



ICRA

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SERVICE COMPANY

# INSOLVENCY AND BANKRUPTCY CODE MAY 2019

**Financial creditors expected to realise more than Rs 800 billion through the IBC in FY2020**



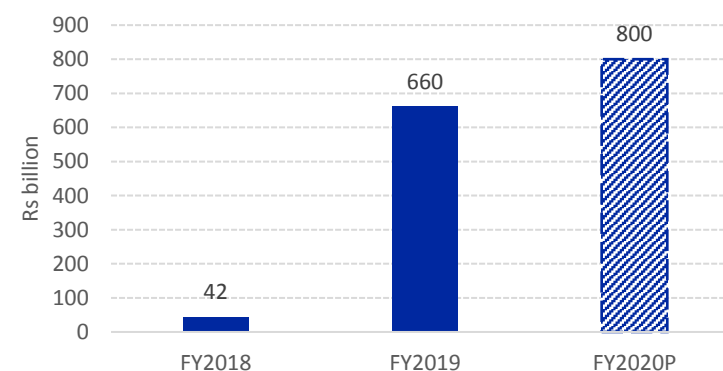
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### Financial creditors expected to witness increase in realisations through the IBC in FY2020...

The Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC) has been affected over the past two years by the over-burdened National Company Law Tribunals (NCLT), innumerable litigations, defiant promoters and failing sectors. Even then, the process under the IBC has chugged on, albeit at a slower pace than envisioned. As of March 31, 2019, 715 cases of defaulting corporate debtors had been closed under the IBC. Of the same, a significant portion of corporate debtors (378 cases) were ordered into liquidation, while only 92 CIRPs<sup>1</sup> yielded a resolution plan where the companies continue to operate as going-concerns. In April 2019, the Honourable Supreme Court of India cancelled the February 2018 circular of the Reserve Bank of India (RBI) which directed banks to recognise one-day defaults by large corporates and refer the large defaulting entities (classified as those with loans in excess of Rs. 2,000 crore) to the NCLT if a resolution plan was not in place 180 days after the default. The RBI's circular would have channeled the resolution process of the defaulting corporate debtors through the framework set by the IBC and thereby encouraged the creditors to approach the NCLT at an early stage of default. The decision of the Honourable Supreme Court is a blow to the IBC and it is important for the RBI to find a new mechanism to ensure that resolution of stressed assets happen in a disciplined manner.

Despite these hurdles, ICRA expects the number of cases being admitted to the NCLT to continue to increase, especially from the operational creditors who are responsible for 50% of all cases admitted by the NCLT. ICRA estimates that the financial creditors would realise more than Rs. 800 billion in FY2020 from the IBC compared to about Rs. 660 billion realised in FY2019 (refer Exhibit 1). The higher realisation in FY2020 would be driven by the expected conclusion of the CIRPs of two large accounts, viz. Essar Steel Limited (ESL) and Bhushan Steel and Power Limited (BSPL). The resolution plan of ESL has been approved by the NCLT but is still being litigated at higher courts, whereas the resolution of BSPL has also been marred by litigations and is now awaiting the final nod from the NCLT. Both these accounts are part of the RBI's list of the 12 largest defaulting companies announced in June 2017. Successful completion of the CIRP for these two accounts would bring closure to eight companies from the RBI's list and could help strengthen the confidence in the IBC, despite the significant delays seen in the process with most of these CIRPs lasting more than 500 days (refer Annexure).

**EXHIBIT 1. Realisation for financial creditors from CIRPs yielding resolution**



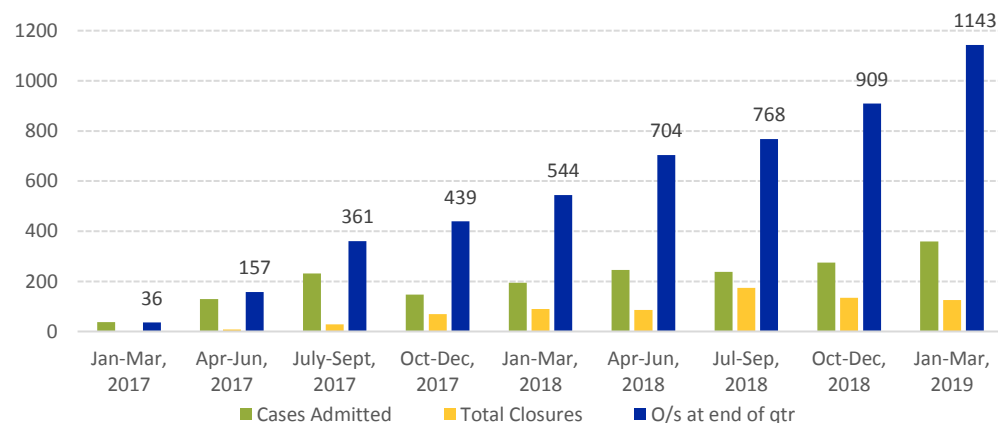
Source: IBBI, ICRA Research

<sup>1</sup> excludes resolution of Amtek Auto Limited which has now been referred again to the NCLT as the winning resolution applicant has not complied with the resolution plan and resolution of Essar Steel Limited which is still under litigation

### ... though the burden on the NCLTs continues to remain high

The number of cases being admitted by the NCLT continues to increase quarter-on-quarter with the highest quarterly admissions of 359 cases reported in Q4 FY2019 (refer Exhibit 2). As the timelines for the CIRP continue to get stretched, with 32% of the on-going CIRPs as on March 31, 2019 having already crossed the maximum allowed time of 270 days (refer Exhibit 3), the number of admitted cases that are yet to be resolved are only increasing.

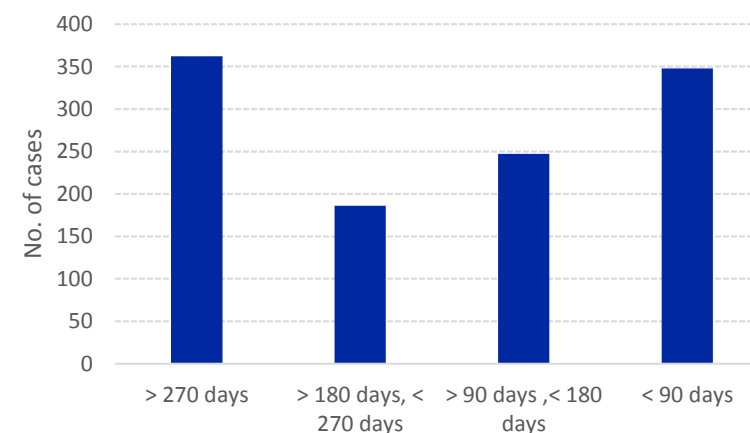
**EXHIBIT 2. Number of cases undergoing CIRP**



Source: IBBI, ICRA Research

The recent decision to setup two more NCLT benches (at Amaravati in Andhra Pradesh and at Indore in Madhya Pradesh) is a positive step to improve the efficiency of the process so as to achieve the vision of the Code to complete the resolution processes in a time-bound manner. ICRA expects the IBC to continue to play an important role in the country's economy as long as the key stakeholders, viz. the Government, the Insolvency and Bankruptcy Board of India, the NCLT and the creditors, remain proactive in discharging their duties and continue to have confidence in the process.

**EXHIBIT 3. Timelines for on-going CIRPs as on March 31, 2019**



Source: IBBI, ICRA Research

## ANNEXURE

EXHIBIT 4. Progress on the CIRPs for RBI's list of 12 large defaulting companies

Corporate Debtor	Financial Creditor Claims (Rs billion)	Claims realised (Rs billion)	% haircut	CIRP duration	Status
Bhushan Steel Limited	560.0	355.7	37%	293 days	Completed; acquired by Tata Steel
Essar Steel India Limited	490.0	378 ~ 420*	14% ~ 23%	583 days*	ArcelorMittal's plan approved by NCLT; being litigated at higher courts
Alok Industries Limited	295.2	50.5	83%	598 days	Completed; acquired by JV of Reliance Industries and JM Group
ABG Shipyard Limited	181.3	NA	NA	633 days	Ordered into liquidation
Electrosteel Steels Limited	131.8	53.2	60%	270 days	Completed; acquired by Vedanta
Monnet Ispat & Energy Limited	110.1	28.9	74%	371 days	Completed; acquired by JV of JSW Steel and Aion Investments
Jyoti Structures Limited	73.6	36.8	50%	631 days	Completed; acquired by HNIs
Lanco Infratech Limited	452.6	NA	NA	385 days	Ordered into liquidation
Bhushan Power and Steel Limited	473.0	Pending	Pending	649 days (on-going)	NCLT yet to accept the final resolution plan
Amtek Auto Limited	126.0	Pending	Pending	651 days (on-going)^	Brought back to NCLT since previous resolution applicant did not honour the commitments
Jaypee Infratech Limited	97.8	Pending	Pending	635 days (on-going)	On-going
Era Infra Engineering Limited	122.1	Pending	Pending	363 days (on-going)	On-going

Source: ICRA research

\* resolution plan approved by NCLT but still under litigation at higher courts; final amount realised by financial creditors would depend on the extent of funds shared with operational creditors

^ CIRP had been completed in 366 days initially but has been subsequently brought back to the NCLT



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

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