, and procedural discipline, and the RP remains subject to oversight of the CoC and the AA, as well as regulatory supervision of the IPA and the Board.

3.271. Over time, these safeguards have been progressively refined through legislative amendments, regulatory interventions, and judicial interpretation, in response to stakeholder feedback and practical experience.

Stakeholder Submissions and Views

3.272. Some stakeholders suggested that RPs in real estate CIRPs should be granted greater express autonomy to take routine operational decisions without recourse to the AA, in order to avoid delays in construction and regulatory compliance. It was argued that excessive caution or frequent applications for directions could slow project execution and undermine resolution objectives.

3.273. Other stakeholders, including regulators and experts, cautioned that any dilution of existing safeguards could expose homebuyers and creditors to risks of mismanagement, particularly given the sensitivity of real estate projects and the history of fund diversion and governance failures in the sector. They emphasised that the CoC oversight and the AA supervision are essential checks that protect stakeholder interests and maintain confidence in the insolvency framework.

Analysis and Considerations of the Committee

3.274. The Committee carefully considered the balance between operational efficiency and institutional safeguards. It notes that the existing legal framework already provides RPs with **substantial operational autonomy** to manage the affairs of the CD, subject to clearly articulated checks and balances. The requirement of the CoC approval under Section 28 is limited to specified material actions, while the RP retains discretion to manage day-to-day operations within approved budgets and commercial parameters.

3.275. The Committee also observes that RPs already exercise operational autonomy in practice, including by engaging project managers, technical experts, and consultants, and by taking routine decisions necessary to keep projects operational. The oversight of the CoC and the availability of recourse to the AA serve as essential safeguards, particularly in real estate insolvency, where stakeholder interests are diverse and highly sensitive.

3.276. Importantly, the Committee is of the view that **any dilution of these safeguards is neither necessary nor desirable**, especially in the context of real estate projects involving large numbers of homebuyers. The existing framework has evolved to strike an appropriate balance between managerial autonomy and accountability, and weakening this balance could undermine stakeholder confidence and invite misuse.

Recommendation of the Committee

3.277. ***Recommendation No. 81***

3.277.1. ***The Committee recommends that no dilution of the existing statutory and regulatory safeguards governing the operational autonomy of RPs be undertaken, particularly in real estate insolvency proceedings.***

3.277.2. ***The Committee affirms that RPs already possess adequate operational autonomy under the Code and the CIRP Regulations to manage real estate projects as going concerns, subject to oversight of the CoC and supervision of the AA.***

3.277.3. ***The Committee further recommends that the existing framework of the CoC approvals under Section 28, judicial oversight by the AA, and regulatory supervision by the Board be retained, as these safeguards are necessary to protect the interests of homebuyers, creditors, and other stakeholders, and have been progressively strengthened based on stakeholder experience.***

3.278. The Committee is of the view that **operational challenges in real estate CIRPs should be addressed through better planning, use of professional support teams, and effective engagement with stakeholders**, rather than by expanding RP discretion in a manner that could weaken accountability. The present legal and regulatory architecture strikes an appropriate balance between efficiency and protection and should be allowed to operate without dilution.

K3. Professional Standards and Capacity of Insolvency Professionals for Real Estate Insolvency

Issue Description

3.279. Real estate insolvency proceedings involve distinctive challenges, including multi-project structures, extensive homebuyer participation, complex regulatory interfaces with RERA and local authorities, and technically intensive requirements relating to construction, approvals and project completion. Stakeholders noted that the effectiveness of CIRP outcomes in the real estate sector depends significantly on the competence, preparedness and practical experience of insolvency professionals handling such cases.

3.280. Concerns were expressed regarding variability in approaches adopted by RPs across real estate CIRPs, particularly in relation to claims management, engagement with homebuyers, coordination with statutory authorities, and monitoring of project progress. This variability, it was submitted, can lead to inconsistent outcomes, increased disputes and diminished stakeholder confidence, especially in cases involving large numbers of retail allottees.

Existing Legal and Regulatory Status

3.281. The Code and the regulations framed thereunder prescribe a **uniform framework of eligibility, duties and professional conduct** applicable to insolvency professionals across all sectors. Insolvency professionals are governed by a detailed Code of Conduct requiring integrity, independence, objectivity, competence, diligence and accountability, and are subject to registration, inspection and disciplinary oversight by the Board and recognised Insolvency Professional Agencies (IPAs).

3.282. The existing framework does not differentiate professional conduct standards on a sector-specific basis. However, it places a continuing obligation on insolvency professionals to maintain professional knowledge, act with due care, and seek appropriate expertise where required, including through appointment of technical experts, valuers and consultants in complex matters such as real estate CIRPs.

Stakeholder Submissions and Views

3.283. Several stakeholders suggested that the absence of real estate-specific professional standards leads to uneven practices among RPs and proposed the creation of sector-specific conduct benchmarks addressing familiarity with RERA, real estate finance, construction timelines and large-scale homebuyer engagement.

3.284. At the same time, other stakeholders, including practitioners and regulators, cautioned that introducing separate conduct standards for specific sectors could fragment the insolvency profession, create compliance complexity, and undermine the principle of a uniform, profession-wide ethical and regulatory framework. They emphasised that the existing Code of Conduct is sufficiently comprehensive to address misconduct or incompetence across all sectors, including real estate.

3.285. There was, however, a broad consensus on the need for **specialised training, structured capacity building, and dissemination of best practices** to support IPs handling real estate assignments.

Analysis and Considerations of the Committee

3.286. The Committee carefully examined whether real estate insolvency warrants a separate set of professional conduct standards for insolvency professionals. The Committee is of the considered view that **the existing statutory and regulatory framework governing insolvency professionals is robust, sector-agnostic and sufficiently comprehensive** to address professional conduct, independence, competence and accountability across all types of CIRPs.

3.287. The Committee notes that the Code of Conduct already requires insolvency professionals to act with due diligence, professional competence and care, and to take

assistance of experts where the nature of the assignment so requires. Creating separate conduct standards for real estate cases risks unnecessary fragmentation, regulatory overlap and interpretive uncertainty, without commensurate benefit.

3.288. At the same time, the Committee recognises that **real estate insolvency requires enhanced sectoral understanding and practical skills**, and that targeted capacity building, structured guidance and institutional learning can significantly improve consistency and quality of outcomes, without altering the underlying professional conduct framework.

Recommendations of the Committee

3.289. ***Recommendation Nos. 82 and 83***

3.289.1. ***The Committee recommends that no separate or sector-specific professional conduct standards be prescribed for insolvency professionals handling real estate insolvency cases, and that the existing Code of Conduct and regulatory framework applicable to insolvency professionals be continued uniformly across sectors.***

3.289.2. ***At the same time, the Committee strongly recommends the following supportive and capacity-building measures:***

- ***a. Specialised Capacity-Building Programmes: IPAs, in coordination with IBBI, should organise specialised training and continuing professional education programmes for insolvency professionals handling or intending to handle real estate CIRPs, focusing on RERA frameworks, project finance, construction management, homebuyer engagement and coordination with local authorities.***
- ***b. Dissemination of Best Practices and SOPs: IBBI and IPAs should compile and disseminate best practices, standard operating procedures and illustrative templates relating to real estate insolvency, including project-wise claims handling, technical viability assessment, escrow and ring-fencing mechanisms, and structured communication with homebuyers.***
- ***c. Knowledge-Sharing and Institutional Learning: Platforms may be developed by IPAs and IBBI to facilitate experience-sharing, case studies and peer learning among insolvency professionals involved in real estate CIRPs, to promote consistency and continuous improvement.***
- ***d. Use of Multidisciplinary Expertise: Insolvency professionals should be encouraged to proactively engage technical, legal and financial experts in real estate cases, as permitted under the existing framework, to supplement their expertise while retaining overall responsibility and accountability.***

L. Timelines, Planning and Monitoring

L1. Real Estate–Specific CIRP Timelines

Issue Description

3.290. Real estate insolvency proceedings often involve large numbers of homebuyers, project-wise financial structures, and coordination with multiple regulatory and statutory authorities. Stakeholders highlighted that these features add operational complexity to key stages of the CIRP, including claim verification, technical assessment, and formulation of resolution plans.

3.291. Concerns were raised that, in practice, these complexities can strain the statutory timelines prescribed under the Code, leading to requests for extensions and prolonged uncertainty. Stakeholders suggested that the uniform application of CIRP timelines across all sectors does not fully reflect the distinctive characteristics of real estate insolvency and may contribute to delays or compressed decision-making.

Existing Legal and Regulatory Status

3.292. Section 12 of the Code mandates completion of the CIRP within 180 days from the insolvency commencement date, extendable once by 90 days, subject to an overall outer limit of 330 days, including time taken in legal proceedings. The CIRP Regulations prescribe detailed, stage-wise timelines for key procedural steps such as public announcement, claim submission and verification, constitution of the Committee of Creditors, preparation of the information memorandum, and invitation and consideration of resolution plans.

3.293. These timelines are **sector-agnostic** and apply uniformly to all CDs. The statutory design reflects a conscious legislative choice to impose strict temporal discipline on insolvency proceedings, irrespective of sectoral complexity, to prevent value erosion and ensure certainty. Judicial pronouncements have consistently emphasised that adherence to timelines is a core objective of the Code and that extensions are to be granted sparingly.

Stakeholder Submissions and Views

3.294. Stakeholders suggested that real estate CIRPs may benefit from sector-specific staging of timelines, particularly to accommodate large-scale homebuyer claim processing, technical viability assessments, and coordination with the RERA and local authorities. It was argued that structured, real estate-specific timelines could improve the quality of resolution plans and reduce reliance on ad hoc extensions.

3.295. At the same time, other stakeholders cautioned that introducing sector-specific timelines could dilute the discipline embedded in the Code, create uncertainty, and invite similar demands from other sectors. They emphasised that the challenges in real estate CIRPs

should be addressed through better planning, early data collation, and efficient process management within the existing statutory timelines.

Analysis and Considerations of the Committee

3.296. The Committee carefully considered the submissions and notes that **the CIRP timelines prescribed under the Code and Regulations are a foundational element of the insolvency framework**, designed to ensure expedition, predictability and value maximisation across all sectors. The Committee is of the view that **real estate insolvency, despite its complexity, does not warrant a departure from this sector-agnostic approach**.

3.297. The Committee observes that delays in real estate CIRPs are often attributable not to inadequacy of timelines per se, but to **process inefficiencies, late collation of project-level information, delayed technical assessments, and litigation**. These issues can and should be addressed through improved preparation, use of professional assistance, and timely stakeholder engagement, rather than by altering statutory timelines.

3.298. The Committee further notes that the existing framework already allows sufficient flexibility within the outer limit, while preserving the imperative of timely completion. Any relaxation or sector-specific recalibration of timelines risks undermining discipline, encouraging extensions, and eroding the certainty that the Code seeks to achieve.

Recommendation of the Committee

3.299. ***Recommendation No. 84***

3.300. ***The Committee does not recommend any change to the existing CIRP timelines prescribed under the Code and the CIRP Regulations. The Committee affirms that:***

3.300.1. ***CIRP timelines are sector-agnostic and must be strictly followed, including in real estate insolvency proceedings.***

3.300.2. ***Adherence to prescribed timelines is essential to prevent value erosion, protect stakeholder interests, and uphold the time-bound nature of the insolvency framework.***

3.300.3. ***Operational challenges in real estate CIRPs should be addressed through better planning, early technical and financial assessment, effective use of professional support, and improved coordination with authorities, rather than by extending or recalibrating statutory timelines.***

3.301. The Committee emphasises that **strict compliance with existing timelines is critical for restoring confidence in the insolvency process**, particularly for homebuyers whose interests are directly impacted by the delays.

L2. Independent Technical and Cost Assessment

Issue Description

3.302. Real estate insolvency proceedings frequently involve disputes and uncertainty regarding the actual stage of construction, approval status, cost-to-complete and overall technical viability of projects. In the absence of reliable and neutral technical inputs, the CoC and the PRAs often face difficulty in assessing feasibility, structuring realistic funding arrangements, and designing credible project completion strategies.

3.303. Stakeholders informed this Committee that reliance on fragmented developer disclosures or lender-specific stock audits has, in several cases, resulted in underestimation or overestimation of construction progress and funding gaps. This has adversely affected valuation, discouraged serious bidders, and led to disputes during plan implementation, thereby undermining the objective of timely and effective resolution of real estate project insolvencies.

Existing Legal and Regulatory Status

3.304. The Code and the CIRP Regulations require preparation of an information memorandum and determination of fair value and liquidation value through the registered valuers. However, the existing framework does not mandate a project-wise, independent technical and cost-to-complete assessment for real estate projects before inviting resolution plans.

3.305. While the FCs may share available technical reports or stock audits, such materials are often lender-specific, inconsistent in methodology, and not designed to support project completion planning. There is currently no standardised requirement for neutral, construction-focused technical audits covering approvals, milestones, cost-to-complete and realistic timelines in real estate CIRPs.

Stakeholder Submissions and Views

3.306. Stakeholders, including institutional lenders, technical experts and former members of the adjudicating authority, strongly emphasised the need for mandatory, independent technical and cost assessments in real estate insolvencies. It was submitted that Government-empanelled or otherwise neutral experts should assess physical progress, approvals and compliances, cost-to-complete and construction sequencing at an early stage of the CIRP.

3.307. Stakeholders further suggested that such assessments should follow a standardised scope and format so that all resolution applicants and creditors rely on a common factual baseline. This, it was argued, would improve bid quality, reduce speculative or unrealistic plans, and minimise disputes during implementation.

Analysis and Considerations of the Committee

3.308. The Committee notes that accurate assessment of construction status and cost-to-complete is critical to the success of real estate insolvency resolution. In many distressed projects, unreliable or inconsistent data regarding progress and funding requirements has led to weak bidding, unrealistic plans, or disputes at the implementation stage.

3.309. The Committee is of the view that the **appointment of independent professionals by the RP to conduct technical and cost-to-complete audits can significantly enhance transparency and decision-making**. The Committee further notes that **the market already has adequate availability of competent technical, engineering and cost professionals with the requisite expertise**, and that it is neither necessary nor desirable to restrict such appointments to Government-empanelled entities alone.

3.310. The Committee also recognises that **prospective resolution applicants are entitled to, and often do, conduct their own technical and financial due diligence**, and that the technical and cost-to-complete assessment forming part of the information memorandum should not preclude such independent verification. Rather, a credible baseline assessment can facilitate more informed and competitive bidding while allowing resolution applicants to refine assumptions based on their own expertise.

Recommendations of the Committee

3.311. ***Recommendation Nos. 85, 86, 87, 88, 89 and 90***

3.311.1. ***The Committee recommends that an independent technical and cost-to-complete assessment be institutionalised as a core component of real estate insolvency resolution.***

3.311.2. ***The RP should appoint suitably qualified and independent professionals to conduct a project-wise technical and cost-to-complete audit at an early stage of the CIRP, preferably before issuance of Form G or the request for resolution plans.***

3.311.3. ***Such assessment should cover physical construction progress, approvals and compliances, inventory, cost-to-complete by milestones, and realistic construction timelines, and be carried out in accordance with a broadly standardised scope to ensure consistency and reliability.***

3.311.4. ***Key findings of the technical and cost-to-complete audit should be incorporated into the information memorandum and shared with prospective resolution applicants under confidentiality, forming a common factual baseline for plan formulation.***

3.311.5. ***PRAs should remain free to independently verify the technical and cost assumptions through professionals of their choice as part of their due diligence and bid preparation.***

3.311.6. ***The cost of technical and cost-to-complete audits appointed by the RP should be treated as insolvency resolution process costs, subject to appropriate approval and oversight by the CoC.***

L3. Project Monitoring Committees (PMCs)

Issue Description

3.312. In real estate insolvency cases, challenges frequently arise not only during CIRP but also at the post-approval stage of resolution plan implementation. Stakeholders highlighted that even after approval of a resolution plan, projects often suffer from construction slippages, inadequate coordination among stakeholders, delays in regulatory approvals, and weak oversight of fund utilisation and milestone adherence. Such implementation failures undermine the very objective of resolution, particularly for homebuyers who continue to face uncertainty despite formal completion of CIRP.

3.313. Given the multi-stakeholder nature of real estate projects - typically involving homebuyers, secured lenders, resolution applicants, contractors, RERA authorities, land and development authorities, and local bodies - implementation requires sustained coordination. Stakeholders noted that in the absence of structured and transparent monitoring mechanisms, oversight is often fragmented, driven primarily by lenders or resolution applicants, with limited institutionalised engagement of homebuyers and regulatory authorities.

Existing Legal and Regulatory Status

3.314. The CIRP Regulations already recognise the importance of post-approval monitoring of resolution plans. Regulation 38(2)(d) requires that a resolution plan provide for the implementation and supervision of the resolution plan, thereby mandating that the plan itself specify how implementation will be overseen. Further, Regulation 39(4) expressly provides that the Committee of Creditors may require the resolution plan to include provisions for a monitoring committee to supervise implementation of the plan.

3.315. These provisions enable the constitution of monitoring committees as part of the approved resolution plan and allow the CoC to determine their composition, scope and reporting structure. However, the regulations do not prescribe sector-specific guidance on the composition, role or functioning of such committees, nor do they expressly address the distinctive implementation challenges posed by real estate projects involving construction activity, regulatory approvals and a large homebuyer participation. As a result, monitoring arrangements in real estate cases vary widely in practice and may be insufficiently structured.

Stakeholder Submissions and Views

3.316. Stakeholders broadly supported the use of structured monitoring mechanisms in real estate resolutions and recommended that Project Monitoring Committees be institutionalised as a standard feature, particularly for large or multi-phase projects. Homebuyer associations emphasised that post-approval monitoring is critical to ensure transparency, accountability and timely completion, and that homebuyers should have a defined channel for oversight and information during implementation.

3.317. FCs and experts highlighted that monitoring committees can play a constructive role in early identification of implementation risks, coordination with authorities, and resolution of operational bottlenecks, without reopening commercial terms of the resolution plan. The RERA and land authority representatives noted that their inclusion, even in a non-decision-making capacity, could facilitate smoother regulatory coordination and timely issuance of approvals and certifications.

Analysis and Considerations of the Committee

3.318. The Committee notes that the **existing CIRP Regulations already provide an enabling framework for monitoring committees**, and that the issue lies not in absence of legal authority but in lack of structured, sector-sensitive guidance for real estate cases. The Committee is of the view that, given the construction-driven and consumer centric nature of real estate resolutions, monitoring of plan implementation assumes heightened importance and requires a coordinated, multi-stakeholder approach.

3.319. The Committee considers that Project Monitoring Committees should not function as parallel decision-making bodies or forums for renegotiation of commercial terms approved by the CoC. Rather, their role should be confined to supervision, information-sharing, facilitation and early escalation of implementation risks. Properly designed PMCs can enhance accountability of resolution applicants, improve confidence among homebuyers, and reduce post-approval litigation, while remaining fully consistent with the statutory scheme under Regulations 38(2)(d) and 39(4).

Recommendations of the Committee

3.320. The Committee recommends that Project Monitoring Committees be systematically incorporated into resolution plans for real estate projects, particularly where projects are large, multi-phase, or involve substantial homebuyer participation.

3.321. ***Recommendation Nos. 91, 92, 93, 94 and 95***

3.321.1. ***Resolution plans in real estate CIRPs should provide for constitution of a Project Monitoring Committee, in terms of Regulation 38(2)(d) read with Regulation 39(4) of the CIRP Regulations, to supervise implementation of the approved plan.***

3.321.2. ***The composition of the PMC should be project-specific and proportionate, and may include representatives of secured FCs, homebuyers or their Authorised Representative, the resolution applicant, and, where relevant, RERA and land or development authorities and sector specialists, without conferring voting rights that alter the commercial terms of the plan.***

3.321.3. ***The role of the PMC should be clearly defined in the resolution plan, limited to monitoring construction progress, fund utilisation, compliance with milestones, and facilitation of coordination with statutory authorities, and should not extend to reopening or renegotiating the approved plan.***

3.321.4. ***The resolution plan should prescribe periodic reporting and documentation requirements, including standardised progress reports and milestone tracking, to ensure transparency and accountability during implementation.***

3.321.5. ***Material or persistent deviations from the approved plan identified by the PMC may be escalated to the appropriate forum, including the Adjudicating Authority or RERA, as applicable, strictly for purposes of enforcement and compliance, without disturbing the commercial wisdom embedded in the approved plan.***

3.322. The Committee is of the view that **institutionalising Project Monitoring Committees within the existing regulatory framework will strengthen post-resolution implementation, protect homebuyer interests, and enhance the credibility and effectiveness of real estate insolvency resolution**, without requiring any amendment to the Code or dilution of the CoC primacy.

L4. Clear Definition of Plan Implementation

Issue Description

3.323. In real estate insolvency resolution, the concept of "plan implementation" assumes a meaning that is materially different from that in conventional corporate insolvencies. Unlike cases involving purely financial restructuring or asset transfers, real estate resolution plans are fundamentally oriented towards completion of physical assets and delivery of homes over an extended period. Stakeholders consistently highlighted that, in the absence of a clear and operationally grounded definition of when a resolution plan can be said to be "implemented," significant uncertainty arises regarding release of performance guarantees, cessation of monitoring mechanisms, crystallisation of clean-slate protections, and closure of regulatory and judicial oversight.

3.324. Real estate resolution plans are typically multi-year instruments involving phased construction, tower-wise or block-wise delivery, staggered regulatory approvals and continuing engagement with homebuyers and authorities. Existing practice often treats

implementation as a binary outcome - implemented or not implemented - without recognising intermediate milestones that reflect meaningful progress on the ground. This lack of precision has resulted in disputes between resolution applicants, homebuyers, lenders and authorities on issues such as premature release of guarantees, continuation of monitoring bodies beyond necessity, and invocation of enforcement actions despite substantial progress having been made during plan implementation.

Existing Legal and Regulatory Status

3.325. Under Section 31 of the Code, an approved resolution plan is binding on all stakeholders, and the CIRP Regulations require that a resolution plan provide for its implementation and supervision. Monitoring arrangements are typically provided for through plan-specific mechanisms, including monitoring committees or designated monitoring professionals, pursuant to the resolution plan approved by the Adjudicating Authority.

3.326. However, neither the Code nor the CIRP Regulations define "implementation" or prescribe sector-specific criteria for determining when implementation is achieved in real estate cases. The regulations do not set out objective benchmarks or evidentiary standards for certifying completion of plan obligations, nor do they distinguish between partial, substantial and full implementation. As a result, determinations relating to implementation are left to the interpretation of plan terms, often leading to inconsistent positions and avoidable litigation.

Stakeholder Submissions and Views

3.327. Stakeholders uniformly submitted that, in real estate insolvency, plan implementation must be assessed with reference to objective, project-specific milestones rather than abstract financial completion. Homebuyer representatives emphasised that declaration of implementation without actual possession or enforceable delivery undermines confidence in the insolvency framework and deprives buyers of meaningful remedies for residual deficiencies. They urged that implementation be tied to demonstrable construction progress, regulatory compliance, and handover obligations.

3.328. Resolution applicants and financiers, on the other hand, highlighted that the absence of a defined implementation framework exposes them to prolonged uncertainty, indefinite continuation of guarantees and monitoring, and delayed availability of clean-slate protections, which in turn deters credible bidders and increases financing costs. There was broad agreement that a transparent, milestone-linked approach would reduce disputes, align stakeholder expectations and improve the quality of resolution plans.

Analysis and Considerations of the Committee

3.329. The Committee is of the view that a clear, milestone-based understanding of plan implementation is essential to balance certainty for resolution applicants with effective protection for homebuyers. In real estate cases, implementation cannot be equated merely with

financial restructuring or assumption of management; it must be assessed through tangible indicators such as construction progress, regulatory clearances and delivery of units. Anchoring implementation to clearly articulated physical, financial and regulatory milestones would provide predictability, reduce post-approval disputes and improve enforceability of plan obligations.

3.330. At the same time, the Committee recognises that real estate projects are exposed to external variables, including regulatory delays and force majeure events, and that implementation frameworks must retain limited flexibility to accommodate such contingencies, provided deviations are transparently documented and remain consistent with the core objectives of the approved plan. The Committee therefore considers that implementation standards should be precise yet pragmatic, allowing structured oversight without rendering resolution applicants vulnerable to indefinite obligations.

Recommendations of the Committee

3.331. ***Recommendation Nos. 96, 97, 98, 99 and 100***

3.331.1. ***The Committee recommends that resolution plans in real estate insolvency proceedings should contain a clear, structured and milestone-based definition of "plan implementation." Such a definition should be embedded within the resolution plan itself and should provide objective criteria for assessing progress and completion.***

3.331.2. ***In particular, the Committee recommends that each real estate resolution plan should specify project-wise and, where applicable, phase-wise or tower-wise milestones covering construction progress, regulatory approvals and delivery obligations, mapped against defined timelines. The plan should distinguish between substantial implementation and full implementation, with each stage clearly linked to corresponding consequences, including step-down or release of performance guarantees, modification or cessation of monitoring arrangements, and crystallisation of protections available to the resolution applicant.***

3.331.3. ***The Committee further recommends that conditions for release of performance bank guarantees, escrowed contributions or similar safeguards should be expressly tied to achievement of specified milestones, certified through the monitoring mechanism provided in the plan. The duration and scope of post-approval monitoring arrangements should be aligned with the milestone framework, with clarity on when and how oversight tapers or concludes.***

3.331.4. ***The Committee recommends that the resolution plan should provide for consequences and actions in cases of default by allottees, including failure to pay revised or balance consideration.***

3.331.5. ***The Committee further recommends that resolution plans should provide for structured reporting, certification and dispute-resolution mechanisms in relation to milestone achievement, so that disagreements on implementation status are resolved expeditiously through the monitoring framework or appropriate regulatory fora, without paralysing ongoing execution.***

M. CoC Functioning and Voting

M1. Time-Bound Decision-Making by the Committee of Creditors

Issue Description

3.332. In real estate insolvency proceedings, delays in decision-making by the Committee of Creditors (CoC) can have significant downstream consequences, including prolonged construction stoppages, uncertainty for homebuyers, and erosion of project value. Given the time-sensitive nature of the CIRP, including for real estate projects, stakeholders raised concerns that repeated adjournments of the CoC deliberations on resolution plans may undermine the objective of timely resolution and adversely affect prospects of project completion.

3.333. It was submitted that, in several real estate CIRPs, even after compliant resolution plans are placed before the CoC, deliberations extend over multiple meetings due to internal approval processes of the creditors, requests for renegotiation, or indecision among voting members. Such delays can result in withdrawal of resolution applicants, loss of funding momentum, and, in extreme cases, liquidation by default, notwithstanding the availability of viable resolution options.

Existing Legal and Regulatory Status

3.334. The Code mandates completion of the corporate insolvency resolution process within a statutorily prescribed outer limit and vests the CoC with exclusive authority to approve or reject resolution plans based on commercial considerations. The Code does not prescribe micro-timelines for individual CoC decisions, recognising that commercial decision-making may vary depending on the complexity of the case.

3.335. The CIRP Regulations set out procedural timelines for key stages of the process, including submission and evaluation of resolution plans, but do not impose a fixed period within which the CoC must conclude deliberations, once plans are placed before it. Further, the Insolvency and Bankruptcy Board of India has issued guidelines on the conduct of the CoC meetings, emphasising transparency, proper documentation, informed decision-making and timely progression of the CIRP, without interfering with the CoC's commercial wisdom and discretion.

Stakeholder Submissions and Views

3.336. Several stakeholders suggested that, in the absence of prescribed timelines, the CoCs may inadvertently delay decisions, particularly in large real estate cases involving multiple creditors and projects. They argued that prolonged deliberations increase uncertainty for resolution applicants and discourage serious bidders, thereby weakening the competitive resolution process. Some stakeholders proposed regulatory intervention to prescribe a fixed window for the CoC voting once compliant plans are placed before it.

3.337. Other stakeholders, particularly institutional lenders and practitioners, cautioned against imposing rigid timelines on the CoC decision-making. They emphasised that real estate resolution plans are often complex, involve long-term funding commitments and construction risk, and require internal approvals and due diligence by creditors. Imposing external timelines, they argued, could lead to rushed decisions, undermine creditor confidence, and dilute the principle of commercial wisdom.

Analysis and Considerations of the Committee

3.338. The Committee carefully examined the conflict between the need for expedition and the principle of creditor autonomy. It notes that the Hon'ble Supreme Court, in K. Sashidhar v. Indian Overseas Bank, has unequivocally affirmed that the commercial wisdom of the CoC is paramount and not amenable to judicial or regulatory substitution, so long as decisions are taken within the framework of the Code.

3.339. The Committee is of the view that prescribing additional timelines for CoC decision-making—beyond those already embedded in the CIRP framework—would amount to undue interference with commercial discretion and perhaps would do more harm than good. Real estate projects differ widely in scale, complexity and risk profile, and creditors must retain flexibility to evaluate resolution plans thoroughly, obtain internal approvals and negotiate terms in a manner consistent with their fiduciary responsibilities.

3.340. The Committee also notes that concerns regarding delay are better addressed through effective process discipline, transparency and accountability, rather than rigid timelines. Existing regulatory guidance issued by the Board on the conduct of CoC meetings, recording of deliberations, circulation of information and timely progression of CIRP already provides an adequate framework to encourage responsible and efficient decision-making. Introducing prescriptive voting deadlines risks unintended consequences, including perfunctory approvals or defensive rejections driven by timeline pressure rather than informed judgment.

Recommendations of the Committee

3.341. ***Recommendation Nos. 101 and 102***

3.341.1. ***The Committee does not recommend any change to the existing legal or regulatory framework governing the CoC decision-making timelines. It reiterates that the commercial wisdom of the CoC must continue to prevail, consistent with the scheme of the Code and settled judicial precedent.***

3.341.2. ***The Committee further recommends that existing IBBI guidelines and regulatory expectations relating to the conduct of CoC meetings should be adhered to in letter and spirit, particularly those emphasising timely circulation of information, proper documentation of deliberations, and avoidance of unnecessary adjournments. Resolution professionals should continue to facilitate informed and efficient CoC decision-making by ensuring that resolution plans are placed before the CoC with complete and reliable information, enabling creditors to take timely decisions without artificial regulatory constraints.***

M2. Treatment of Non-Responsive Homebuyer-Voters

Issue Description

3.342. In real estate Corporate Insolvency Resolution Processes (CIRPs), especially those involving large classes of homebuyers, concerns have been raised regarding the impact of non-responsive creditors on decision-making within the Committee of Creditors (CoC). Given the dispersed and heterogeneous nature of homebuyers—often numbering in the thousands—participation levels in voting may vary, with a segment of creditors not exercising their voting rights, despite due notice and multiple opportunities.

3.343. Stakeholders submitted that such non-responsiveness can, in certain cases, affect the ability of the CoC to reach the statutory voting thresholds required for approval of key decisions, including resolution plans, thereby prolonging the process or resulting in outcomes perceived as misaligned with the preferences of actively participating creditors. These concerns were particularly highlighted in real estate CIRPs, where delays have direct implications for project completion and homebuyer interests. Additionally, the non-responsive home buyer voters may later litigate if the plan is not fair to them, in their view, which may delay the whole process.

Existing Legal and Regulatory Status

3.344. Under the Code, decisions of the CoC are taken strictly in accordance with voting thresholds prescribed by the statute, calculated based on the voting share of FCs. For creditors in a class, including homebuyers, the Code and CIRP Regulations provide for representation

through an Authorised Representative (AR), who casts votes in the CoC in proportion to the voting instructions received from members of the class.

3.345. The framework mandates that adequate notice and opportunity for voting be provided through electronic means, with prescribed voting windows, reminders and dissemination of relevant information. The Code does not distinguish between responsive and non-responsive creditors for the purpose of computing voting thresholds, nor does it provide for deemed votes, exclusion of abstentions from the denominator, or alternate voting formulas. The statutory scheme proceeds on the basis that participation in voting is a right, not an obligation, and that decisions must reflect the voting share as determined under the Code.

Judicial Guidance

3.346. The Hon'ble Supreme Court has consistently affirmed the primacy of the statutory voting framework and the commercial wisdom of the CoC. In ***K. Sashidhar v. Indian Overseas Bank***, the Court held that once the requisite voting threshold prescribed under the Code is met or not met, the Adjudicating Authority has no jurisdiction to substitute its own view or modify the outcome on equitable or pragmatic considerations. The Court emphasised that the legislative design of the IBC accords finality to the CoC decisions taken in accordance with the prescribed voting shares, and that courts cannot rewrite or dilute statutory thresholds based on perceived hardships or practical difficulties.

3.347. This principle has been reiterated in subsequent decisions, which underscore that voting mechanics and thresholds under the IBC are matters of legislative policy, and any alteration thereto must emanate from statutory amendment rather than judicial or regulatory innovation. The jurisprudence makes it clear that efficiency considerations, sectoral sensitivities, or stakeholder inconvenience cannot justify departure from the express voting architecture of the Code.

Stakeholder Submissions and Views

3.348. Homebuyer associations and some resolution professionals advocated for mechanisms to mitigate the effect of chronic non-responsiveness, such as treating abstentions differently or permitting decisions based on votes actually cast after reasonable notice. They argued that passive non-participation should not confer de facto veto power over resolution outcomes supported by a large majority of active participants.

3.349. Other stakeholders, including lenders and legal experts, cautioned that altering voting mechanics could undermine the predictability and integrity of the insolvency framework, create scope for dispute, and dilute the principle of creditor consent embedded in the Code. They emphasised that non-participation may arise from conscious choice, and that silence cannot be equated with consent or indifference without undermining creditor rights.

Analysis and Considerations of the Committee

3.350. The Committee carefully examined the concern regarding non-responsive voters in real estate CIRPs. While acknowledging the practical difficulties arising from large and dispersed creditor classes, the Committee is of the considered view that **the existing voting mechanism under the IBC strikes a deliberate and carefully calibrated balance between inclusivity, certainty and creditor autonomy**.

3.351. The Committee notes that participation in voting is a statutory right exercised at the discretion of each creditor. Non-participation, whether due to apathy, disengagement or deliberate choice, is itself a form of creditor decision-making that the framework must respect. Introducing concepts such as deemed votes, exclusion of abstentions from the denominator, or altered thresholds would amount to a substantive modification of the statutory voting architecture and could conflict with settled Supreme Court jurisprudence.

3.352. The Committee also notes that the existing framework already provides sufficient procedural safeguards—such as extended electronic voting windows, repeated notices, and representation through the ARs—to facilitate participation by homebuyers. Any residual non-responsiveness cannot, in the Committee's view, justify dilution of statutory thresholds or departure from the principle that the CoC decisions must be taken strictly in accordance with voting shares prescribed by the law.

Recommendation of the Committee

3.353. ***Recommendation No. 103***

3.354. ***The Committee does not recommend any change to the existing voting mechanism or voting thresholds under the Code and the CIRP Regulations, including in cases involving large classes of homebuyers.***

3.355. ***The Committee reiterates that:***

3.355.1. ***Voting thresholds and computation of voting share are matters of legislative design and must be applied uniformly, irrespective of sectoral context or participation levels.***

3.355.2. ***Non-participation by creditors cannot be a basis for altering statutory voting outcomes, consistent with the principles laid down by the Hon'ble Supreme Court in K. Sashidhar v. Indian Overseas Bank.***

3.355.3. ***The current framework of notice, representation through Authorised Representatives, and electronic voting provides adequate opportunity for participation, and further dilution of thresholds or introduction of deemed voting mechanisms may undermine legal certainty and creditor rights.***

3.355.4. ***The Committee emphasises that efforts to improve participation should focus on better communication, facilitation and awareness, rather than structural modification of the voting framework, which would require legislative intervention beyond the remit of this Committee.***

M3. Transparency and Audit trail of the proceedings of the Committee of Creditors

Issue Description

3.356. Transparency and audit trail of Committee of Creditors (CoC) proceedings assume particular importance in real estate insolvency proceedings, where decisions of the CoC directly affect a large and diverse body of stakeholders, including thousands of homebuyers, institutional lenders, land and development authorities, and other creditors. Given the scale of impact and the frequency with which the CoC decisions are scrutinised before the Adjudicating Authority, clarity in decision-making processes and proper documentation of deliberations are critical to maintaining confidence in the insolvency framework.

3.357. Stakeholder inputs indicated that, in some real estate CIRPs, the CoC minutes are prepared in a skeletal manner, recording final decisions and voting outcomes without adequately capturing the substance of deliberations, information placed before the CoC, or the rationale underlying key commercial choices. Such opacity can complicate judicial review, fuel mistrust among homebuyers and non-CoC stakeholders and increase the likelihood of post-approval litigation challenging the fairness or reasonableness of the CoC decisions.

Existing Legal and Regulatory Status

3.358. The Code and the CIRP Regulations already prescribe a detailed framework governing convening of the CoC meetings, circulation of agenda and supporting documents, conduct of voting, and preparation and circulation of minutes. Resolution professionals are required to maintain records of proceedings, ensure compliance with voting procedures, and preserve documents forming part of the insolvency process. Judicial pronouncements have consistently emphasised the need for procedural fairness, adequate disclosure and reasoned decision-making, particularly where the CoC decisions are challenged.

3.359. Further, the Board has issued guidance and circulars from time to time, reinforcing expectations relating to transparency, proper documentation, and accountability of insolvency professionals in the conduct of the CoC meetings. The existing framework, thus, provides substantial safeguards to ensure that the CoC proceedings are transparent, have audit trail and capable of withstanding judicial scrutiny.

Stakeholder Submissions and Views

3.360. Homebuyer representatives, experts and former adjudicating authority members submitted that, notwithstanding the existing framework, practices relating to the preparation of

the CoC minutes vary significantly across cases. In complex real estate CIRPs involving competing resolution plans, project-wise strategies or differentiated treatment of stakeholders, they emphasised the importance of recording not only the final decision but also the key considerations, alternatives examined and material information relied upon by the CoC.

3.361. Stakeholders clarified that their concern was not the absence of regulatory provisions, but the inconsistency in implementation. They suggested that clearer articulation of best practices—particularly for complex real estate cases—would improve confidence, reduce disputes and assist adjudicatory fora in understanding how commercial decisions were arrived at, without impinging on the CoC's commercial autonomy.

Analysis and Considerations of the Committee

3.362. The Committee notes that transparency in the CoC proceedings is essential to the legitimacy and durability of insolvency outcomes, especially in real estate cases where affected stakeholders extend to homebuyers and other stakeholders well beyond the CoC. At the same time, the Committee is of the view that the existing statutory and regulatory framework already provides adequate safeguards to ensure transparency, audit trail and procedural fairness, provided these are implemented diligently.

3.363. The Committee does not consider it necessary or desirable to amend the CIRP Regulations to introduce additional prescriptive requirements for the CoC documentation, as excessive procedures may inadvertently constrain commercial deliberation or increase compliance burden without commensurate benefit. Instead, the Committee considers that consistent adoption of best practices—tailored to the complexity and scale of real estate insolvencies—would meaningfully address stakeholder concerns while preserving flexibility and commercial discretion.

Recommendations of the Committee

3.364. ***Recommendation Nos. 104 and 105***

3.365. ***The Committee does not recommend any amendment to the existing provisions of the Code or CIRP Regulations relating to transparency and audit trail of the CoC proceedings.***

3.366. ***It recommends that best practices be reinforced and followed more consistently, particularly in real estate insolvency cases, including the following:***

3.366.1. ***Structured and reasoned minutes: The CoC minutes in real estate CIRPs should, as a matter of good practice, record the key information placed before the CoC, the principal options considered, and the broad rationale underlying major decisions, in addition to recording resolutions passed and voting outcomes.***

3.366.2. ***Clear recording of voting details: Minutes should clearly reflect participation levels, voting shares exercised, votes cast in favour or against, and abstentions, so that the decision-making process is transparent and subject to subsequent scrutiny or audit.***

3.366.3. ***Preservation of supporting materials: Resolution professionals should maintain, as part of the CIRP record, all substantive documents and reports placed before the CoC—such as technical assessments, comparative plan analyses and cash-flow projections—to facilitate informed decision-making and subsequent review, if required.***

3.366.4. ***Timely circulation to stakeholders: Minutes and relevant summaries should be circulated promptly to the CoC members and authorised representatives, enabling effective communication with underlying stakeholders such as homebuyers.***

N. Funding and Revival Mechanisms

N1. Encouraging Interim Finance in Real Estate Insolvency

Issue Description

3.367. Interim finance plays a critical role in real estate insolvency proceedings, where projects admitted into the Corporate Insolvency Resolution Process (CIRP) typically face acute liquidity constraints. Stalled construction, unpaid contractors, lapsed statutory approvals, and deteriorating site conditions often require immediate infusion of funds to preserve asset value and enable project revival. In many cases, relatively modest interim funding can stabilise a project, restart construction and materially improve the prospects of resolution through completion and monetisation.

3.368. Despite its importance, stakeholders consistently highlighted that real estate CIRPs face significant challenges in securing interim finance. Existing lenders are often reluctant to extend further credit due to exposure fatigue and concerns over recovery priority, while new financiers perceive heightened risks arising from fragmented security, uncertain cash flows, and litigation in an insolvency environment. As a result, the absence or delay of interim finance frequently prolongs project stagnation, erodes value and undermines the feasibility of resolution plans.

Existing Legal and Regulatory Status

3.369. The Code recognises interim finance as an integral component of the insolvency resolution process. Interim finance raised with the approval of the CoC forms part of the insolvency resolution process costs and enjoys priority in payment in accordance with the Code. The RP is empowered to raise interim finance subject to the CoC approval, and such finance is intended to support continuation of the CD as a going concern during CIRP. Further, the CIRP Regulations provide that the CoC may direct the RP to invite the providers of interim finance to attend as observers to the meetings of the CoC, without voting rights.

3.370. While this framework provides a legal basis for interim finance, it is sector-agnostic and does not address the distinctive characteristics of real estate projects, such as project-wise cash flows, ring-fenced escrow accounts under RERA, construction-linked funding requirements, and milestone-based value creation. In practice, the absence of standardised structuring approaches and reliable early-stage project data has limited lender appetite for interim finance in real estate CIRPs.

Stakeholder Submissions and Views

3.371. Stakeholders, including real estate funds, lenders and resolution professionals, submitted that interim finance is often decisive in determining whether a stressed project moves towards completion or liquidation. They emphasised that lenders require predictability on priority, security and cash-flow visibility to lend into the CIRP, particularly in real estate, where recovery depends on physical completion and sales rather than immediate asset realisation.

3.372. It was further submitted that delays in technical assessment, uncertainty around project viability, and lack of clarity on how interim finance will be serviced—whether through escrowed receivables, future sales or priority waterfalls—act as deterrents to potential financiers. Some stakeholders also highlighted risks arising in late-stage CIRPs, where enforcement actions by existing lenders could destabilise projects that are otherwise capable of being completed with limited additional funding.

Analysis and Considerations of the Committee

3.373. The Committee recognises that interim finance can be a powerful enabler of value maximisation in real estate insolvency, particularly where funding gaps are finite, and completion unlocks substantial recoveries for all stakeholders. However, the Committee also notes that the legal framework already provides priority status to interim finance, and that the principal constraints lie in structuring, information asymmetry and risk perception rather than absence of statutory recognition.

3.374. The Committee is of the view that improved availability of interim finance in real estate CIRPs can be achieved through better quality and timeliness of project information, greater use of project-wise ring-fencing mechanisms, and adoption of transparent, standardised practices for disclosure and monitoring. Enhancing confidence among potential interim financiers does not necessarily require legislative change, but rather consistent implementation of existing provisions, supplemented by guidance and best practices tailored to the real estate context.

Recommendation of the Committee

3.375. ***Recommendation No. 106***

3.376. ***The Committee recommends the following measures to facilitate and strengthen interim finance in real estate insolvency proceedings:***

3.376.1. ***Resolution professionals and the CoCs should actively consider interim finance as a value-preserving and value-enhancing tool in real estate CIRPs, particularly where funding can enable restart or continuation of construction and materially improve resolution prospects.***

3.376.2. ***Interim finance in real estate cases should, as far as practicable, be structured on a project-wise basis, with clear linkage between funding, project-specific cash flows and construction milestones. Use of segregated bank accounts and escrow mechanisms aligned with RERA requirements can enhance transparency and lender confidence.***

3.376.3. ***Early technical and cost-to-complete assessments, as recommended in this Report, should be leveraged to provide interim financiers with reliable inputs on funding requirements, timelines and risks, enabling milestone-based drawdowns and cash-flow-driven repayment structures.***

3.376.4. ***The terms of interim finance—including quantum, priority, security, repayment source and conditions—should be transparently placed before the CoC and recorded in a standardised manner, so that creditor oversight is maintained and disputes are minimised.***

3.376.5. ***The DFS and the RBI may consider interim financing as a part of Priority Sector lending, especially involving real estate sector insolvencies.***

3.376.6. ***Finally, where projects are at an advanced stage and susceptible to disruption due to short-term liquidity stress, the CoC may, in appropriate cases, consider coordinated approaches—consistent with the Code and subject to Adjudicating Authority oversight—to avoid value-destructive enforcement actions while credible interim financing or resolution efforts are underway.***

N2. Government-Backed Bridge Funding

Issue Description

3.377. Government-backed bridge or completion funding mechanisms, such as SWAMIH-type schemes and similar initiatives, have emerged as important instruments for reviving stalled real estate projects that are otherwise viable but face acute liquidity constraints. During the Committee's deliberations, such funding was recognised as a distinct and supplementary pillar alongside market-based interim finance, particularly in projects involving large homebuyer exposure and limited appetite for first-loss risk from private capital.

3.378. A significant proportion of real estate projects that enter, or are at risk of entering, insolvency is not structurally unviable. Rather, they are caught in a cycle of stalled construction, delayed receivables, loss of buyer confidence and withdrawal of private funding. In such cases, timely bridge funding targeted at project completion can help restart

construction, stabilise the project, and preserve value for homebuyers and creditors. At present, however, the interaction between Government-backed funding schemes and the Corporate Insolvency Resolution Process (CIRP) remains fragmented and largely case-specific, resulting in uncertainty for all stakeholders.

Existing Experience and Institutional Context

3.379. Experience with existing Government-backed real estate funds indicates that disciplined underwriting, strong governance safeguards and a narrow focus on completion can yield positive outcomes in distressed projects. Such funds typically require clarity on project-wise cash flows, cost-to-complete estimates, approvals status and stakeholder claims, and often prefer projects with limited litigation risk.

3.380. From an insolvency perspective, challenges arise in aligning the entry and operation of Government-backed funds with the CIRP framework. These include uncertainty regarding the timing of participation (pre- or post-admission), treatment of funding as interim finance or under a resolution plan, priority and security structures, and the implications for other creditor classes. The absence of an articulated framework can deter both public funds and private stakeholders from coordinated engagement.

Stakeholder Submissions and Views

3.381. Stakeholders from the real estate sector and institutional investment community submitted that Government-backed completion funding can materially expand the resolution universe for socially sensitive and large-scale projects where private capital alone is insufficient. They emphasised that insolvency admission should not, by itself, exclude projects from eligibility for such funding.

3.382. Government-linked stakeholders, however, stressed that public funds must remain targeted, fiscally prudent and insulated from moral hazard. They underscored that Government-backed support cannot become a substitute for market discipline or be perceived as a guaranteed backstop for all distressed projects.

Analysis and Considerations of the Committee

3.383. The Committee considers Government-backed bridge funding to be a complementary instrument to the IBC framework, not a parallel or substitute resolution mechanism. When carefully integrated, such funding can unlock completion-led resolutions in projects that might otherwise drift into liquidation despite substantial sunk costs and significant homebuyer investment.

3.384. At the same time, the Committee is conscious that deployment of public or quasi-public funds must respect the statutory architecture of the Code, including the priority framework, creditor voting rights and the sanctity of the resolution plan approved by the Committee of

Creditors (CoC) and the Adjudicating Authority. Any preferential treatment or insulation of Government-backed funds outside the resolution framework would risk distorting creditor balance and undermining confidence in the insolvency regime.

3.385. Accordingly, the Committee's approach is to encourage **structured alignment**, rather than special carve-outs, between Government-backed funding mechanisms and CIRP.

Recommendation of the Committee

3.386. ***Recommendation No. 107***

3.387. ***The Committee recommends the following approach to facilitate effective use of Government-backed bridge funding in real estate insolvencies, without altering the statutory framework of the Code.***

3.387.1. ***Clarified Eligibility and Entry Windows: Government-backed real estate funds may articulate clear eligibility criteria for projects that are pre-CIRP or undergoing CIRP, so that insolvency admission does not automatically exclude otherwise viable projects. Eligibility should be anchored in demonstrable project viability, realistic cost-to-complete assessments, and project-wise segregation of assets and cash flows.***

3.387.2. ***Alignment with CIRP Structures: Where Government-backed funding is extended during CIRP, it should ordinarily be structured either as interim finance approved by the CoC or as part of an approved resolution plan. Terms relating to priority, security and repayment should be transparently disclosed and evaluated within the CoC's commercial decision-making framework.***

3.387.3. ***Preservation of Creditor Balance: The Committee emphasises that the participation of a Government-backed fund should not, by itself, alter the relative rights of creditor classes except as provided for in a duly approved resolution plan. Public funding should not result in automatic subordination or exclusion of other stakeholders beyond what is consistent with the Code.***

3.387.4. ***Clarity on Priority and Clean-Slate Treatment: Resolution plans involving Government-backed bridge funding should clearly specify the treatment of such funding under the distribution waterfall and the point at which clean-slate protections apply, to avoid post-approval ambiguity or disputes.***

3.387.5. ***Institutional Coordination: Given their public character, Government-backed funds may, where appropriate, facilitate coordination with RERA authorities, development authorities and other regulators to streamline approvals and post-resolution oversight. Their participation in monitoring or implementation committees may be considered, subject to clear delineation of roles and without encroaching on statutory functions.***

N3. Treatment of Operational Creditors in SWAMIH-Funded Real Estate Projects

Issue Description

3.388. In real estate insolvency proceedings where a stressed project receives completion funding from SWAMIH or other Government-backed revival mechanisms, questions have arisen regarding the appropriate treatment of operational creditors (OCs). Such funding is typically calibrated narrowly to meet cost-to-complete requirements, statutory compliances and essential project-level expenditures necessary to deliver homes and unlock value for homebuyers and the FCs. In this context, concerns have been expressed that unresolved or competing operational creditor claims may dilute scarce completion funding or disrupt construction activity, thereby undermining the objective of revival-oriented intervention.

3.389. At the same time, operational creditors—such as contractors, suppliers, service providers and statutory authorities—often represent critical participants in real estate projects and may have substantial outstanding dues. Proposals to restrict or subordinate their rights in revival-funded projects raise broader questions about equity, incentive structures and consistency with the Code.

Existing Legal and Regulatory Status

3.390. Under the Code, operational creditors are recognised as a distinct class of creditors with clearly defined statutory rights. Operational creditors are entitled to initiate insolvency proceedings subject to the applicable threshold, file claims during CIRP, receive minimum protection under resolution plans in accordance with Section 30(2), and challenge non-compliant plans before the Adjudicating Authority. While they do not form part of the Committee of Creditors (CoC) and do not vote on commercial decisions, their rights and entitlements are expressly protected within the insolvency framework. The OCs whose aggregate dues are at least 10% of the total debt of the CD are entitled to participate in the CoC meetings. In cases where the CD has no FCs or all FCs are related parties of the CD, in those cases, the CoC comprises of the OCs.

3.391. The Code does not carve out any sector-specific or funding-specific exceptions to the treatment of operational creditors. Government-backed funding mechanisms such as SWAMIH operate alongside the insolvency framework and do not override or modify creditor rights under the Code. Any alteration to the position of operational creditors—whether in relation to initiation, claims admission, or distribution—would therefore require legislative intervention and cannot be achieved through guidelines or project-specific arrangements.

Stakeholder Submissions and Divergent Views

3.392. Stakeholders presented two contrasting perspectives. One view emphasised that once a project receives revival funding, particularly from public or quasi-public sources, the overriding objective must be completion and delivery of homes. From this perspective, it was

argued that operational creditor claims should not be allowed to delay construction or divert funds earmarked for completion, especially where available resources are limited.

3.393. The opposing view cautioned that sidelining or structurally subordinating operational creditors in such projects would be inconsistent with the design of the Code and could weaken confidence among contractors and suppliers, who are essential to project execution. It was emphasised that operational creditors already occupy a particular position in the insolvency hierarchy and that further erosion of their rights—particularly through informal or project-specific arrangements—would upset the balance carefully embedded in the statute.

Analysis and Considerations of the Committee

3.394. The Committee carefully considered these competing positions and notes, at the outset, that the Code establish a uniform, creditor-neutral framework that applies across sectors and financing arrangements. The rights of operational creditors—whether to initiate CIRP, file and pursue claims, or receive statutory minimum protection under a resolution plan—are integral to the architecture of the Code and cannot be selectively diluted based on the source of revival funding.

3.395. The Committee is of the view that altering the position of operational creditors in SWAMIH-funded projects would raise significant legal and policy concerns. First, it would undermine the predictability and integrity of the insolvency framework by introducing informal hierarchies not contemplated by the Statute. Secondly, it could create adverse incentives, discouraging contractors and suppliers from engaging with stressed or revival-funded projects, thereby impairing the very objective of completion. Thirdly, differential treatment of operational creditors based on funding source would be inconsistent with settled jurisprudence emphasising that the commercial wisdom of the CoC operates within, and not outside, the statutory safeguards provided to non-CoC creditors.

3.396. The Committee also notes that the Code already provides sufficient flexibility to address practical concerns through resolution planning. The timing, manner and extent of payment to operational creditors may be structured within a compliant resolution plan, subject to Section 30(2) and judicial scrutiny, without denying or extinguishing their statutory rights. Completion-centric funding can therefore coexist with recognition of operational creditor claims, without requiring any alteration to the legal framework.

Recommendation of the Committee

3.397. ***Recommendation No. 108***

3.397.1. ***The Committee recommends no change to the existing statutory rights or treatment of operational creditors under the Code, including in real estate projects supported by SWAMIH or other Government-backed revival funding.***

3.397.2. ***The Committee reiterates that operational creditors must continue to enjoy their existing rights to initiate CIRP (subject to statutory thresholds), file and have claims adjudicated in accordance with law, and receive treatment in resolution plans consistent with Section 30(2) of the Code. Any attempt to exclude or materially curtail these rights through project-specific arrangements would be inconsistent with the legislative scheme and settled insolvency jurisprudence.***

3.397.3. ***At the same time, the Committee emphasises that the resolution professionals and the CoCs retain adequate flexibility within the existing framework to design completion-oriented resolution plans that balance the interests of the homebuyers, other FCs and operational creditors. Government-backed funding mechanisms may be integrated into such plans as a commercial input, but they cannot operate as a basis for altering creditor rights under the Code.***

3.397.4. ***The Committee therefore concludes that issues relating to operational creditors in revival-funded real estate projects are best addressed through careful plan structuring and the CoC commercial judgment within the existing legal framework, rather than through statutory or regulatory modification.***

N4. Fund for Homebuyer Litigation Support

Issue Description

3.398. Real estate insolvency proceedings frequently involve complex, multi-forum litigation affecting thousands of dispersed homebuyers, many of whom lack the financial capacity to effectively pursue or defend their interests. Homebuyers in stressed projects often find themselves simultaneously engaged in proceedings before the NCLT and NCLAT under the Code, consumer fora, RERA authorities, and civil courts for execution or related reliefs. The cumulative cost and complexity of such litigation can place individual allottees at a significant disadvantage vis-à-vis institutional creditors, developers, and professionally advised stakeholders.

3.399. Stakeholders brought to the Committee's attention that this resource asymmetry often results in fragmented or inadequate representation of homebuyer interests. In the absence of organised and well-resourced legal support, homebuyers may be unable to meaningfully contest unfair or impractical resolution proposals, commission technical or financial analysis necessary to assess plan feasibility or sustain appellate litigation on issues of systemic importance. This, in turn, can impair the quality of adjudication and undermine confidence in the insolvency process.

Existing Legal and Regulatory Status

3.400. The Code recognises homebuyers as the FCs and provides for their collective representation through authorised representatives in the Committee of Creditors. The

framework ensures formal participation in decision-making but does not contemplate any dedicated mechanism for funding litigation or professional representation costs incurred by homebuyer groups during insolvency or related proceedings.

3.401. While general legal aid and pro bono arrangements exist, they are not tailored to the specific demands of large-scale real estate insolvencies, which often involve prolonged, technically complex disputes. As a result, homebuyers largely depend on individual contributions, informal pooling of resources, or ad hoc voluntary efforts, which may be unsustainable over the life cycle of a prolonged insolvency process.

Stakeholder Submissions and Views

3.402. Homebuyer associations strongly advocated for the creation of a dedicated litigation support mechanism, noting that insolvency proceedings frequently raise issues of high financial and personal consequence for allottees, yet legal representation in specialised forums remains prohibitively expensive for most individuals. They emphasised that the absence of institutional support often forces homebuyers into a choice between abandoning legitimate claims and overextending their personal finances.

3.403. Regulatory stakeholders, including representatives of RERA authorities, viewed such a mechanism as potentially complementary to the broader consumer-protection objectives underlying real estate regulation. Experts, however, cautioned that any publicly supported litigation fund must be carefully designed to avoid incentivising frivolous, repetitive or obstructive proceedings that could undermine the objective of timely resolution.

Analysis and Considerations of the Committee

3.404. The Committee acknowledges the structural imbalance between dispersed homebuyers and well-resourced institutional stakeholders in real estate insolvency proceedings. It recognises that, in appropriate cases, coordinated and adequately resourced homebuyer litigation can enhance the quality of judicial scrutiny, contribute to more balanced outcomes, and aid the development of coherent jurisprudence in a sector characterised by systemic distress.

3.405. At the same time, the Committee is mindful that a litigation support fund—particularly one supported by public resources—raises important design and governance concerns. Without robust eligibility criteria and oversight, such a fund could be misused to prolong proceedings, encourage non-meritorious litigation, or obstruct commercially viable resolutions. Any intervention in this space must therefore be narrowly targeted, transparently administered, and aligned with the objectives of timely and effective insolvency resolution.

Recommendation of the Committee

3.406. ***Recommendation No. 109***

3.406.1. ***The Committee acknowledges the concerns raised by homebuyer representatives regarding the financial and practical difficulties involved in pursuing or defending litigation across multiple fora in real estate insolvency matters. The Committee recognises that effective legal representation can be important for meaningful participation by homebuyers in complex proceedings.***

3.406.2. ***However, the Committee is of the considered view that the creation, design, funding, and governance of any litigation support or funding mechanism for homebuyers raise broader policy questions that extend beyond the scope of the Committee's mandate, which is confined to framing guidelines for insolvency proceedings under the Code.***

3.406.3. ***Accordingly, the Committee does not make any recommendation in this Report with respect to the establishment of a fund or mechanism for homebuyer litigation support, nor does it recommend any amendment to the Code or the CIRP Regulations in this regard. The Committee records the issue as one that may merit separate examination at an appropriate policy level, outside the insolvency regulatory framework.***

O. Resolution Applicants and Market Participation

O1. Homebuyer-Led Resolution Plans

Issue Description

3.407. Homebuyer-led resolution plans refer to proposals submitted by associations or groups of allottees for resolution and completion of distressed real estate projects in which they have invested. Such initiatives seek to harness the strong alignment of incentives of genuine homebuyers—whose primary objective is timely completion and possession—particularly in cases where conventional developer or investor interest is weak or absent.

3.408. There may be cases where third-party resolution interest may be limited due to legacy disputes, fragmented land or approval structures, reputational impairment of the developer, or constrained commercial upside. In contrast, homebuyers collectively often have the highest stake in project completion and, in appropriate cases, may demonstrate willingness to infuse additional funds or accept calibrated restructuring of entitlements to make projects viable. The issue before the Committee was whether the existing insolvency framework adequately enables such homebuyer-led initiatives or whether further regulatory intervention is required.

Existing Legal and Regulatory Status

3.409. The regulatory framework already contains specific facilitative provisions for homebuyer-led proposals in real estate projects:

3.409.1. Regulation 36A(4) provides that where the CD has a real estate project, the Committee of Creditors, for an association or group of allottees representing not less than ten per cent or one hundred creditors in a class (whichever is lower), may relax:

(a) the eligibility criteria for submission of expression of interest; and

(b) the conditions regarding the refundable deposit.

3.409.2. Regulation 36B(4A) further provides that, in such real estate projects, the Committee may relax the requirement of furnishing performance security for an association or group of allottees meeting the same representational threshold.

3.409.3. Regulation 31A(1) provides that the regulatory fee shall not be payable in cases where the approved resolution plan in respect of a real estate project is from an association or group of allottees of such a project.

3.410. These provisions expressly recognise the distinctive position of homebuyers and confer clear commercial discretion on the CoC to lower entry barriers that may otherwise impede allottee-led participation.

Section 29A Considerations

3.411. Section 29A operates as a statutory safeguard to prevent defaulting promoters or connected persons from regaining control of the CD. Its application does not, in principle, bar genuine homebuyers or allottee associations. However, eligibility must be assessed on substance, particularly to ensure that control or benefit does not vest, directly or indirectly, with the erstwhile promoter or related parties. Judicial precedent has consistently emphasised strict application of Section 29A in this regard.

Analysis and Considerations of the Committee

3.412. The Committee is of the considered view that the Code and the CIRP Regulations already provide a sufficiently enabling framework for homebuyers to submit resolution plans. Regulations 36A(4) and 36B(4A) explicitly empower the CoC to relax eligibility criteria, deposit requirements, performance security obligations for qualifying allottee groups in real estate projects, and there is also a regulatory fee exemption under Regulation 31A(1) for plan submission by an association or group of allottees.

3.413. Accordingly, the Committee does not find merit in further statutory or regulatory amendments to create a separate regime for homebuyer-led resolution plans. The existing

framework appropriately balances facilitation with safeguards, especially through Section 29A and the commercial oversight of the CoC.

3.414. At the same time, the Committee recognises that homebuyer collectives may face practical challenges in preparing compliant plans, arranging financing, and establishing credible implementation mechanisms. These challenges are best addressed through guidance, capacity building and dissemination of best practices, rather than through dilution of statutory standards.

Recommendations of the Committee

3.415. ***Recommendation No. 110 and 111***

3.415.1. ***The Committee does not recommend any amendment to the Code or the CIRP Regulations in relation to homebuyer-led resolution plans, as the existing provisions are adequate and appropriately calibrated.***

3.415.2. ***However, to facilitate effective use of the existing framework, the Committee recommends the following best-practice measures:***

i. ***Clarificatory Guidance: The Board may issue guidance clarifying that homebuyers and recognised allottee associations are eligible resolution applicants under Section 25(2)(h) and highlighting the availability of relaxations under regulations 31A(1), 36A(4) and 36B(4A) for qualifying homebuyer groups.***

ii. ***Professional Support and Capacity Building: Homebuyer associations may be encouraged to engage professional developers, project management firms and financial and legal advisors under transparent arrangements to strengthen plan preparation and execution capability.***

iii. ***CoC Evaluation and Safeguards: The CoC should continue to evaluate homebuyer-led plans on the same core parameters as other plans—feasibility, viability and potential for implementation—while ensuring strict compliance with Section 29A and preventing indirect promoter control.***

O2. Participation of Public Sector Undertakings as Resolution Applicants

Issue Description

3.416. The potential participation of Public Sector Undertakings (PSUs)—such as NBCC, HUDCO and State housing or development boards—as resolution applicants has been highlighted in the context of distressed real estate projects where private-sector resolution interest is limited, but the public-interest stakes are significant. Such projects often involve

large numbers of homebuyers, complex urban developments, and broader implications for city planning, infrastructure and public confidence in the housing market.

3.417. A substantial subset of real estate projects entering or approaching CIRP are commercially challenging for private bidders, particularly where legacy disputes, fragmented land arrangements or constrained revenue potential exist. In these situations, stakeholders have suggested that PSUs may be well-positioned to act as resolution applicants, given their experience in housing and infrastructure delivery, perceived stability, and ability to operate with a completion-oriented mandate rather than short-term profit maximisation.

Existing Legal and Regulatory Position

3.418. The Code does not restrict the PSUs from acting as resolution applicants. The PSUs are eligible to submit resolution plans on the same footing as private entities. There is, however, no specific statutory or regulatory framework that encourages, prioritises or structures the PSU participation in real estate insolvency proceedings.

3.419. Practical experience indicates that, where PSUs have undertaken completion or resolution of distressed real estate projects—often with facilitative support from State Governments—implementation has, in several cases, proceeded in a relatively stable manner. Their involvement has also tended to re-assure homebuyers and lenders, aiding confidence and sales traction.

3.420. At the same time, the PSU participation has sometimes been constrained by internal governance requirements, audit scrutiny, limited flexibility in pricing or structuring, and longer decision-making timelines. These features underscore the need for clarity and discipline in determining when the PSU participation is appropriate.

Stakeholder Submissions and Views

3.421. Stakeholders submitted that the PSU participation could be particularly valuable in projects of systemic or social importance, including large townships, projects involving public land, or developments with extensive homebuyer exposure. It was suggested that the PSUs could serve as credible resolution applicants where market-driven solutions fail to emerge.

3.422. The PSU representatives emphasised that participation must remain selective and criteria-based, consistent with public accountability norms. They cautioned against any implicit expectation that PSUs would act as default rescuers for stalled projects, noting that such an approach could distort incentives and strain public resources.

Analysis and Considerations of the Committee

3.423. The Committee recognises that the PSUs can, in appropriate cases, provide a credible and execution-capable pathway for the resolution of stressed real estate projects where private

interest is weak, but completion is strongly aligned with public interest. Their experience in large-scale project delivery, ability to coordinate with Governmental authorities, and perceived neutrality can contribute to more stable implementation outcomes.

3.424. At the same time, the Committee is mindful that the PSUs must operate within disciplined commercial and governance parameters. Any unstructured push towards the PSU-led resolutions could create a moral hazard, encouraging developers to rely on eventual public-sector intervention rather than market discipline. Accordingly, the PSU participation must remain facilitative, selective and firmly anchored within the IBC framework, without diluting the commercial evaluation role of the CoC.

Recommendations of the Committee

3.425. **Recommendation No. 112, 113 and 114**

3.425.1. ***Policy Facilitation, Not Mandate*: Relevant Ministries and State Governments may consider issuing policy guidance enabling identified the PSUs to evaluate participation as resolution applicants in real estate CIRPs that meet clearly defined criteria, such as projects with high homebuyer impact, strategic location, or substantial public interest. Such guidance should remain enabling rather than mandatory.**

3.425.2. ***Defined Eligibility and Viability Criteria*: Any PSU consideration of participation should be based on objective criteria, including demonstrable project viability, realistic cost-to-complete assessments, and clarity on land title, approvals and cash-flow segregation. Participation should not extend to projects that are structurally unviable or require open-ended public support.**

3.425.3. ***Integration with the CIRP and the CoC Processes*: The PSUs submitting resolution plans should be evaluated by the RP and the CoC on the same principles as other applicants—feasibility, viability and implementation feasibility—without preferential treatment based solely on public-sector status. Resolution professionals should ensure timely and equal access to information for all prospective applicants.**

P. Reverse CIRP

P1. Reverse CIRP in Real Estate Insolvency

Issue Description

3.426. "Reverse CIRP" has emerged in practice as an ad hoc, project-specific approach in certain real estate insolvency cases, under which the existing promoter—rather than the RP or an external resolution applicant—continue to manage and complete the project under the supervision of the resolution professional and the Committee of Creditors. This approach has

primarily been adopted in cases where the promoter is perceived to be best placed to complete the project and where replacement by a third party is considered impractical.

3.427. The issue before the Committee was whether reverse CIRP should be formally recognised, encouraged, or regulated within the insolvency framework for real estate projects, or whether it is inconsistent with the scheme of the Code and should be phased out in favour of Code-compliant alternatives.

Existing Legal and Regulatory Status

3.428. The Code does **not recognise or provide for "reverse CIRP"** as a distinct resolution mechanism. The Code envisages resolution through a transparent process culminating in approval of a resolution plan submitted by an eligible resolution applicant, subject to Section 29A and other statutory safeguards.

3.429. While promoters are not per se barred from participating in resolution unless disqualified under Section 29A, the Code does not contemplate continuation of the CD's management by the existing promoter outside the resolution applicant framework, nor does it envisage promoter-led project completion without compliance with the resolution plan process.

3.430. Judicial directions permitting promoter-led completion in select real estate cases have been **fact-specific and equitable in nature**, and do not amount to recognition of reverse CIRP as a statutory or regulatory model.

Contradictory Views Considered by the Committee

View A: Reverse CIRP Should Be Phased Out

3.431. Proponents of this view submitted that reverse CIRP is fundamentally inconsistent with the structure and intent of the Code. Key concerns raised were:

3.431.1. **Incompatibility with Section 29A**: Allowing promoters—often responsible for project failure—to continue control without subjecting them to the norms for resolution applicant undermines the disqualification regime.

3.431.2. **Erosion of creditor discipline**: Reverse CIRP bypasses competitive bidding, valuation benchmarks and plan comparison, weakening market discovery.

3.431.3. **Risk of moral hazard**: Formal acceptance of reverse CIRP may incentivise promoters to default strategically in expectation of being allowed to retain control.

3.431.4. **Legal uncertainty**: As reverse CIRP is not envisaged under the Code, its continued use creates unpredictability, litigation risk and uneven application across cases.

3.432. Accordingly, it was argued that reverse CIRP should be phased out and replaced with **Code-compliant mechanisms**, such as promoter participation strictly through resolution plans, project-wise CIRP, or regulated interim finance and monitoring structures.

View B: Reverse CIRP Should Be Encouraged in Suitable Cases

3.433. Supporters of this view argued that, in certain real estate projects, especially near-completion ones, the promoter may be the **most practical and efficient agent** for completing construction. Arguments advanced included:

3.433.1. **Project familiarity**: Promoters possess intimate knowledge of approvals, contractors and site conditions.

3.433.2. **Avoidance of disruption**: Replacement by a third party may cause delays, litigation and cost escalation.

3.433.3. **Homebuyer preference**: In some cases, homebuyers themselves prefer promoter-led completion over uncertain third-party takeover.

3.433.4. **Judicial precedent**: Courts have, in a few cases, permitted promoter-led completion to protect homebuyer interests.

3.434. It was submitted that reverse CIRP should be recognised as a pragmatic tool, subject to safeguards, particularly where no external resolution interest exists.

Analysis and Considerations of the Committee

3.435. After detailed deliberation, including review of judicial experience and stakeholder submissions, the Committee formed a clear view that **reverse CIRP cannot be recommended as a framework solution**.

3.436. The Committee noted that:

3.436.1. The Code is a **complete and structured statute** and introducing such a parallel mechanism would undermine legislative coherence.

3.436.2. Any resolution model that allows promoter continuation **without routing participation through Section 29A-compliant resolution plans** dilutes the core creditor-in-control architecture of the Code.

3.436.3. Many objectives attributed to reverse CIRP—such as continuity, project familiarity and faster completion—can be achieved through **existing Code-compliant tools**, including:

(a) promoter participation as a resolution applicant where eligible;

(b) project-wise CIRP;

(c) structured interim finance;

(d) robust monitoring committees; and

(e) milestone-based plan implementation frameworks.

3.437. The Committee therefore concluded that formal recognition or encouragement of reverse CIRP would create more systemic risk than benefit.

Recommendation of the Committee

3.438. ***Recommendation No. 115***

3.438.1. ***The Committee does not recommend recognition, encouragement or codification of "reverse CIRP", as such a process is not envisaged under the Code and is inconsistent with its statutory design.***

3.438.2. ***The Committee reiterates that:***

i. ***Resolution must occur strictly within the framework of the Code, including compliance with Section 29A, competitive plan evaluation and the CoC approval.***

ii. ***Promoters may participate only as resolution applicants, where eligible, and subject to the same scrutiny and safeguards as any other applicant.***

iii. ***Objectives sought to be achieved through the reverse CIRP should instead be addressed through structured, Code-compliant mechanisms, including project-wise admission and resolution, regulated interim finance, and strengthened monitoring of plan implementation.***

3.439. ***This approach preserves statutory integrity, creditor confidence and long-term discipline in real estate insolvency resolution.***

Q. Institutional and Structural Reforms

Q1. Specialised Adjudication for Real Estate Insolvency Matters

Issue Description

3.440. Real estate insolvency proceedings present a distinct set of adjudicatory challenges arising from the sector's technical, regulatory and social characteristics. Unlike conventional corporate insolvencies, real estate CIRPs typically involve large numbers of individual

homebuyers, complex interfaces with sectoral regulators such as RERA and land development authorities, and fact-intensive issues relating to construction status, approvals, cost-to-complete and phased project implementation.

3.441. Stakeholders have suggested that these features place particular demands on adjudicating authorities, and that the absence of sectoral familiarity or continuity in bench handling can contribute to delays, inconsistent treatment of recurring issues, and increased litigation. The proposal for specialised or designated benches for real estate insolvency matters seeks to address these concerns by concentrating experience and institutional knowledge within the existing adjudicatory framework.

Existing Adjudicatory Framework

3.442. At present, real estate insolvency cases are heard by regular benches of the National Company Law Tribunal (NCLT), which exercise jurisdiction over all matters under the Code. There is no statutory or regulatory provision creating sector-specific benches for real estate or any other industry.

3.443. While several benches—particularly in high-volume jurisdictions—have developed substantial experience in real estate matters through repeated exposure, allocation of cases remains primarily driven by roster and administrative considerations rather than sectoral specialisation.

Stakeholder Submissions and Views

3.444. Stakeholders, including insolvency professionals, homebuyer representatives and experts, submitted that greater continuity and sectoral familiarity at the adjudicatory level could improve both efficiency and consistency in real estate insolvency matters. Suggestions included administrative designation of benches to primarily hear real estate cases and ensuring the availability of technical expertise relevant to housing, urban development or project finance.

3.445. At the same time, several stakeholders cautioned against formal over-specialisation, noting that insolvency law is intended to operate uniformly across sectors and that excessive compartmentalisation could fragment jurisprudence or generate similar demands from other industries.

Analysis and Considerations of the Committee

3.446. The Committee notes that real estate insolvencies raise recurring sector-specific questions—particularly at the intersection of the IBC with RERA, land laws and municipal regulation—that benefit from continuity of judicial exposure. Concentration of experience can reduce the learning curve, improve the predictability of outcomes, and support more consistent handling of similar issues across cases.

3.447. At the same time, the Committee is conscious that insolvency adjudication under the Code is designed to be sector-agnostic and that any move towards specialisation must operate within the existing statutory framework of the NCLT. Structural or statutory segregation of benches by sector may not be desirable. A balanced approach that relies on **administrative designation and capacity-building**, rather than formal compartmentalisation, is therefore preferable.

Recommendations of the Committee

3.448. ***Recommendation Nos. 116, 117, 118, 119 and 120***

3.448.1. ***Administrative Designation of Benches: Within the existing NCLT framework, benches in jurisdictions with a high volume of real estate insolvency cases may be administratively designated to primarily hear such matters, based on case load analysis and availability of members. Such a designation should remain flexible and subject to periodic review.***

3.448.2. ***Sector-Relevant Expertise through Composition and Rotation: Where feasible, efforts may be made to ensure that designated benches include, or have access to, members with experience in housing, urban development, infrastructure or project finance, including through targeted posting or rotation, without creating rigid sectoral silos.***

3.448.3. ***Consistency and Jurisprudential Continuity: Designated benches should endeavour to evolve consistent approaches to recurring issues in real estate insolvency—such as project-wise resolution, homebuyer participation, and coordination with sectoral regulators—through reasoned and well-articulated orders.***

3.448.4. ***Institutional Coordination: Without encroaching upon statutory boundaries, structured institutional interaction between adjudicating authorities and RERA or development authorities may be encouraged to promote procedural clarity and reduce duplicative or conflicting proceedings.***

3.448.5. ***Fast-track appeal forum: The Committee recommends that appeals arising from real estate insolvency proceedings before the National Company Law Appellate Tribunal be accorded fast-track treatment through prioritised listing, strict control on adjournments, adoption of time-bound disposal norms, and extensive use of virtual or hybrid hearings.***

Q2. Role of Information Utility in Real Estate Insolvency

Issue Description

3.449. Information Utilities (IUs) were originally conceived under the Code as neutral repositories of financial information to facilitate the timely and accurate determination of default. In real estate insolvency, however, the scale and complexity of stakeholder relationships—particularly involving large numbers of homebuyers—have exposed limitations in the traditional loan-centric functioning of IUs.

3.450. Real estate CIRPs routinely face challenges in identifying genuine allottees, verifying payment histories, reconciling possession status, and addressing belated or disputed claims. These challenges significantly delay claim verification, complicate resolution planning, and often lead to excessive litigation. The Committee therefore examined whether, and how, IUs can play a more substantive and structured role in improving transparency, accuracy, and efficiency in real estate insolvency proceedings.

Existing Legal and Regulatory Status

3.451. Under the Code and the IBBI (Information Utilities) Regulations, 2017, IUs are mandated to accept, store, authenticate, and provide access to financial information relating to debts, defaults, and security interests. Their primary use-case to date has been in relation to the FCs and loan documentation.

3.452. There is no explicit statutory framework requiring or enabling systematic capture of **homebuyer-related information**, such as allotment details, instalment payments, possession timelines, refund obligations, or RERA-linked compliance data. Consequently, in real estate CIRPs, IUs are under-utilised, and resolution professionals must rely heavily on CD records, which are often incomplete or unreliable.

3. Stakeholder Submissions and Committee Deliberations

3.453. During the sixth meeting, insolvency professionals, lenders, successful resolution applicants, and representatives of an Information Utility highlighted several real estate - specific gaps and opportunities:

3.453.1. **Homebuyer Data Deficit:** It was repeatedly noted that the absence of a verified, central repository of homebuyer obligations and payments is a major source of dispute. RPs face difficulty in finalising the list of allottees, especially where CD records conflict with homebuyer documentation or RERA data.

3.453.2. **Belated and Disputed Claims:** Stakeholders pointed out that homebuyers often surface late in the CIRP, sometimes after plan approval, claiming allotments that are shown as

cancelled in the CD's books. This undermines finality and exposes resolution applicants to post-approval risks.

3.453.3. **Standardised Recording of Developer Obligations:** Insolvency professionals suggested that IUs should record not only loan defaults, but also developer obligations towards homebuyers—such as possession deadlines, assured return commitments, refund directions, and court or RERA orders—creating verifiable evidence of default.

3.453.4. **Project-Wise Identification:** The Information Utility highlighted that adoption of a **uniform project identifier**, preferably aligned with RERA registration numbers, would materially support project-wise CIRP and electronic claim processing.

3.453.5. **Claim Verification During CIRP:** It was emphasised that time-stamped IU data can significantly simplify claim verification, interest computation, and reconciliation, reducing reliance on disputed CD records.

3.453.6. **Early Warning and Stress Detection:** Some stakeholders suggested that aggregated IU data across lenders, buyers, and authorities could serve as an early-warning mechanism for project stress, enabling corrective action before insolvency.

4. Analysis and Considerations of the Committee

3.454. The Committee is of the view that real estate insolvency exposes structural information asymmetries that the existing IU framework is not fully equipped to address. Unlike conventional corporate insolvency, real estate CIRPs are characterised by:

3.454.1. Thousands of small-value, retail stakeholders;

3.454.2. Project-specific obligations extending over long time horizons; and

3.454.3. High incidence of record fragmentation and post-facto disputes.

3.455. The Committee considers that expanding the functional role of IUs—without altering their neutral and evidentiary character—can materially improve process efficiency, transparency, and certainty. In particular, systematic capture of homebuyer-related data by IU would reduce dependence on potentially unreliable CD records and mitigate disputes arising from belated or unverifiable claims.

3.456. At the same time, the Committee recognises the need for robust safeguards relating to data accuracy, authentication, privacy, and limited-purpose disclosure, given the sensitive personal and financial information involved.

Recommendations of the Committee

3.457. ***Recommendation Nos. 121, 122, 123, 124 and 125***

3.457.1. ***Expanded Scope of Information Capture: The IU may be enabled, through regulatory guidance, to record standardised information relating to homebuyer–developer relationships, including amounts paid, possession timelines, refund or assured return obligations, and defaults in delivery or payment.***

3.457.2. ***Integration with RERA and Project Identifiers: Adoption of a unique, standard project identifier—preferably linked to RERA registration numbers—should be encouraged to enable project-wise recording, claim verification, and the CIRP administration.***

3.457.3. ***Support for Claim Verification in the CIRP: Time-stamped IU records should be utilised by resolution professionals to facilitate faster and more reliable verification of claims, reconciliation of payment histories, and computation of dues, particularly in cases involving large numbers of allottees. The recommendations of the Committee in this regard are captured under the section "Simplified homebuyer claim processes" in Chapter III of this Committee's Report.***

3.457.4. ***Handling of Belated and Disputed Claims: Availability of authenticated IU data can help reduce disputes arising from late or conflicting claims and improve certainty for resolution applicants at the plan approval and implementation stages, which may also improve bid value.***

3.457.5. ***Safeguards and Phased Implementation: Any expansion of IU functions should be accompanied by clear standards for data verification, counterparty notification, privacy protection, and phased rollout, recognising the operational and technological challenges involved.***

Q3. Immunity from Past Liabilities ("Clean Slate") in Real Estate Resolution

Issue Description

3.458. Immunity from past liabilities is a critical element in enabling the successful resolution of stressed real estate projects. Resolution applicants must be able to implement approved plans without exposure to historical tax, regulatory or statutory liabilities of the CD or the project, except to the extent such liabilities are expressly assumed under the resolution plan. This concern assumes particular significance in real estate, where projects are long gestational in nature and typically accumulate multiple legacy compliances and dues involving diverse authorities.

3.459. Real estate projects interact over extended periods with tax authorities, municipal bodies, development authorities, environmental regulators and RERA authorities. Historical defaults or non-compliances may have resulted in pending demands, penalties, notices or enforcement actions. Resolution applicants expressed apprehension that, notwithstanding plan approval, they may be subjected to revival of such legacy claims, thereby undermining plan feasibility, financing arrangements and timely completion of projects.

Existing Legal and Regulatory Status

3.460. The Code already embodies the clean slate principle.

3.460.1. **Section 31(1)** provides that once a resolution plan is approved by the Adjudicating Authority, it is binding on the CD and *all stakeholders*, including the Central Government, State Governments and local authorities, to whom statutory dues are owed.

3.460.2. Judicial interpretation has consistently affirmed that claims which are not provided for in the approved resolution plan stand extinguished.

3.461. In addition, Section 32A expressly grants immunity to the CD and its assets from prosecution and liability for offences committed prior to commencement of CIRP, upon approval of a resolution plan and change in control, subject to statutory conditions. This provision reinforces the clean slate objective by insulating the revived entity from past offences attributable to prior management. However, this immunity is not available to the promoters, directors of the CD for the offences committed.

3.462. The CIRP Regulations complement this framework.

3.462.1. **Regulation 38(1)(b)** requires resolution plans to provide for the manner of dealing with claims of operational creditors, including Statutory Authorities, thereby ensuring that such claims are addressed within the plan framework.

3.462.2. The combined effect of Section 31 and Regulation 38 is that statutory and regulatory claims must be resolved *within* the plan and cannot be pursued independently thereafter, except as provided for in the plan.

3.463. Despite the statutory clarity, practical difficulties have been reported in real estate cases, where certain authorities have continued to assert pre-CIRP dues or compliance actions post-plan approval. These issues typically arise not from gaps in the law, but from a lack of coordination, delayed filing of claims, or differing interpretations of the binding effect of approved resolution plans.

Stakeholder Submissions and Concerns

3.464. Resolution applicants and financial institutions emphasised the need for certainty and predictability regarding immunity from past liabilities, noting that unresolved legacy exposure materially affects bid pricing, financing costs and willingness to participate in real estate CIRPs.

3.465. Regulatory authorities, on the other hand, stressed that while past dues of the CD can be settled through insolvency, immunity must not extend to ongoing or future compliance obligations, nor to personal liabilities of promoters or officers responsible for violations.

Analysis and Considerations of the Committee

3.466. The Committee notes that the **existing statutory framework under the IBC already provides robust protection** to resolution applicants through the clean slate principle and Section 32A immunity. These provisions are sector-agnostic and fully applicable to real estate insolvencies.

3.467. The difficulties observed in practice arise primarily from **implementation and coordination challenges**, rather than from inadequacy of the law. Reopening or dilution of the clean slate principle would seriously impair the resolution ecosystem, reduce bidder confidence and undermine the fundamental objective of value maximisation.

3.468. At the same time, the Committee recognises the need to clearly distinguish between:

3.468.1. liabilities of the *CD* arising before CIRP (which are dealt with through the plan); and

3.468.2. personal or continuing liabilities of promoters, officers or other persons, as well as post-resolution regulatory compliance obligations (which remain unaffected).

Recommendations of the Committee

3.469. ***Recommendation Nos. 126, 127, 128 and 129***

3.469.1. ***Reiteration of the Clean Slate Principle: The binding effect of an approved resolution plan under Section 31(1) and the immunity framework under Section 32A should be expressly reiterated in guidance and communications to all stakeholders, including statutory and regulatory authorities, emphasising that past claims not provided for in the plan stand extinguished against the CD.***

3.469.2. ***Clear Treatment of Statutory Dues in Resolution Plans: Resolution professionals should ensure that statutory and regulatory authorities are duly notified and their claims, if any, are expressly dealt with in the resolution plan in accordance with Regulation 38, to minimise post-approval disputes and litigation.***

3.469.3. ***Distinction Between Past and Prospective Obligations: Authorities should be sensitised that while past dues and liabilities of the CD are resolved through the plan, full regulatory powers continue in respect of post-resolution compliance, future dues and ongoing obligations.***

3.469.4. ***Improved Coordination and Communication: IBBI may consider issuing advisories or facilitating coordination mechanisms to ensure that authorities relevant to real estate projects—such as tax, municipal, development and RERA authorities—are effectively integrated into the CIRP process and fully aware of the consequences of plan approval.***

Q4. Regulatory Fee Computation in Real Estate CIRPs

Issue Description

3.470. Concerns were raised regarding the computation of regulatory fees payable to the Board in real estate CIRPs, particularly where a large number of homebuyers have already been granted possession before or during the insolvency process. It was suggested that the inclusion of such possession-settled claims in the fee base may not accurately reflect incremental value realised through resolution.

Existing Legal and Regulatory Status

3.471. The regulatory fee is prescribed under the CIRP Regulations and is linked to the realisable value to creditors under an approved resolution plan where such value exceeds the liquidation value. The framework is broadly **sector-agnostic** and applies uniformly across all CIRPs without differentiating between categories of creditors or modes of value realisation. Only one exemption has been created in the case of homebuyer submitted resolution plans. The CIRP Regulations provide that the regulatory fee shall not be payable in cases where the approved resolution plan in respect of a real estate project is from an association or group of allottees of such a project.

Analysis and Considerations of the Committee

3.472. The Committee notes that the existing regulatory fee framework is clear, settled, and consistently applied in real estate CIRPs. Market participants have internalised the fee as a known cost of resolution, and no material ambiguity or systemic distortion has been demonstrated. The Committee is of the view that introducing sector-specific adjustments or exclusions may add complexity without commensurate benefit.

Recommendation of the Committee

3.473. **Recommendation No. 130**

The Committee does not recommend any change to the existing regulatory fee framework applicable to real estate CIRPs. The current mechanism is considered adequate, predictable and administratively efficient.

Q5. Evidentiary Status of Corporate Debtor Records

Issue Description

3.474. In real estate insolvency proceedings, the books and records of the CD—such as allottee ledgers, collection registers, project-wise accounts and internal MIS—are frequently relied upon for identification of stakeholders and verification of claims. The issue under consideration is whether such records should be accorded any presumptive evidentiary status, akin to that available to "bankers' books", or whether they should continue to be subject to full scrutiny and verification.

3.475. Stakeholders expressed concern that granting elevated evidentiary weight to CD records may prejudice homebuyers and other creditors in circumstances where developer records are incomplete, inaccurate, or have been manipulated, which is a common feature of distressed real estate projects.

Existing Legal and Regulatory Status

3.476. Under the general law of evidence, limited statutory presumptions attach to certain categories of records, such as bankers' books. There is, however, **no statutory or regulatory presumption of correctness** in favour of the books and records of a CD under the Code or the CIRP Regulations.

3.477. In practice, while resolution professionals rely on CD records for operational efficiency and as a starting point for claims verification, such records remain subject to verification, challenge and corroboration, particularly where discrepancies are brought to notice by creditors.

Stakeholder Submissions and Views

3.478. Homebuyer associations, practitioners, and experts broadly opposed any move to accord presumptive evidentiary status to CD records. It was submitted that in many real estate insolvencies, unreliable or manipulated records are a core symptom of distress, and shifting the burden onto individual homebuyers to disprove such records would be inequitable.

Stakeholders emphasised that neutral and statutory data sources—such as RERA allottee lists, registered agreements and banking records—are more reliable and should carry greater evidentiary weight in the claim verification process.

Analysis and Considerations of the Committee

3.479. The Committee notes that while CD records are necessary for the efficient conduct of CIRP, particularly at the initial stage, they cannot be presumed to be accurate in real estate cases marked by diversion of funds, informal transactions and weak internal controls.

3.480. Therefore, according to such records, a presumptive evidentiary status would risk undermining creditor confidence, particularly among homebuyers, and could lead to unjust outcomes where reliable third-party or statutory evidence exists to the contrary. The Committee is of the view that flexibility, scrutiny and **cross-verification** are essential safeguards in real estate insolvency proceedings.

Recommendation of the Committee

3.481. ***Recommendation No. 131***

3.481.1. ***CD records should not be accorded any presumptive evidentiary status akin to that of bankers' books in real estate insolvency proceedings and should remain subject to full scrutiny and verification.***

3.481.2. ***Resolution professionals should be encouraged to systematically cross-verify CD records with third-party and statutory data sources.***

Q6. Coordination with Local Development Authorities (NOIDA, GNIDA, etc.)

Issue Description

3.482. Real estate insolvency cases frequently involve projects situated on land allotted or regulated by local development authorities such as NOIDA, GNIDA and similar bodies. The actions of such authorities—particularly in relation to land dues, lease conditions, approvals and enforcement—have a direct and material impact on the feasibility of resolution plan and timely project completion.

3.483. The issue before the Committee is the absence of structured and predictable coordination mechanisms between insolvency processes and local development authorities when a real estate project enters the corporate insolvency resolution process (CIRP). In the absence of such coordination, similarly placed projects may face divergent outcomes depending on the approach adopted by the concerned authority.

Existing Legal and Regulatory Position

Role of Development Authorities

3.484. Local development authorities typically perform multiple functions in real estate projects, including:

3.484.1. Allotment or leasing of land and recovery of premiums, lease rent and allied charges;

3.484.2. Regulation of development conditions, layout approvals and building norms; and

3.484.3. Enforcement actions, including levy of penalties, resumption of land or cancellation of leases for breaches.

3.485. There is presently no uniform statutory or regulatory framework governing how development authorities should respond when projects under their jurisdiction are admitted into the CIRP. As a result, engagement with insolvency processes remains largely authority-specific and case-specific.

3.486. In practice, approaches have varied widely. In some cases, authorities have engaged constructively by restructuring dues, extending timelines or facilitating approvals in support of resolution. In others, insistence on immediate clearance of past dues or threat of lease cancellation has constrained resolution efforts and deterred potential resolution applicants. Experience from the real estate CIRPs indicates that unresolved issues with development authorities have, in several cases, delayed or complicated resolution. Common challenges include:

3.486.1. Demands for full settlement of historical dues as a precondition for approving revised timelines or plans;

3.486.2. Uncertainty regarding continuation or transfer of leasehold rights post-resolution; and

3.486.3. Lack of clarity on how authority claims are to be treated vis-à-vis other creditors under approved resolution plans.

3.487. Conversely, cases where authorities have adopted a facilitative approach—recognising the objectives of the CIRP and engaging with resolution applicants—have generally seen smoother progress towards completion.

Stakeholder Submissions and Concerns

3.488. Stakeholders submitted that development authorities are critical stakeholders in real estate insolvencies, and their cooperation is often indispensable for any viable resolution. Suggestions included:

3.488.1. Development of standard operating procedures (SOPs) for authority engagement in insolvency cases;

3.488.2. Clarity on filing and treatment of claims by authorities; and

3.488.3. Structured mechanisms for resolving authority-specific disputes within the resolution framework.

3.489. Development authorities expressed concern that excessive dilution or restructuring of land-related dues could weaken enforcement discipline and encourage strategic defaults by developers. They emphasised the need for any coordination framework to preserve accountability and statutory mandates.

Analysis and Considerations of the Committee

3.490. The Committee recognises that local development authorities occupy a unique position in real estate insolvencies, combining the roles of creditor, landholder and regulator. Their actions can either enable resolution and project completion or materially impair value.

3.491. The Committee considers that a balanced approach is required—one that respects the legitimate claims and statutory functions of authorities, while ensuring that insolvency resolution is not rendered unviable by rigid or inconsistent enforcement actions.

Recommendations of the Committee

3.492. ***Recommendation Nos. 132, 133, 134, 135 and 136***

3.492.1. ***Standard Operating Procedures for Insolvency Cases: Central and State Governments, in consultation with development authorities and insolvency institutions, may consider formulating SOPs outlining how authorities will engage with projects admitted into CIRP. Such SOPs may address, inter alia:***

- ***a. Principles for maintaining leasehold and development rights during the CIRP;***
- ***b. Restructuring or rescheduling of dues as part of approved resolution plans; and***
- ***c. Treatment of past enforcement actions in light of insolvency resolution.***

3.492.2. ***Clarity on Claim Filing and Participation: Guidance may be issued to clarify the manner in which development authorities should file claims and participate in the CIRP,***

consistent with their classification under the Code and without seeking preferential treatment outside the resolution framework.

3.492.3. ***Approach to Lease and Title Continuity: Authorities may adopt a harmonised approach to lease and title-related issues, avoiding cancellation or resumption actions solely on account of defaults that are being addressed through the insolvency process, subject to compliance with approved resolution plans.***

3.492.4. ***Alignment with RERA and Urban Planning Objectives: Coordination mechanisms should align insolvency resolution with RERA objectives and broader urban-planning considerations, recognising that completion of stalled housing projects serves significant public interest.***

3.492.5. ***Institutional Dialogue and Capacity Building: Regular institutional dialogue and joint orientation programmes involving development authorities, RERA bodies and insolvency professionals may be encouraged to build mutual understanding of legal frameworks, constraints and best practices.***

Q7. Post-Resolution Monitoring by RERA

Issue Description

3.493. Following approval of a resolution plan in a real estate corporate insolvency resolution process (CIRP), the emphasis necessarily shifts from restructuring to on-ground implementation—completion of construction, delivery of units, and compliance with sectoral and statutory obligations.

3.494. While insolvency law provides for monitoring arrangements through resolution plans, stakeholders highlighted that such mechanisms are often financial or contractual in nature and may not provide continuous project-level regulatory oversight. The issue under consideration is whether, and how, Real Estate Regulatory Authorities (RERAs) can play a structured role in post-resolution monitoring of real estate projects, consistent with their statutory mandate and without displacing insolvency processes.

3.495. Experience from resolved real estate CIRPs indicates that, after plan approval:

3.495.1. Homebuyers often seek a clear and accessible forum to track progress and raise implementation-related concerns;

3.495.2. Insolvency-focused monitoring mechanisms may not always have continuous on-site visibility or regulatory leverage; and

3.495.3. Informal engagement by RERA authorities, where it has occurred, has improved transparency and responsiveness.

3.496. The absence of a formalised post-resolution interface with RERA has, in some cases, contributed to uncertainty and fragmented oversight.

Stakeholder Submissions and Views

3.497. Stakeholders submitted that:

3.497.1. RERA is institutionally well-suited to oversee long-term implementation of real estate projects, including those emerging from insolvency;

3.497.2. Continued reliance on insolvency forums for post-resolution issues is neither efficient nor desirable once CIRP has concluded; and

3.497.3. A clearer integration of resolution plan commitments into RERA's disclosure and monitoring framework would enhance accountability and homebuyer protection.

3.498. Suggestions included filing approved resolution plans with RERA and leveraging existing regulatory tools for monitoring compliance.

Analysis and Considerations of the Committee

3.499. The Committee considers that post-resolution implementation of real estate projects is inherently sectoral in character and extends over multiple years. RERA, as the specialised regulator for real estate development, is naturally positioned to provide continuity of oversight once insolvency resolution has been achieved.

3.500. At the same time, the Committee emphasises that RERA's role should be complementary and not supervisory over insolvency outcomes. Insolvency institutions, including the Adjudicating Authority, must retain jurisdiction over the enforcement of plan terms and resolution of disputes arising under the Code. A calibrated transition from insolvency-centric monitoring to sectoral regulatory oversight would best serve both efficiency and homebuyer interests.

Recommendations of the Committee

3.501. ***Recommendation Nos. 137, 138, 139, 140 and 141***

3.501.1. ***Alignment of Approved Resolution Plans with RERA Records: Upon approval of a resolution plan in a real estate CIRP, key project-specific commitments—such as revised timelines, phasing, and delivery milestones—may be filed with the concerned RERA as part of project registration updates or disclosures, to the extent consistent with RERA's statutory framework.***

3.501.2. ***RERA-Led Monitoring Using Existing Powers: RERA may monitor implementation of revised project commitments using its existing statutory powers, including inspections, progress tracking, disclosure requirements and grievance redressal, without creating new approval or supervisory layers. Suitable amendments to the RERA Act may also be carried out to expand or strengthen this further.***

3.501.3. ***Structured Transition from Insolvency Monitoring: Monitoring committees or implementation mechanisms under the resolution plan may operate for a defined initial period or until specified milestones are achieved. Thereafter, routine oversight of construction progress and allottee-related obligations may rest primarily with the RERA.***

3.501.4. ***Homebuyer Interface and Grievance Redressal: Homebuyers should be clearly informed that post-resolution, implementation-related grievances may be raised before the RERA, which may address such grievances in accordance with its statutory mandate, while insolvency forums remain available for issues relating to enforcement of plan terms.***

3.501.5. ***Institutional Coordination and Clarification: Appropriate clarificatory guidance may be issued by the Central and the State authorities delineating the respective roles of RERA and insolvency institutions in the post-resolution phase, with a view to ensuring continuity, transparency and regulatory certainty.***

Q8. Reset of Construction Timelines Post-Resolution

Issue Description

3.502. This issue concerns whether, and in what manner, construction timelines for real estate projects should be reset following approval of a resolution plan under the Code. In many real estate CIRPs, projects enter insolvency after prolonged periods of distress, during which original contractual and regulatory completion timelines have become unachievable due to stalled construction, funding constraints and litigation.

3.503. While approved resolution plans typically provide revised, forward-looking construction schedules based on updated technical and financial assessments, the absence of a clear mechanism for recognising these timelines as operative benchmarks can create uncertainty for resolution applicants, homebuyers and authorities alike. This uncertainty risks undermining effective implementation of otherwise viable resolution plans.

Existing Status and Practical Difficulties

3.504. At present, resolution plans approved by the Adjudicating Authority commonly specify revised construction milestones and delivery schedules. However, there is no uniform or explicit framework requiring all relevant authorities to treat these revised timelines as replacing legacy contractual or regulatory deadlines.

3.505. As a result, projects may face:

3.505.1. continuing exposure to penalties, interest or adverse action linked to pre-CIRP delays;

3.505.2. threats of cancellation or enforcement despite adherence to post-resolution schedules; and

3.505.3. confusion among homebuyers regarding which timelines are binding after resolution.

3.506. Ambiguity persists regarding the status of original completion timelines registered under RERA or reflected in allotment agreements, and the extent to which revised timelines under a resolution plan are to be treated as determinative going forward.

Stakeholder Submissions and Views

3.507. Stakeholders submitted that:

3.507.1. A clear, plan-linked reset of timelines is essential to provide regulatory certainty and enable effective plan implementation;

3.507.2. Homebuyer expectations must be realigned with realistic, post-resolution schedules grounded in technical viability; and

3.507.3. Any reset must be prospective and transparent, without extinguishing legitimate claims relating to past delays.

3.508. At the same time, concerns were raised that timeline resets should not become open-ended or dilute accountability for future non-performance.

Analysis and Considerations of the Committee

3.509. The Committee considers that in real estate CIRPs, the construction timelines set out in an approved resolution plan represent the only realistic and workable schedule for project completion. Continuing to apply pre-insolvency deadlines—rendered unachievable by circumstances leading to CIRP—can create regulatory contradictions and deter serious resolution applicants.

3.510. The Committee emphasises that a reset of timelines:

3.510.1. should operate prospectively, as part of the fresh-start logic of resolution;

3.510.2. does not negate or condone past delays, which must be addressed through the plan's treatment of claims and obligations; and

3.510.3. must be accompanied by transparency, disclosure and monitoring to safeguard homebuyer interests.

Recommendations of the Committee

3.511. ***Recommendation Nos. 142, 143 and 144***

3.511.1. ***Plan-Based Timelines as Operative Benchmarks: Approved resolution plans should clearly specify project-wise and phase-wise construction and delivery milestones. Upon approval by the Adjudicating Authority, these timelines should operate as the primary reference schedule for project implementation.***

3.511.2. ***Recognition by Regulatory and Planning Authorities: Relevant authorities, including RERA, development authorities and municipal bodies, should recognise the revised timelines set out in the approved resolution plan as the applicable benchmarks for compliance going forward, subject to their respective statutory frameworks.***

3.511.3. ***Protection from Legacy-Timeline Enforcement: Where a project is being implemented in accordance with reset timelines under an approved plan, authorities should ordinarily refrain from coercive or penal action based solely on non-adherence to pre-resolution completion dates. This does not restrict action for non-compliance with the revised timelines.***

Q9. Framework for Non-Cooperative Homebuyers

Issue Description

3.512. Implementation of real estate resolution plans often depends on timely compliance by homebuyers with revised payment schedules. Where a segment of allottees, despite being beneficiaries under the plan, persistently fail to meet such obligations, projected cash flows are disrupted, construction is delayed, and compliant homebuyers are unfairly burdened. At the same time, any response framework must remain sensitive to genuine hardship, given the prolonged delays already suffered by homebuyers.

3.513. At present, remedies against non-cooperative homebuyers arise from contractual provisions, RERA directions, or plan-specific clauses, if any. There is no uniform expectation that resolution plans must clearly define non-cooperation or provide structured, transparent consequences, leading to disputes and uncertainty during implementation.

Analysis and Considerations of the Committee

3.514. The Committee considers it essential that resolution plans expressly address the risk of non-cooperative behaviour. Clear, upfront disclosure of revised obligations and consequences promotes fairness between compliant and defaulting allottees and strengthens the credibility of cash-flow projections underpinning the plan. Equally, safeguards are necessary to distinguish wilful default from genuine hardship and to provide accessible grievance redressal.

Recommendation of the Committee

3.515. ***Recommendation No. 145***

The Committee recommends that resolution plans for real estate projects should:

3.515.1. ***Clearly define non-cooperative conduct in relation to revised obligations and explain such provisions to homebuyers at the outset.***

3.515.2. ***Provide notice and cure mechanisms before any adverse consequences are triggered.***

3.515.3. ***Prescribe proportionate remedies for persistent non-cooperation, consistent with the plan and applicable law.***

3.515.4. ***Allow limited flexibility for genuine hardship cases, within defined parameters.***

3.515.5. ***Establish a grievance-redressal mechanism enabling homebuyers to challenge classification as non-cooperative or raise implementation concerns.***

Q10. Digital Transparency and Institutional Capacity for Monitoring Real Estate Resolution

Issue Description

3.516. Real estate distress and insolvency proceedings typically traverse multiple fora, including RERA authorities, adjudicating authorities under the Code, and consumer fora. The absence of a unified, publicly accessible information system tracking case status, project progress, compliance milestones, and handover timelines results in information silos, duplication of proceedings, and limited transparency for homebuyers and other stakeholders. Simultaneously, while RERA authorities are institutionally best placed to oversee project-level implementation and post-resolution compliance, capacity constraints—particularly in technology, data analytics, and systematic monitoring—limit their effectiveness in ensuring timely possession and enforcement of directions.

Existing Status and Limitations

3.517. At present, information relating to insolvency proceedings, RERA compliance, and consumer litigation is maintained on separate platforms with no inter-operability or consolidated project-wise view. Homebuyers and regulators often rely on fragmented disclosures, making it difficult to track implementation of resolution plans or regulatory orders in real time. Further, RERA monitoring is largely complaint-driven and manual in nature, with limited use of technology-enabled dashboards, periodic certifications, or outcome-based metrics such as time to possession and compliance rates.

Recommendations of the Committee

3.518. ***Recommendation Nos. 146 and 147***

3.518.1. ***The Committee recommends the creation of a single, integrated public digital platform that provides project-wise visibility of proceedings and outcomes across RERA, insolvency processes, and consumer fora, including key milestones relating to construction progress, regulatory compliance, and handover.***

3.518.2. ***The Committee further recommends strengthening the institutional and technological capacity of the RERA authorities through enhanced digital infrastructure, periodic project progress certifications, and state-wise dashboards measuring timelines to possession and compliance with orders, so that the RERA can effectively function as the primary monitoring institution for real estate project completion and post-resolution implementation.***

Q11. Moratorium on Home Loan Instalments Payable by Homebuyers during CIRP

Issue Description

3.519. A recurring concern raised during the Committee's deliberations relates to the differential impact of the moratorium under Section 14 of the Code on various stakeholders in real estate insolvency. Upon commencement of the CIRP, repayment obligations of the CD to its lenders are stayed. In contrast, individual homebuyers—who have financed their purchases through housing loans—are required to continue servicing their personal loan instalments to Banks and housing finance companies, even though construction may be stalled and possession indefinitely delayed.

3.520. This asymmetry is particularly acute for homebuyers who are compelled to bear simultaneous financial burdens in the form of rent for alternate accommodation and equated monthly instalments (EMIs) on home loans for undelivered units, leading to significant financial distress.

Existing Legal and Regulatory Status

3.521. The moratorium under Section 14 of the Code applies to actions against the CD and its assets and does not extend to independent contractual obligations of third parties, including homebuyers' personal loan agreements with lenders. Housing loans availed by homebuyers constitute separate borrower–lender relationships, and Banks are legally entitled to enforce repayment in accordance with applicable loan contracts and regulatory norms.

3.522. While limited reliefs such as restructuring, rescheduling, or temporary deferment may be available under prudential or policy measures issued by financial regulators, there is no statutory linkage between insolvency proceedings of a real estate developer and suspension of EMIs payable by individual homebuyers.

Jurisprudence

3.523. In *Chitra Sharma & Ors. v. Union of India & Ors*., the Hon'ble Supreme Court took cognisance of the acute hardship faced by homebuyers who continued to service home loan EMIs even after real estate projects had stalled and the developer had entered insolvency-related proceedings. The Court noted the inherent asymmetry in the legal framework: while enforcement of dues payable by the CD to lenders stood restrained due to insolvency proceedings, homebuyers—treated as individual borrowers by banks—remained contractually bound to repay EMIs for homes that were neither completed nor capable of being occupied. This resulted in many homebuyers bearing a dual financial burden, comprising continued loan repayments alongside rental expenses for alternate accommodation.

3.524. The Court recognised that this situation was not merely a matter of private contractual obligations but reflected a deeper systemic failure involving developers, financial institutions, and regulatory oversight. It emphasised that homebuyers could not be penalised for defaults attributable to developers, particularly in subvention-based arrangements where loan proceeds had been disbursed directly to the developer without commensurate construction progress. The Court underscored the social and constitutional dimensions of housing, observing that recovery actions by banks could not be pursued in a manner divorced from ground realities and regulatory non-compliance.

3.525. While the Hon'ble Supreme Court did not issue a final adjudicatory direction suspending EMI obligations as a matter of law, it expressly flagged the continued EMI liability of homebuyers during insolvency as a serious structural concern requiring further policy and regulatory examination. In the interim, the Court issued protective directions restraining coercive recovery actions in appropriate cases, monitored resolution efforts with a focus on project completion, and called upon the Government and regulators to examine institutional and legislative responses. The judgment thus stands as an acknowledgement of the inequitable burden placed on homebuyers during developer insolvency, while leaving the issue of EMI treatment during CIRP open for comprehensive reform outside the judicial domain.

Stakeholder Submissions and Views

3.526. Homebuyer representatives highlighted that the continuation of EMI obligations during prolonged CIRP periods results in inequitable hardship, particularly where delays are attributable to developer defaults and insolvency proceedings beyond the control of allottees. They submitted that this undermines the protective intent underlying recognition of homebuyers as FCs.

3.527. Financial institutions, however, emphasised that housing loans are secured retail exposures governed by banking and prudential regulations, and any blanket moratorium could have systemic implications for credit discipline and financial stability. They noted that the insolvency of a developer does not, by itself, impair the borrower's contractual repayment capacity in law.

Analysis and Considerations of the Committee

3.528. The Committee acknowledges the genuine hardship faced by homebuyers servicing housing loans without corresponding enjoyment of possession or use of the underlying asset. It also recognises that prolonged insolvency proceedings exacerbate this burden and can erode confidence in the resolution framework.

3.529. At the same time, the Committee notes that the issue implicates broader questions of banking regulation, retail credit risk, prudential norms, and macro-financial stability, which extend beyond the insolvency framework and the Committee's sector-specific mandate. Any intervention linking developer insolvency with suspension or modification of home loan repayment obligations would require careful calibration and coordinated policy consideration by financial sector regulators and the Government.

Recommendation of the Committee

3.530. ***Recommendation No. 148***

3.530.1. ***The Committee notes the concern regarding continued home loan instalment obligations during CIRP and the hardship it may cause to homebuyers. However, the Committee is of the view that this issue falls outside the scope of its present mandate, which is confined to framing guidelines for insolvency proceedings in the real estate sector under the Code.***

3.530.2. ***Accordingly, the Committee does not make any recommendation in this regard in the present Report but records the issue as one, warranting separate and detailed examination by the appropriate authorities, including financial sector regulators and the Government, taking into account consumer protection, banking prudential norms, and systemic considerations.***

Q12. RERA as Primary Mechanism for Resolution of Stalled Real Estate Projects

Issue Description

3.531. RERA authorities possess statutory oversight over registration, disclosures, escrow accounts and compliance conditions, and maintain continuing engagement with project stakeholders. The Committee therefore examined how these institutional capacities could be utilised more effectively in dealing with legacy stalled projects.

Existing Legal Framework

3.532. Section 8 of RERA empowers the RERA to take measures for completion of a project in case of promoter default, including facilitating completion through the association of allottees or a competent agency, in consultation with the appropriate Government. Under this provision, RERA provides the option to Associations of Allottees to first right of refusal to complete the project.

3.533. IBC presently provides for CIRP at the entity level. Subsequent judicial pronouncements and amendments to CIRP Regulations have enabled project-wise treatment in real estate insolvencies. However, the statutory framework does not mandate or prioritise a RERA-led completion process before initiation of CIRP. A structured mechanism integrating RERA's statutory powers within insolvency proceedings is yet to be codified.

Stakeholder Submissions and Committee Deliberations

3.534. Participants highlighted that RERA is institutionally equipped with project data, access to allottees, and mechanisms for ongoing supervision. It was suggested that, in appropriate cases, these features may enable quicker mobilisation toward revival.

3.535. The Committee deliberated that the IBC and RERA need not be seen as operating in isolation. Rather, they can function in a complementary manner, with each framework contributing according to its statutory strengths. Where a credible pathway to completion can be structured through the regulatory route, early exploration of that possibility may serve the interests of all stakeholders. At the same time, it was recognised that insolvency mechanisms must remain available where such efforts do not yield a workable outcome.

Recommendations of the Committee

3.536. ***Recommendation Nos. 149, 150, 151, 152, 153 and 154***

3.536.1. ***The Committee recommends that, for legacy stalled residential real estate projects, RERA may function as the primary mechanism to attempt project completion, and recourse to the IBC framework should ordinarily follow where such efforts do not succeed. Accordingly, the RERA may be given the first opportunity to facilitate the completion of such housing projects. The RERA Act may be suitably amended for this purpose.***

3.536.2. ***When an application for initiation of CIRP is filed under the Code, if at least ten per cent or one hundred allottees, whichever is less, give consent to first resolve the CD/ project under RERA Act, the application may be referred by the AA to the concerned RERA for project-specific resolution under an appropriate framework. The RERA Act may be suitably amended for this purpose.***

3.536.3. ***A mechanism may be evolved within the ambit of section 8 of RERA for engagement of a Government or PSU Project Management Consultant, for example, the NBCC, or for selection of a suitable investor through an open and transparent bidding or expression of interest process.***

3.536.4. ***The process should prioritise completion and handover of units to genuine homebuyers, ensure structured consultation with allottees, and operate within a defined and time-bound framework, preferably six months from appointment of the administrator.***

3.536.5. ***In order to restore financial viability, the rights of the existing promoter in the concerned project may be diluted. Financial institutions, Government authorities and other creditors may be required, where necessary, to accept equitable adjustments, including limitation to principal dues, so as to enable completion of the project.***

3.536.6. ***Only in cases where the RERA, despite best efforts, is unable to secure a workable and consensus-based outcome, should the matter be referred back to the AA for initiation of CIRP under the Code.***

Q13. Regulation of Fees of Resolution Professionals in Real Estate cases

Issue Description

3.537. During stakeholder consultations, concerns were raised regarding the level and structure of fees charged by RPs in certain real estate insolvency proceedings. It was represented that real estate CIRPs often extend over prolonged periods and involve substantial process costs, including professional fees, legal expenses, valuation costs and project management expenditure. In projects with large numbers of homebuyers and limited immediately realisable assets, higher insolvency costs may proportionately reduce the value available for construction completion and stakeholder recovery.

3.538. Some stakeholders, including representatives of regulatory authorities, expressed the view that clearer guidance or safeguards may be required to ensure that professional fees remain reasonable, transparent and commensurate with the complexity of the assignment. It was suggested that the Board may consider issuing appropriate guidelines or examining the feasibility of introducing caps or other regulatory guardrails to prevent disproportionate depletion of project resources.

Existing Legal and Regulatory Position

3.539. Under the Code, the fees of the IRP/RP form part of the insolvency resolution process costs and are subject to approval by the CoC. Regulation 33 and Regulation 34 of the CIRP Regulations provide that the expenses and fees of the IRP/RP shall be fixed and ratified by the CoC and shall constitute insolvency resolution process costs.

3.540. Further, Regulation 34B CIRP Regulations read with Schedule II thereto, lays down a structured framework for determination of RP's fees. Schedule II prescribes a minimum fee structure linked to objective parameters and also provides for a performance-linked incentive component tied to timely and effective completion of the resolution process. This framework is intended to introduce greater standardisation, transparency and alignment of professional incentives with resolution outcomes.

Stakeholder Submissions and Committee Deliberations

3.541. The Committee noted that real estate insolvencies frequently involve unique complexities, including verification of thousands of claims, coordination with RERA authorities and development authorities, supervision of ongoing construction activity, management of escrow accounts, and stakeholder consultations. It was also observed that in such cases the RP is often required to perform functions that extend beyond traditional asset preservation and resolution planning, thereby increasing operational intensity.

3.542. The Committee deliberated that the existing framework under the Code and Regulations already provides adequate safeguards to ensure reasonableness and oversight. The fees of the IRP/RP and other insolvency process costs are subject to approval by the CoC, which includes homebuyers represented through the ARs. The CoC can always replace the RP if his demand for fees is considered to be unreasonable. The Code and the CIRP Regulations therefore embed a market- linked and creditor-supervised mechanism rather than a centrally fixed fee structure. Further, prescribing sector-specific caps or rigid fee ceilings for real estate cases may have unintended consequences. Real estate insolvencies are often complex, involve large numbers of stakeholders, extensive claim verification, coordination with regulators and development authorities, and ongoing construction oversight. A one-size-fits-all cap could discourage experienced professionals from undertaking such assignments or impair effective case management, ultimately affecting project completion.

3.543. At the same time, the Committee acknowledged the legitimate concern that insolvency process costs must not become disproportionate to the value of the project or unduly impact the interests of homebuyers and other creditors. Transparency in fee determination and closer scrutiny of cost approvals were emphasised as important safeguards.

3.544. The Committee considered whether sector-specific caps or rigid ceilings would be appropriate. It was noted that real estate projects vary significantly in size, geography, stage of completion and number of stakeholders. A uniform cap may not adequately reflect this

diversity and could have unintended consequences, including discouraging experienced professionals from undertaking complex real estate assignments.

Recommendation of the Committee

3.545. ***Recommendation No. 155***

The Committee recommends that the IBBI may examine the matter and, if considered appropriate, introduce suitable amendments or clarifications in the CIRP Regulations to strengthen safeguards relating to disclosure, reasonableness and oversight of RP fees in real estate insolvency proceedings.

CHAPTER IV: SUMMARY OF RECOMMENDATIONS

4.1. This chapter summarises the significant recommendations of the Committee that have been discussed in detail in Chapter III of this Report. Other than the real estate sector, many of the Committee's recommendations are relevant to other sectors as well. If implemented by appropriate authorities the Committee believes that the efficiency and effectiveness of the insolvency resolution process can be immensely enhanced. The summary of recommendations is set out below.

4.2. **Resolution-First Principle:** Insolvency proceedings in the real estate sector should be expressly guided by a "resolution-first" principle where liquidation is treated as a measure of last resort. Liquidation should only be permitted if a project is demonstrably unviable and no resolution applicant, allottee-led plan, or public-sector intervention is feasible. Suitable regulations are required to be made by IBBI is this regard to further strengthen this principle.

(Recommendation Nos. 1, 2, 3 and 4)

4.3. **Identification and Treatment of Genuine Homebuyers**: At the stage of admission, the AA may examine the nature of the transaction to distinguish "genuine" homebuyers from "speculative" investors based on criteria such as buyback options, insistence on high-interest refunds over possession, or the purchase of multiple units. While all allottees recognised as the FCs should receive uniform statutory treatment under existing procedural safeguards, concerns of misuse should be addressed through rigorous admission-stage scrutiny and collective decision-making through the ARs and the CoC. Protection should remain outcome-focused, ensuring time-bound possession or fair refunds, while preserving judicial discretion to address egregious abuse on a case-by-case basis.

(Recommendation Nos. 5, 6, 7, 8 and 9)

4.4. **Institutional Consultation Framework:** The IBBI should establish a **formal consultation mechanism with Central and State RERA authorities** to address real estate insolvency matters. This framework should include periodic coordination meetings and the designation of nodal officers to ensure continuous dialogue and the resolution of operational conflicts.

4.5. **Information Sharing Protocols:** Standardised protocols should be developed to **share RERA-registered project data**, allottee lists, and escrow details with Resolution Professionals (RPs). The RERA records should be recognised as mandatory inputs for insolvency processes, subject to verification by the RP.

4.6. **RERA Compliances during the CIRP:** The RP should ensure that the requirements of the RERA Act, the rules and regulations made thereunder, and the directions issued by the concerned RERA authority are complied with during the CIRP.

4.7. **RERA participation in the CIRP**: Enable RERA authorities to nominate representatives as observers in the CoC meetings and provide an opportunity to submit opinions in writing on the regulatory feasibility of resolution plans. The RERA should be represented in project monitoring committees post-plan approval to facilitate expedited approvals and statutory compliance during the implementation phase. Additionally, clear guidelines should be issued to ensure post-resolution regulatory certainty, mandating that all statutory obligations be enforced prospectively and that past non-compliances be addressed solely in accordance with the approved plan.

(Paragraphs 4.4 to 4.7 - Recommendation Nos. 10, 11, 12, 13 and 14)

4.8. **Model RERA Standard Operating Procedures (SOPs):** Model SOPs should be developed by the Ministry of Housing and Urban Affairs (MoHUA) in consultation with the State authorities to **harmonise state-level RERA rules**. These SOPs should specifically cover escrow operations, project disclosures, registration extensions, and data standards for projects undergoing insolvency.

(Recommendation Nos. 15, 16 and 17)

4.9. **Project-Wise Admission:** The CIRP in the real estate sector should **ordinarily be admitted on a project-wise basis**, treating each project as an independent economic unit. Admission may be confined to the defaulting project, allowing solvent or unrelated projects of the same developer to continue operating under existing arrangements. MCA may consider enabling project-wise admission of CIRP in the real estate insolvencies. The DFS and the RERA to consider facilitating project-wise admission by laying down project-wise frameworks for lending, maintenance of CD's accounts project-wise, and project-wise monitoring.

4.10. **Exceptional Entity-Level Admission:** Entity-level CIRP encompassing multiple projects of a Corporate Debtor may only be permitted in exceptional circumstances involving pervasive fund commingling, cross-collateralisation, or demonstrable fraud. In such cases, the AA may record specific written justifications for deviating from the project-wise approach.

(Paragraphs 4.9 to 4.10 - Recommendation Nos. 18, 19, 20,21 and 22)

4.11. **Exclusion of Completed or Occupied Projects:** Real estate projects that are already completed or substantially completed and occupied should be excluded from the initiation or continuation of CIRP. This safeguard protects the vested property rights of allottees and ensures that regulatory regularisation is handled by the RERA or municipal bodies rather than the insolvency framework.

(Recommendation Nos. 23, 24, 25, 26 and 27)

4.12. **Mandatory Project-Wise Ring-Fencing:** Assets and cash flows should be **ring-fenced through separate escrow or trust accounts** for each project in accordance with the

RERA requirements. The RPs should maintain project-wise books of accounts and ensure that all receipts and payments are routed exclusively through these project-specific accounts.

(Recommendation Nos. 28, 29, 30, 31 and 32)

4.13. **Handing Over Possession without the CoC Approval:** The regulatory framework should be liberalised to **permit the RPs to hand over possession of dwelling units completed** prior to initiation of the CIRP, to eligible allottees without requiring prior CoC approval. This handover should be treated as an act of value preservation and consumer protection for units finished on or before the insolvency commencement date. Where the RP, upon due consideration, finds it not viable to approve handover of possession, he shall mandatorily record cogent and specific reasons in writing for such a decision. However, handing over of dwelling units other than those mentioned above, should continue to be governed by Regulation 4E of the CIRP Regulations.

(Recommendation Nos. 33 and 34)

4.14. **Classification Based on Relief Sought:** The RPs should be mandated to **classify homebuyers into sub-categories** based on whether they seek possession, execution of conveyance, or a refund. This granularity informs claim collation and treatment in the resolution plan.

(Recommendation Nos. 35, 36, 37 and 38)

4.15. **Mandatory Allottee Choice:** The Resolution plans should provide **clear, time-bound options for homebuyers** to elect between project continuation for possession or exiting the project via a refund. The Resolution Applicants may structure differential modalities for these categories, provided the treatment remains rational, non-discriminatory and compliant to the Code and the Regulations.

(Recommendation Nos. 39, 40 and 41)

4.16. **Increasing Admission Threshold:** To more accurately reflect the capital structure and economic magnitude of real estate development and to prevent tactical or premature admissions, for real estate projects, the MCA may consider enhancing the minimum amount of default for initiation of CIRP from ₹1 crore to ₹5 crore for initiating Real Estate insolvencies.

(Recommendation No. 42)

4.17. **No Restrictions on Initiation Rights:** No additional restrictions should be imposed on the ability of creditors to initiate CIRP based on their **size, seniority, or perceived strategic interest**. The Code should remain a creditor-neutral framework where any financial or operational creditor meeting statutory requirements can invoke the process.

(Recommendation No. 43)

4.18. **No Uniform or Deemed Date of Default:** The determination of the **date of default should continue on a case-by-case basis** rather than through uniform or "deemed" criteria. Default is inherently fact-dependent and contract-specific, and rigid rules could produce inequitable outcomes for developers or allottees.

(*Recommendation No. 44)*

4.19. **Finality of Claims Universe:** The window for filing claims should follow the existing **Regulation 12(2), which allows submissions up to the CoC's approval** of a resolution plan. Maintaining this cut-off ensures the predictability and commercial certainty required for resolution applicants to finalise their bids.

4.20. **Provision for All Recorded Allottees:** The Resolution plans should **duly provide for all allottees reflected in corporate or RERA records**, regardless of whether they are filed through a formal claim process or not. This ensures that genuine homebuyers are not excluded from relief due to procedural lapses or a lack of awareness.

(Paragraphs 4.19 to 4.20 - Recommendation Nos. 45, 46 and 47)

4.21. **RERA Records to Supplement CD Data on Allotees:** Where there are material information gaps or deficiencies in the records of the CD, the Resolution Professional should appropriately refer to and draw upon relevant records available with the concerned RERA authority as a supplementary source of information. The Committee does not recommend giving automatic precedence to the RERA records over the records of the CD in cases of inconsistency.

(Recommendation Nos. 48, 49 and 50)

4.22. **No automatic admission of claims**: The Committee recommends retention of the existing claims framework under the Code and Regulations, while strengthening procedural safeguards—such as improved disclosure, individual communication, and equitable treatment in the resolution plans—to ensure that genuine homebuyers are not prejudiced due to procedural lapses, without undermining the integrity of the insolvency process.

(Recommendation No. 51))

4.23. **Simplified Claim Processes:** The IBBI should prescribe **simplified, plain-language claim forms** specifically tailored for homebuyers to reduce procedural complexity. Furthermore, Information Utility should be enabled to provide electronic claim-filing facilities with guided workflows for allottees.

(Recommendation Nos. 52, 53, 54, 55 and 56)

4.24. **Scrutiny of Fund Diversion:** The RPs should **actively examine the diversion of homebuyer funds** as potential fraudulent or wrongful transactions under the Code. Where diversion in violation of RERA escrow requirements is identified, appropriate applications for clawback and recovery should be pursued.

(Recommendation Nos. 57 and 58)

4.25. **Regulating JDA and Lease Terminations:** The unilateral termination of Joint Development Agreements (JDAs) or leases by landowners and development authorities during the CIRP should be prohibited without the prior approval of the AA. Such actions should be subject to judicial scrutiny to ensure they do not frustrate the resolution process.

(Recommendation Nos. 59 and 60)

4.26. **Finality of Settlements with Authorities:** Once a settlement with a development authority is incorporated into an approved resolution plan, it should be **treated as final and binding**. Authorities should not be allowed to raise retrospective or additional demands for the same period, post-approval of the resolution plan.

(Recommendation Nos. 61 and 62)

4.27. **Participation of Authorities in the CoC:** Land-owning and development authorities should actively participate in the CoC meetings as **non-voting advisory participants**. Their role should be to provide technical and regulatory inputs on approvals, compliance, and project feasibility.

(Recommendation Nos. 63 and 64)

4.28. **Slum Rehabilitation Entitlements:** Rehabilitation obligations for slum dwellers should be **mandatorily provided for in the resolution plans** as non-negotiable project requirements. These entitlements should not be treated as monetary claims but as statutory obligations to complete the rehabilitation units. The Resolution Professionals should ensure that statutory rehabilitation obligations are identified and disclosed in the IM.

(Recommendation Nos. 65 and 66)

4.29. **Participation of the Slum Rehabilitation Authorities in the CoC:** The concerned **Slum Rehabilitation Authority** and recognised slum dweller representatives should be **included as non-voting participants in the CoC** and as members of the project monitoring committee. This coordination ensures accurate beneficiary identification, reduction in disputes and litigation and smoother implementation of rehabilitation units.

(Recommendation Nos. 67 and 68)

4.30. **Authorised Representative (AR) Independence and Accountability:** The ARs should adhere to **explicit independence standards** and disclose any past or present relationships with the developer or major creditors. They should also follow minimum communication standards, providing periodic updates and reasoned summaries of voting decisions to the homebuyers.

(Recommendation Nos. 69, 70, 71, 71, 72, 73 and 74)

4.31. **Facilitation Support for Homebuyers:** In large cases, the ARs should be permitted to **engage legal experts or facilitators** to explain complex resolution proposals to homebuyers. The reasonable costs of such facilitation should be treated as insolvency resolution process costs.

(Recommendation Nos. 75, 76 and 77)

4.32. **Project-Specific Resolution Professionals:** Where CIRP is admitted project-wise, **each project should be managed by a separate RP who is a sector specialist** to ensure focused accountability. In entity-level proceedings, the single RP should appoint project-level assistants and technical teams to oversee site-specific issues.

4.33. **Preference for IPEs:** In large, multi-project real estate insolvencies, **Insolvency Professional Entities (IPEs) should be preferred** for appointment as the RPs. IPEs have the multidisciplinary capacity to manage complex projects while maintaining unified governance and accountability.

(Paragraphs 4.32 to 4.33 - Recommendation Nos. 78, 79 and 80)

4.34. **Preservation of RP Operational Autonomy:** The existing statutory safeguards governing the **operational autonomy of RPs should not be diluted**. Operational challenges should be addressed through better planning and professional support rather than by expanding discretion in a way that weakens accountability.

(Recommendation No. 81)

4.35. **Specialised Capacity Building:** IPAs and the IBBI should organise **specialised training and training modules for RPs** handling real estate cases. Focus should be placed on the RERA frameworks, project finance, construction management, and best practices for homebuyer engagement.

(Recommendation Nos. 82 and 83)

4.36. **Enforcement of Sector-Agnostic Timelines:** The **existing statutory CIRP timelines should be strictly enforced** without sector-specific relaxations. Operational complexities

should be managed through improved planning and early data collation rather than by extending legal deadlines.

(Recommendation No. 84)

4.37. **Mandatory Technical and Cost Audits:** The RPs should appoint independent professionals to conduct a **comprehensive technical and cost-to-complete audit** of the project. The findings of this audit should be incorporated into the Information Memorandum to provide a reliable baseline for the resolution applicants.

(Recommendation Nos. 85, 86, 87, 88, 89 and 90)

4.38. **Institutionalising Project Monitoring Committees (PMCs):** The Resolution plans for real estate projects should **mandatorily provide for a PMC** to supervise implementation. The PMC should include representatives of homebuyers, lenders, and, where relevant, RERA, land authorities and sector specialists.

(Recommendation Nos. 91, 92, 93, 94 and 95)

4.39. **Milestone-Based Definition of Implementation:** Each resolution plan should contain a **clear, milestone-based definition of "plan implementation"**. This should distinguish between substantial and full implementation, with consequences such as the release of performance guarantees tied to physical construction progress.

(Recommendation Nos. 96, 97, 98, 99 and 100)

4.40. **Retention of CoC Commercial Wisdom:** No changes should be made to the framework governing the CoC decision-making timelines, as **commercial wisdom should remain paramount**. The RPs should focus on facilitating efficient decisions by providing complete and reliable information to the CoCs.

(Recommendation Nos. 101 and 102)

4.41. **Non-responsive Voters:** The **existing voting thresholds and computation methods should be maintained** without changes for non-responsive voters. Efforts to improve participation should focus on better communication and facilitation rather than structural modifications to the Code.

(Recommendation No. 103)

4.42. **Transparency and audit trail of CoC proceedings:** No changes to the existing provisions of the Code or the CIRP Regulations relating to transparency and audit trail of the CoC proceedings are required as existing provisions are sufficient. Best practices may be

adopted by the RPs regarding the preparation and circulation of minutes of the CoC proceedings.

(Recommendation Nos. 104 and 105)

4.43. **Project-Wise Interim Finance:** Interim finance should be encouraged as a value-preserving tool and **structured on a project-wise basis** whenever practicable. Repayment and security should be linked to project-specific construction milestones. The DFS and the RBI may consider interim financing as a part of Priority Sector lending, especially involving real estate sector insolvencies.

(Recommendation No. 106)

4.44. **Integration of Government Bridge Funding:** Availability of **Government-backed bridge funding (e.g., SWAMIH)** should be explored for real estate insolvency resolution. Such funding should be integrated into the CIRP as either interim finance or as part of the resolution plan, following statutory priority rules.

(Recommendation No. 107)

4.45. **Treatment of Operational Creditors in SWAMIH-Funded Real Estate Projects**: No change to the existing statutory rights or treatment of operational creditors under the Code, including in real estate projects supported by SWAMIH or other Government-backed revival funding.

(Recommendation No. 108)

4.46. **Fund for Homebuyer Litigation Support:** A litigation support or funding mechanism for homebuyers raises broader policy questions that extend beyond the scope of the Committee's mandate. The issue merits separate examination at an appropriate policy level, outside the insolvency regulatory framework.

(Recommendation No. 109)

4.47. **Homebuyer-Led Resolution Plans:** The existing framework, which allows the CoCs to **relax eligibility and security norms for homebuyer associations** bidding for their own projects, is sufficient. Further statutory amendments are not required, but IBBI should provide clarificatory guidance on these relaxations.

(Recommendation Nos. 110 and 111)

4.48. **PSU Participation as Resolution Applicants:** Relevant Ministries should issue policy guidance **enabling the PSUs to evaluate participation as resolution applicants** in projects

of significant public interest. The PSUs should be evaluated on the same commercial principles of viability and feasibility as private applicants under the CIRP.

(Recommendation Nos. 112, 113 and 114)

4.49. **Rejection of "Reverse CIRP" Codification:** The Committee **does not recommend "Reverse CIRP"**, as it is inconsistent with the Code's design and Section 29A. Instead, the Code may provide for project-wise admission or as per the present framework, project-wise admission and resolution may be explored, along with other existing Code-compliant mechanisms.

(Recommendation No. 115)

4.50. **Specialised NCLT Benches and fast track appeals:** Specialised real estate benches should be **administratively designated in high-volume jurisdictions**. These benches should ideally include or have access to members with expertise in housing, urban development, and project finance. Appeals arising from real estate insolvency proceedings before the NCLAT should be accorded fast-track treatment.

(Recommendation Nos. 116, 117, 118, 119 and 120)

4.51. **Expanding the Role of Information Utility (IU):** The IU should be enabled to store **standardised homebuyer data**, including allotment details, payment history, and possession timelines. This data should be linked to unique RERA project identifiers to support claim verification and project-wise insolvency.

(Recommendation Nos. 121, 122, 123, 124 and 125)

4.52. **Strict Enforcement of the "Clean Slate" Principle:** The binding effect of an approved resolution plan and **immunity from past liabilities for the SRA should be strictly upheld**. Authorities should be sensitised that they are barred from reopening settled pre-CIRP claims, while they retain full power over post-resolution compliance.

(Recommendation Nos. 126, 127, 128 and 129)

4.53. **Regulatory fee:** The Committee does not recommend any change to the existing regulatory fee framework applicable to real estate CIRPs. The current mechanism is considered adequate, predictable and administratively efficient, and no further clarification or modification is required.

(Recommendation No. 130)

4.54. **Neutral Evidentiary Weight for CD Records:** CD records should **not be accorded presumptive evidentiary status**. The RPs should instead prioritise neutral and statutory

sources like RERA records and banking statements when inconsistencies arise during claim verification.

(Recommendation No. 131)

4.55. **SOPs for Coordination with Local Authorities:** State Governments may consider formulating **SOPs for local and land development authorities** to ensure they engage constructively with the projects in CIRP. These SOPs should cover the restructuring of dues and the continuity of development rights post-resolution.

(Recommendation Nos. 132, 133, 134, 135 and 136)

4.56. **Post-Resolution Monitoring by the RERA:** Upon resolution plan approval, the **monitoring of project implementation should officially transit to RERA**. The RERA should use its existing statutory powers to track progress and address allottee-related grievances during the construction phase.

(Recommendation Nos. 137, 138, 139, 140 and 141)

4.57. **Reset of Construction Timelines:** The construction timelines specified in an approved resolution plan should **replace all legacy contractual or regulatory deadlines**. Authorities should treat these revised milestones as the operative benchmarks for compliance and refrain from penal action based on pre-CIRP delays.

(Recommendation Nos. 142, 143 and 144)

4.58. **Framework for Non-Cooperative Homebuyers:** Resolution plans should **clearly define non-cooperative conduct** regarding revised payment schedules. Plans should provide notice and cure mechanisms, as well as proportionate remedies for persistent defaults, to ensure project cash flows remain stable.

(Recommendation No. 145)

4.59. **Digital transparency**: The appropriate authorities should create a single, integrated public digital platform that provides project-wise visibility of proceedings and outcomes across RERA, insolvency processes, and consumer fora, including key milestones relating to construction progress, regulatory compliance, and handover.

4.60. **Institutional capacity**: The institutional and technological capacity of RERA authorities should be strengthened through enhanced digital infrastructure, periodic project progress certifications, and state-wise dashboards measuring timelines to possession and compliance with orders.

(Recommendation Nos. 146 and 147)

4.61. **Home Loan instalment obligations**: The Committee notes the hardship faced by homebuyers due to continued home loan instalment obligations during the CIRP but considers the issue to be outside its present mandate and therefore recommends separate examination of the issue by the appropriate authorities.

(Recommendation No. 148)

4.62. **Primacy to the resolution under the RERA for legacy stalled real estate projects**: For legacy stalled residential real estate projects, the RERA should function as the primary mechanism for project completion under Section 8 of the RERA Act, with the IBC framework serving only as a measure of last resort. At the admission stage, the AA may, with the consent of at least ten per cent or one hundred allottees, refer the project to the concerned RERA for project-specific resolution under a framework. Recourse to initiation of CIRP under the Code should only be considered if RERA is unable to secure a workable outcome.

(Recommendation Nos. 149, 150, 151, 152, 153 and 154)

4.63. **Regulation of fees of RPs in real estate cases:** The Committee recommends that the IBBI may examine the issue and, if considered appropriate, introduce suitable amendments or clarifications in the CIRP Regulations to strengthen safeguards relating to disclosure, reasonableness and oversight of RP fees in real estate insolvency proceedings.

(Recommendation No. 155)

*****

LIST OF ABBREVIATIONS

AA	Adjudicating Authority
AIFORERA	All India Forum of Real Estate Regulatory Authorities
AR	Authorised Representative
ARCIL	Asset Reconstruction Company (India) Limited
BBA	Builder Buyer Agreement
C.A.	Civil Appeal
CAG	Comptroller and Auditor General
CD	Corporate Debtor
CIRP	Corporate Insolvency Resolution Process
COC	Committee of Creditors
CREDAI	Confederation of Real Estate Developers' Associations of India
DDA	Delhi Development Authority
EMI	Equated Monthly Instalment
FC	Financial Creditor
GMADA	Greater Mohali Area Development Authority
GNIDA	Greater NOIDA Industrial Development Authority
HDFC	Housing Development Finance Corporation
HDIL	Housing Development and Infrastructure Limited
HSVP	Haryana Shahari Vikas Pradhikaran
HUDCO	Housing and Urban Development Corporation Limited
IBBI	Insolvency and Bankruptcy Board of India
IBC/ Code	Insolvency and Bankruptcy Code, 2016
ICAI	Institute of Chartered Accountants of India
IIIPI	Indian Institute of Insolvency Professionals of ICAI
IM	Information Memorandum
IP	Insolvency Professional
IPE	Insolvency Professional Entity
IRP	Interim Resolution Professional
IU	Information Utility
JDA	Joint Development Agreement
JIL	Jaypee Infratech Limited
JREAWS	Jaypee Real Estate Allottees Welfare Society
LABA	Lotus Arena Buyers Association
MHADA	Maharashtra Housing and Area Development Authority
MoHUA	Ministry of Housing and Urban Affairs
NARCL	National Asset Reconstruction Company Limited
NAREDCO	National Real Estate Development Council
NBCC	National Buildings Construction Corporation Limited
NCLAT	National Company Law Appellate Tribunal
NCLT	National Company Law Tribunal

NESL	National e-Governance Services Limited
NOIDA	New Okhla Industrial Development Authority
NPA	Non-Performing Asset
PMAY	Pradhan Mantri Awas Yojana
PMC	Project Monitoring Committee
PRA	Prospective Resolution Applicant
PSU	Public Sector Undertaking
RA	Resolution Applicant
RBI	Reserve Bank of India
RERA	Real Estate (Regulation and Development) Act, 2016 / Real Estate Regulatory Authority
RFRP	Request for Resolution Plan
RP	Resolution Professional
RTI	Right to Information
SC	Supreme Court
SOP	Standard Operating Procedure
SPV	Special Purpose Vehicle
SRA	Successful Resolution Applicant
SWAMIH Fund	Special Window for Affordable and Mid-Income Housing Fund
ToR	Terms of Reference
UPRERA	Uttar Pradesh Real Estate Regulatory Authority

ANNEXURES

Annexure A: Extract of the Supreme Court Order in the matter of *Mansi Brar Fernandes v. Shubha Sharma & Ors.* (Civil Appeal No. 3826 of 2020)

21. This Court reiterates that while investors are integral to any industry and their interests warrant protection, speculative participants driven purely by profit motives cannot be permitted to misuse the Insolvency and Bankruptcy Code, which is a remedial framework conceived for revival and the protection of sick companies and, in the case of real estate, genuine homebuyers. Such investors have alternative remedies under consumer law or RERA and even recourse to Civil Courts in appropriate cases. To admit speculative claims into insolvency proceedings would dilute the intelligible differentia underlying the legislative scheme, destabilize the residential real estate sector, and erode the social purpose embedded in housing as a fundamental right.

21.1. The present case, therefore, provides an occasion to fortify safeguards for bona fide homebuyers, who have invested their life savings, to insulate the real estate market from speculation and artificial inflation, and to secure speedy and time-bound adjudication as mandated by the Code. As in the culmination of the landmark Kesavananda Bharti case, where "Kesavananda Bharati lost but the country won", the larger interest of the sector and genuine allottees must prevail over narrower considerations.

21.2. In exercise of this Court's jurisdiction, and to advance the constitutional and statutory objectives, the following directions are issued to the concerned authorities, in the larger interests of bona fide homebuyers and the stability of the real estate sector, which demand coordinated action by all stakeholders:

(1) Vacancies in NCLT / NCLAT shall be filled on a war footing. Dedicated IBC benches with additional strength should be constituted. Services of retired judges may be utilized on ad hoc basis until regular appointments are made. This Court is cognizant of the fact that similar directions have been issued in the past, including in Pioneer Urban case (supra), but no effective step has been taken on the ground.

(2) The Union Government shall, within three months, file a compliance report on measures taken to upgrade NCLT/NCLAT infrastructure nationwide. The recent closure of Chandigarh NCLT and portions of Delhi NCLT due to water seepage in the Courtrooms and Chambers of Members underscores the urgency of robust infrastructural support.

(3) Within three months, a Committee chaired by a retired High Court Judge shall be constituted, with representatives from the Ministry of law, Ministry of Housing, domain experts in Real Estate, Finance and IBC from NIUA, HUDCO's HSMI, IIMs, NLUs, and NITI Aayog, as well as two eminent industry representatives. The Committee shall suggest commercially viable systemic reforms for cleansing and infusing credibility into the real estate sector. NITI

Aayog/ NIUA shall provide research and secretarial support. The Committee shall submit its report within six months of its constitution.

(4) States shall ensure that RERA authorities are adequately staffed with infrastructure, experts, and resources. At least one member of every RERA must be a legal expert or consumer advocate with proven expertise in real estate field. RERAs must conduct thorough diligence before granting approval to any project. Failure to do so, resulting in miscarriage of justice, shall amount to an error unpardonable in law and may invite strict intervention by this Court.

(5) Since real estate is the second largest sector in IBC proceedings, IBBI, in consultation with RERA authorities, shall constitute a council to frame specific guidelines for insolvency proceedings in real estate, including timelines for project-wise CIRP, and safeguards for allottees.

(6) Resolution of real estate insolvency should, as a rule, proceed on a project specific basis rather than the entire corporate debtor, unless circumstances justify otherwise. This would protect solvent projects and genuine homebuyers from collateral prejudice. IBBI shall also devise a mechanism to enable handover of possession to willing allottees where substantial units in a project are complete.

(7) The Union Government shall consider establishing a revival fund under NARCL25 or expanding the SWAMIH Fund, to provide bridge financing for stressed projects undergoing CIRP, thereby preventing liquidation of viable projects and safeguarding homebuyer interests. SWAMIH Fund is a commendable initiative; however, being a large fund involving public money, every rupee must be utilised strictly for its intended purpose of last-mile financing. To prevent misuse, we direct that a comprehensive Insolvency and Bankruptcy Board of India National Asset Reconstruction Company Ltd. Special Window for Affordable and Mid-Income Housing periodic performance audit by the CAG be carried out, with reports placed in the public domain in a form comprehensible even to laypersons.

(8) Regulations shall ensure meaningful representation of allottees in the CoC through authorized representatives, with safeguards against conflicts of interest.

(9) At the admission stage of Section 7 petitions filed by allottees, NCLTs must record a prima facie finding on whether the applicant is a genuine homebuyer or speculative investor. This would prevent unnecessary admissions and reduce docket burden.

(10) The Government shall prioritize e-filing, video-conferencing, and dedicated case management systems for IBC matters, in view of the heavy caseload before NCLTs.

(11) Every residential real estate transaction for new housing projects shall be registered with local revenue authorities upon payment of at least 20% of the property cost by buyer/allottee. Further, to protect senior citizens and bona fide homebuyers, contracts that significantly deviate from the Model RERA Agreement to Sell, or that incorporate returns / buyback clauses

where the allottee is over the age of 50, must be supported Comptroller and Auditor General of India by an affidavit sworn before the competent Revenue Authority, certifying that the allottee understands the attendant risks.

(12) In projects at nascent stages, such as where land is yet to be acquired or construction has not commenced, proceeds from allottees shall be placed in an escrow account and disbursed in phases aligned with project progress, as per a RERA-sanctioned SOP. Every RERA shall devise such SOPs within six months from today.

Suggestions for future reform:

(1) IBBI may consider introducing "Basel-like" early warning frameworks, drawing from comparative practices, such as, pre-bankruptcy mediation and preventive restructuring, requiring directors to initiate restructuring before defaults spiral out of control.

(2) The Union Government should undertake a consultative exercise to bring about uniformity in RERA Rules across States, to remove ambiguity and fill lacunae in what is otherwise a watershed legislation.

(3) Housing Boards, State-level Urban Development Authorities (e.g., DDA, GMADA, MHADA, CHB) and CPSUs should establish dedicated wings to revive and complete stalled projects under IBC mechanisms. This would instill faith in the sector, ensure affordable housing, and protect genuine homebuyers.

(4) It is a matter of grave concern that despite funding hundreds of crores into various government-run think tanks and management institutions such as IIMs and IITs, India still requires a robust homegrown consulting industry. Collaboration with Indian think tanks and academic institutions should be strengthened to build indigenous capacity for sectoral restructuring. This has the potential to improve India's ease of doing business and accelerate economic growth.

(5) The Union Government may also consider establishing a body corporate, on the lines of NARCL or otherwise, promoted by real estate/ construction-focused PSUs or through Public-Private Partnerships, to identify, take over, and complete stalled projects under the IBC framework. Unsold inventory from such projects could be utilized towards affordable housing schemes like PMAY or for Government quarters, thereby addressing both the housing shortage and revival of sick projects. While this is a matter of policy falling within the exclusive domain of the Government, it cannot remain a silent spectator. The Government is constitutionally obliged to protect the interests of homebuyers and the economy at large. It is not merely about houses or apartments; the banking sector, allied industries, and employment for a large populace are also at stake.

22. Before parting, we observe that the right to housing is not merely a contractual entitlement but a facet of the fundamental right to life under Article 21. Genuine homebuyers represent the

backbone of India's urban future, and their protection lies at the intersection of constitutional obligation and economic policy. Through these directions, this Court seeks to restore faith in the regulatory and insolvency framework, deter speculative misuse, and ensure that the "dream home" of India's citizens does not turn into a lifelong nightmare.

23. Registry is directed to circulate a copy of this judgement to the learned Cabinet Secretary to Government of India as well as to the Chief Secretaries of all States, who shall take necessary steps at the earliest.

24. To sum up:

(i) The findings of the NCLAT holding the appellants (Mansi Brar Fernandes and Sunita Agarwal) to be speculative investors are affirmed. Consequently, both the impugned orders setting aside the admission of the Section 7 applications by the NCLT, also stand affirmed. However, the appellants are at liberty to pursue their remedies before the appropriate forum in accordance with law, and in such event, the bar of limitation shall not apply.

(ii) Ordinance / Amendment Act is squarely applicable to the facts of the present case and to that extent, the first impugned order stands set aside.

25. With the aforesaid directions and suggestions, all the appeals stand disposed of. There is no order as to costs.

26. Connected Miscellaneous Application(s), if any, stand disposed of.

Annexure B: Members of the Committee

1. **Mr. Jayanti Prasad, Whole Time Member, IBBI**
2. **Mr. Kuldip Narayan, Joint Secretary, Ministry of Housing and Urban Affairs**
3. **Mr. Denning Babu, Joint Director, Ministry of Corporate Affairs**
4. **Ms. Vaishali Singh, Administrator, Haryana Shahari Vikas Pradhikaran**
5. **Dr. Ravinder N. Batta, CEO, All India Forum of Real Estate Regulatory Authorities**
6. **Mr. Chandan Kumar Singh, Legal Adviser, RERA Uttar Pradesh**
7. **Mr. Ashish Dubey, Chartered Accountant, RERA, Haryana (Gurugram)**
8. **Mr. Jithesh John, Executive Director, IBBI**

Annexure C: Recommendations of the Amitabh Kant Committee Report

I. Mandatory Registrations with RERA:

a. In order to establish an effective system of accountability and transparency for real estate projects, the Committee recommends mandatory registration for all real estate projects with the RERA. The RERA will facilitate registration by waiving pre-requisites and penalty/fines.

b. According to section 3 of the RERA Act, all real estate projects are required to be registered under RERA, where the area of land proposed to be constructed exceed five hundred square meters or the number of apartments proposed to be constructed exceed eight. This provision needs to be strictly enforced. Registration with RERA offers a number of significant benefits.

i. In real estate projects, the developer/promoter has multiple projects that are at different stages of construction. Under RERA, each project is registered separately. This facilitates project-wise decision making. RERA registration can be taken as a unit for resolution. All incomplete projects would be eligible for Rehabilitation package under Part IV.
ii. Secondly, each project registered with RERA is given a unique identification number and is required to provide regular updates on its progress, including details of construction, finances, and legal matters. RERA registration enhances transparency. This requirement ensures that developers are held accountable for their actions and the commitments made to homebuyers. Such transparency in functioning can serve to deter fraudulent practices and foster trust among stakeholders, particularly homebuyers.
iii. Thirdly, RERA registration facilitates systematic record-keeping. Developers are required to maintain and provide detailed records related to the project. These records, which include financial statements, legal documents, and construction status reports, can be instrumental in tracking the progress of the project, identifying potential issues, and facilitate informed decision-making.

c. The Committee recommends that RERA will issue directions for opening of project-wise escrow account for all projects. All receipts and payments would be made from this account in accordance with Waterfall mechanism provided in para VI(c) of the report.

d. In conclusion, mandatory RERA registration is an essential step towards ensuring a more transparent, accountable, and efficient real estate sector. By mandating that all projects seeking resolution under the proposed framework are registered with RERA, can significantly enhance the prospects of successful resolution and contribute to the restoration of confidence of all stakeholders in the real estate sector.

(Action: State Govt. & State RERA)

II. Execution of Registration/Sub Lease Deeds for All Occupied Units

a. The Committee has examined the status of the pending Registration/Sub Lease Deeds. The prevalent delay in the execution of Registration/subleases, despite project completion, is largely attributable to instances of builders defaulting on their dues to the relevant authorities. This has adversely affected genuine homebuyers, who have fulfilled their obligations but are yet to receive their legitimate rights.

b. In light of these findings, the Committee strongly recommends immediate registration/execution of subleases in favor of these rightful home buyers. This should not be contingent on the recovery of dues from the builders. This would benefit approximately about one lakh homebuyers.

c. Simultaneously, rigorous and strict proceedings should be initiated to recover the outstanding dues from the defaulting builders. This should be done by invoking Revenue Recovery Act/Provision of the Industrial Authority Act and all other provisions of Law. This dual-pronged approach will ensure that genuine home buyers are not penalized for the shortcomings of the builders while holding the latter accountable for their financial obligations.

d. Additionally, in scenarios where homebuyers are expected to remit outstanding dues to the builders, the Committee suggests a modification in the current procedure. RERA should directly collect these payments from homebuyers, bypassing the builders. This amount can be paid based on the waterfall mechanism suggested in paragraph VI(c) of the Report.

e. This streamlined approach would not only expedite the registration/sublease process for homebuyers but also ensure that creditors and authorities are able to secure some revenue from these transactions. This strategy would be doubly beneficial, as it would assist authorities in revenue collection and simultaneously enable homebuyers to gain rightful possession of their houses.

(Action: State Governments)

III. Occupancy/ Possession of all substantially completed projects

a. The Committee has noted numerous instances where construction projects are substantially completed, yet possession remains undelivered due to varied administrative hurdles, like the procurement of No Objection Certificates (NOCs), Completion certificates, and similar necessary approvals. The Committee recommends that RERA should identify such projects on a crash basis for resolution within a period of the next thirty (30) days.

b. The allotees may be given the option to take possession of these units on ‘as is where is’ basis. The allotees could get the interiors of their home finished from balance funds which they have not paid. Once identified, efforts should be undertaken to expedite the clearance process including Occupation and Completion certificates for these projects, ensuring that the

necessary approvals are granted promptly and efficiently. This should not be contingent on the recovery of dues from the builders. This process should be completed within six months to avoid any further delays. Once units are handed over, registration/sub-lease should be done.

c. In case the allottees do not want to take possession, this project can be dealt with recommendations as in IV or V below.

d. Simultaneously, rigorous proceedings should be initiated to recover the outstanding dues from the defaulting builders under the provisions of Revenue Recovery Act, the Industrial Authority Act and all other provisions of Law. This recommendation aims to facilitate the smooth handover of properties to their rightful owners without unnecessary hold-ups due to administrative bottlenecks.

(Action: State Governments)

IV. Proposal for State Government's Rehabilitation Package

a. The Committee recommends that State Governments may announce a rehabilitation package aimed at bolstering financially distressed, incomplete projects. The package should be designed to make the projects financially viable. Developers adopting this package would have to commit to a three-year completion timeline. The State RERA will set quarterly project targets and oversee progress as per the RERA Act. A model package suitable for Noida/Greater Noida is given below. Other State Governments are also encouraged to devise similar packages:

i. Introduction of a "Zero Period": To alleviate financial stress caused by extraordinary circumstances, the Committee suggest suspending interest and penalties due to events like the Covid-19 pandemic (01.04.2020 to 31.03.2022), and court orders suspending projects within a 10 km radius of the Okhla Bird Sanctuary (14.08.2013 to 19.08.2015). The State Governments could examine and provide further zero periods based on the local conditions/circumstances.
ii. Interest Application: The Committee advises applying interest based on the 3Y Marginal Cost of funds-based Lending Rate (MCLR) SBI of 1st June 2020 for fresh calculation under this package, to ensure a fair and consistent rate for all developers. The calculation should be done denovo from the date of allotment and delivery of land to the developer.
iii. Inclusion of Co-developers: For harnessing additional funds to ensure project completion, the Committee recommends allowing developers to induct co-developers, either for entire projects or specific parts thereof without any permission from Noida/Greater Noida and Land-Owning Authorities. However, Land Authorities would be informed of such inductions. This will foster collaborative efforts and expedite completion times.
iv. Partial Surrender Policy: The Committee proposes a flexible policy that allows for partial surrender of land. This will give developers a greater degree of flexibility to adjust their commitments based on their operational capabilities. All dues on the

surrendered land will be waived. The Authority may adjust money already paid for surrendered land with outstanding dues of the developers. Land costs have increased in the past ten years. The Authority will be more than compensated by selling the surrendered land to fresh allottees.

v. Plan Approval/Extension Process: The Committee recommends allowing plan approvals and extensions without requiring clearance of dues. A fresh three-year extension may be given to all projects at no payment to Authority. This would ensure continuous project development while addressing the financial constraints of developers.
vi. Recalculation of dues: All dues will be re-verified and recalculated by an Independent Chartered Accountant/Third Party.
vii. Non-cancellation of Lease deeds: Land Authorities will not cancel lease deeds till implementation of the plan under RERA supervision.
viii. No additional cost: No penalty/extra interest/extra cost will be charged from the homebuyers in projects where State Government's Rehabilitation package concessions have been availed.
ix. Current FAR for projects: The Committee proposes granting the current Floor Area Ratio (FAR) applicable to similar projects as on 01.04.2023 to the project on payment of charges to the Authority and fulfillment of other necessary requirements. This increased buildable area can be used for additional development, which will also provide extra funding.
x. Additional resources from Excess Land (if any): If a project has excess land, it can provide immediate resources for construction. This land could be used for shopping centres and other such uses. Land Authorities should permit this on payment basis. This optimization can provide financial relief and expedite project completion.
xi. Permission to mortgage should be given by land authorities without insisting upon 100% clearance of dues so that builders can mobilize resources for completion of projects and payment of dues.

b. The Committee recommends that developers pay 25% of the balance due to the Authority after the above concessions within sixty (60) days as a measure of commitment. The balance 75% would be paid over a three-year period with simple interest specified in para a(ii) above. If a developer fails to complete the project within the stipulated time frame or progress is found unsatisfactory by RERA, 20% penalty will be imposed, and the project will come under the direct management of State RERA as detailed in Part (V) below.

c. The Committee believes that this model package can be particularly beneficial for regions like Noida/Greater Noida and we encourage all other State Governments to consider similar adaptations.

(Action: State Governments)

V. Framework for RERA and Administrator Led Revival of Projects

The Committee recommends that projects where the developer does not take responsibility of completing the project under the above package or where he fails to do so may be dealt by a RERA led revival framework.

i. Project Selection Criteria: Projects which were started before 2018 and are more than two years delayed can participate in the State Government/RERA led resolution process.
ii. Appointment of Administrator: The Committee proposes that a competent, professional administrator, appointed by RERA, should manage the resolution process of these projects.
iii. Comprehensive Project Study and Report: The administrator will prepare a detailed project report. The detailed project report should include inter alia a comparison of completed work versus initial estimates, valuations, funding requirements, potential revenues, regulatory compliance status, strategic recommendations, risk analysis, stakeholder analysis, social and environmental impact assessment, and provision for regular updates.
iv. Transparent Contractor Selection: The administrator will select an EPC contractor through open and transparent competitive process. The EPC contractor will complete construction of the project on payment basis. In case, home buyers propose to complete the project themselves, they should be accorded preference.
v. Equitable Haircuts by Stakeholders: For stalled projects, the Committee suggests shared burden among all stakeholders. This is further elaborated in Part VI – Financing of Stalled Projects.
vi. Current FAR for projects: The Committee proposes granting current Floor Area Ratio (FAR) as in foregoing para IV(x).
vii. Inclusion of Homebuyers in Decision-Making: Genuine home buyers after following a transparent process should be included in major decision-making processes to ensure transparency, integrity and trust. Allowing them a voice in the process empowers them and encourages active participation. This inclusive approach aids in sustainable resolution and reduces the likelihood of future disputes.
viii. Additional resources from Excess Land (if any): This has been dealt earlier in para IV(xi) above.
ix. Expedited Clearances and Support from Authorities: The Committee emphasizes the need for quick clearances and support from authorities to prevent project delays. A three-year extension may be given to all projects at no payment to Authority. This expedited support can ensure efficient project completion and avoid additional costs.
x. Time-Bound Resolution: Lastly, a time-bound resolution process is recommended, where the process from administrator appointment to bid awarding is completed within not more than six months. This approach ensures swift resolution, reinstating trust in the system for stakeholders.

(Action: State Governments/RERA)

VI. Financing of Stalled Projects

a. Priority to new finance: The Committee recommends that financing for completing the projects may be treated as priority financing. The SWAMIH fund should proactively provide finance for completing these projects. The requirement of minimum IRR and first charge in this Fund may be reworked. In this regard, the MoHUA will prepare a detailed scheme and send it to Ministry of Finance.

(Action: MoHUA, Department of Economic Affairs)

b. Subsidized Interest Rates or Guarantee Scheme: To encourage financial institutions to fund stalled projects, a scheme offering subsidized interest rates, similar to MSME, is recommended. Such a scheme would reduce perceived risk, stimulate financial support, and lead projects to completion. Additionally, the Central Government may consider Guarantee fund similar to MSME for such finances. The MoHUA will prepare a detailed scheme and send to Ministry of Finance, in this regard.

(Action: MoHUA, Department of Economic Affairs)

c. Waterfall Mechanism: The revenues will first be used to complete the construction. The previous dues of the Financial Institutions and Land Authorities and other Authorities such as RERA should be treated on pari-passu basis for taking haircuts. No cash flows will be shared with the original promoter till the project is completed and entire dues of financial lenders and Land Authorities are paid fully.

(Action: State Governments and Department of Financial Services)

d. Classifying additional funds as Standard Asset: The asset classification of additional disbursed portion from existing individual Home Loan accounts which are restructured/revived should be treated as Standard Asset by RBI. This is necessary to reduce harassment to individuals whose accounts have been rendered NPA for no direct default. The MoHUA will send a proposal in this regard to Department of Financial Services.

(Action: MoHUA, Department of Financial Services, RBI)

e. Facilitating new buyers: Banks/Financers should be permitted to finance fresh housing loans for new buyers who purchase unsold inventory of these projects. MoHUA will send detailed proposal on this subject to Department of Financial Services.

(Action: MoHUA)

VII. Use of IBC for resolving projects as a measure of last resort:

a. The Committee noted that more than 30 projects have been resolved under IBC. However, due to huge backlog of cases with NCLT, this mode of realization is prone to severe delays.

Projects which cannot be resolved using Parts (V) or (VI) alone will be referred under IBC by homebuyers or creditors. Therefore, the Committee suggests that the IBC should be employed only as a last resort in case of real estate projects.

b. All stakeholders including Authorities should understand that IBC is a legal process and resolution would be strictly as per IBC rules. The Hon'ble Supreme Court in Civil Appeal No. 2222, 2367-2369 of 2021 has rejected the contention of Noida that it is a financial creditor under the IBC. Unnecessary litigation should be avoided by all parties (land authorities/buyers/bankers/builders) and all should abide by the Judgements of Hon'ble Supreme Court. The committee recommends and advises all State Governments to avoid further litigation where judgements of Hon'ble Supreme Court have been received.

i. Similar approach will be taken by all builders/bankers/buyers so that issues are settled amicably after judgements of Hon'ble Supreme Court.
ii. IBC provides project to successful bidder with a 'clean slate'. This will be respected by each and every stakeholder, and unnecessary litigation will be avoided.
iii. The Committee recommends allowing plan approvals and extensions for developers and co-developers without requiring clearance of dues. A three-year extension may be given to all projects at no payment to Authority. This would ensure continuous project development while addressing the financial constraints of the developers.

(Action: State Governments)

c. The Committee recommends that concessions stated in paras (iii), (iv), (v), (vii), (ix), (x) and (xi) of Part (IV)(a) may also be extended to projects under IBC also.

d. The Committee recommends that the IBC needs to be reformed to better accommodate the complexities of the real estate sector. Some of the recommendations with respect to reforms in IBC are:

i. Project wise CIRP - All projects need to be pre-registered with RERA. Since RERA registration is project-wise, this can be adopted under IBC.
ii. Transfer of ownership/possession to allotees: The Committee proposes that the IBC may enable Resolution Professionals (RPs) to transfer the ownership and possession of a plot, apartment, or building to the allottees during the resolution process. An option may also be given to allotees to acquire such units on 'as is where is' basis or on payment of balance required to complete the unit during the process. Houses which are under possession of allotees should not be included in the IBC process.
iii. Registration/Transfer of ownership where possession transferred: Where possession of a plot, apartment, or building to the allottees have already been transferred, these transactions must be formalised through registration during a Corporate Insolvency Resolution Process (CIRP) or a project-specific resolution process under IBC.

iv. Five additional Fast-track NCLT Benches: To increase the efficiency and effectiveness of the insolvency resolution process, the Committee suggests the creation of five additional fast-track benches at the National Company Law Tribunal (NCLT), to expedite the cases including real estate cases. These benches should be created for a period of three years and should dispose of all pending IBC Real Estate cases on a priority basis.

v. Projects which are being revived under Framework IV and V above will be admitted under IBC only after the comments of RERA are taken.

(Action: Ministry of Corporate Affairs)

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