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HAIRCUT ECONOMICS: HOW THE IBC BECAME BACKDOOR BAILOUT TOOLS FOR NBFCS

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I. ABSTRACT

The IBC was made to create creditor discipline and lead to value-maximizing resolutions within a time-bound period. But a new trend with discomfiting implications is emerging: non-banking financial companies (NBFCs) are now using the IBC not for recovering value, but for abandoning their own toxic lending exposures, however, at prices that are very low and with little accountability. NBFCs that have lent irresponsibly or without security have provoked CIRPs, have gotten rid of 80-90% bad assets, and have always gone on like this. The most worrisome is who pays for this, state-owned banks, public sector ARCs, and government-affiliated entities are frequent resolution applicants thus, they come to possess these assets through court-approved resolution plans. This article should suggest that the IBC is, unwittingly, a back door fiscal tool: where the costs of shoddy credit underwriting are socialized; where the NBFCs get to start afresh with no difficult questions asked regardless of how poor the quality of credit disbursement. Relying on case studies, regulatory analysis and comparative global architecture, the piece asks how this cycle of private risk and public loss is playing out and what reforms are required to forestall the IBC from allowing unregulated bailouts in camouflage.

II. KEYWORDS

Financial Creditor, Resolution Plan, Sovereign risk absorption, Insolvency and Bankruptcy Code, NBFCs.

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III. INTRODUCTION: WHEN RECOVERY BECOMES RELIEF

The Insolvency and Bankruptcy Code, 2016 (IBC)[3] was conceived as a reconstructive surgery of India's debt resolution architecture, an antidote to tardy tribunals, over-burdened balance sheets and the relentless decline in asset value in a state of corporate distress. The Code offered two prizes at the very core of it: a time-bound process and value maximization, moving decisively from debtor-centric restructurings of the past, to a center-of-power model with financiers itself expected to be disciplined, not just its borrowers, but the lending & borrowing eco-system broadly.[4] Early outcomes reflected a shift- in June 2025[5], almost 27000 cases had been disposed of by IBC framework, with over 4900 companies undergoing resolution and more than 3.3 lakh crore realizes by creditors. The Creditor recovery rates under successful IBC resolutions averaged between 30%-33% of the admitted claims, considerably larger than previous avenues of recovery under SARFAESI or DRTs, which averaged less than 20%. Equally significant is the advent of IBC proceedings and the ability for creditors to use it as a negotiating and settlement tool. There have been over 20,000 cases withdrawn before admission as a result of the debtors making full or partial payments. Overall, the IBC, as part deterrent, part resolution and part selling/settlement, is more than just a legal regime but a corporate governance mechanism affecting systemic discipline across corporate India.

When overdue payments started increasing, a considerable fraction of these NBFCs found a surprising ally in the IBC. By initiating Corporate Insolvency Resolution Process (CIRP) to the defaulters, NBFCs found a potent weapon, not to force repayment, but to escape deeply unfavorable situations, take substantial losses, and depart with clean balance sheets.[6] Although the IBC was primarily designed to focus on recovering debts, it has turned out, for a lot of creditors, to be a regulated offboarding system, an approach to

[3] *Insolvency and Bankruptcy Code, No. 31 of 2016, Gazette of India, pt. II, sec. 1,* https://www.indiacode.nic.in/bitstream/123456789/15479/1/the_insolvency_and_bankruptcy_code%2C_2016.pdf.
[4] *Swiss Ribbons Pvt. Ltd. v. Union of India*, (2019) 4 S.C.C. 17, ¶ 11, https://indiankanoon.org/doc/17372683/.
[5] Insolvency and Bankruptcy Board of India <https://ibbi.gov.in//en> accessed 25 August 2025
[6] Insolvency and Bankruptcy Board of India, *Insolvency and Bankruptcy News*, Vol. 20, at 14 (Jan.–Mar. 2022), https://ibclaw.in/swiss-ribbons-pvt-ltd-v-union-of-india-the-constitutionality-of-ibc-upheld-understanding-the-procedural-aspect-and-the-after-effects-by-ms-manisha-arora-and-mr-pranav-ashutosh/.

discard non-performing assets without the risk of facing regulatory, financial, or reputational consequences.[7]

This article contends that the IBC, though intended to enable commercial resolution, has started to act, silently but consistently, as a state-enabled bailout vehicle for NBFCs. Under the guise of "creditor-driven recovery," it enables private lenders to transfer risk, swallow huge value destruction, and escape accountability.

IV. ANATOMY OF A BAILOUT: HOW THE IBC ENABLES NBFC EXITS

Under the IBC architecture, all the financial creditors irrespective of nature share the same procedural standing. NBFCs, though not expressly exempted from the parent code, have since been construed as financial creditors under Section 5(7), to permit them to initiate corporate insolvency resolution processes (CIRPs), join the Committee of Creditors (CoC), and participate in deciding on resolution plans.[8] Though lawfully justified, this non-discrimination has unintended consequences: NBFCs having indiscriminately issued credit now get to take resort to the Code not to settle debts, but to mount their own regulatory exit. The transaction flow is disarmingly simple:

***Stage* I –** Risky Lending: An NBFC aggressively lends to financially strained or over-leveraged borrowers. These loans are usually approved under internal growth pressures with scant collateral, limited credit evaluation, and insufficient collateral.[9]

***Stage II* –** Default & CIRP Initiation: The borrower defaults. Rather than attempting to restructure or renegotiate, the NBFC swiftly initiates CIRP under Section 7[10] of the IBC. Upon admission, it receives a CoC seat.

[7] Reserve Bank of India, *Financial Stability Report*, Issue No. 27, at 41–43 (Jan. 2023), https://fidcindia.org.in/wp-content/uploads/2023/06/RBI-FSR-JUNE-2023-28-06-23.pdf.
[8] Insolvency and Bankruptcy Code, No. 31 of 2016, § 5(7), https://nclat.nic.in/sites/default/files/2022-04/Insolvency-and-Bankruptcy-Code-2016-amended-up-to-12.08.2021.pdf.
[9] **Dvara Research**, *Regulatory and Supervisory Approaches for NBFCs* (2021), https://dvararesearch.com/wp-content/uploads/2024/01/Regulatory-and-Supervisory-Approaches-for-NBFCs.pdf.
[10] (Section 7 of the Insolvency and Bankruptcy Code (IBC), 2016) <https://www.indiacode.nic.in/> accessed 25 August 2025

Stage III – Resolution at Deep Haircut: The NBFC votes in favor of a resolution plan often 70–90% haircut outlined by a new purchaser, typically a PSU-controlled ARC or financial institution.[11]

Stage IV – Regulatory Cleanup: Following this, the NBFC incurs the loss of provisioning expense as per RBI's norm,[12] meets the capital adequacy requirements, and openly declare declining NPAs in filings.[13] The toxic exposure is resolved on paper. State backed institutions like those that provide sovereign or first-loss guarantee, refinance or buy assets with public backstops, and warehouse stressed assets with explicit government support, are the ones who actually absorb the risks.

Scrutiny is what's absent from this entire chain. The IBC does not mandate any form of retrospective assessment of a creditor's exposure. Lender-side conduct does not incur claw-back under audit, accountability, or audit. If this NBFC does this across multiple CIRPs, systematically dumping non-performing loans at steep markdowns there is no regulatory scrutiny. This sets a dangerous example: a risk-free escape from reckless financial behavior. Even if recovery is minimal, an NBFC's provisioning burden is met[14], its optics are clean from a regulatory perspective, and its risk is happily off the balance sheet.[15] NBFC losses are frequently absorbed by the government or the overall economy, protecting them from the fallout from bad lending. This promotes moral hazard, transforming the IBC into a mechanism for socializing losses and privatizing gains.

[11] Piramal Buys DHFL: 94% Haircut for Some Lenders, *Fin. Express* (June 2021), https://www.financialexpress.com/business/industry-piramal-capital-housing-finance-acquires-dhfl-via-reverse-merger-2341691/.
[12] Reserve Bank of India, *Master Circular – Prudential Norms for NBFCs* (July 2022), https://www.rbi.org.in/commonman/english/scripts/FAQs.aspx?Id=1167.
[13] Reserve Bank of India, *Financial Stability Report*, issue no. 27, at 44–45 (Jan. 2023), https://fidcindia.org.in/wp-content/uploads/2023/06/RBI-FSR-JUNE-2023-28-06-23.pdf.
[14] Insolvency and Bankruptcy Code, §§ 43–51, https://www.indiacode.nic.in/bitstream/123456789/15479/1/the_insolvency_and_bankruptcy_code%2C_2016.pdf.
[15] Reserve Bank of India, *Report on Trends and Progress of Banking in India 2022*, at 86–87 (Dec. 2022), https://rbi.org.in/Scripts/AnnualPublications.aspx?head=Trend%20and%20Progress%20of%20Banking%20in%20India.

V. CASE STUDIES: DHFL, SREI INFRA, RELIANCE CAPITAL, IL&FS

There is a certain trend in recent insolvency cases: NBFCs lend aggressively, cause CIRPs following defaults, take huge haircuts, and leave without facing any repercussions. The risks are subsequently taken up by public institutions, transforming the IBC into a covert NBFC rescue.

A. DHFL: Haircuts Disguised as Resolution

Dewan Housing Finance Corporation Ltd. (DHFL) became the first NBFC to undergo resolution under the IBC framework. Claims admitted were ₹87,082 crore, but the resolution plan by Piramal Capital & Housing Finance Ltd. resolved only ₹37,250 crore, leading to average haircuts exceeding 65% and in some cases, over 90% losses for creditors.[16] Retail depositors were completely wiped out, and the financial creditors, consisting of mutual funds, banks, and NBFCs, just booked their losses and moved on.[17] Even though there were problems of asset misclassification and fraudulent lending, the transaction provided instant balance sheet relief. It is noteworthy that Piramal acquired DHFL free and clear of all past liabilities due to Section 32A of the IBC, which is why he did not inherit any past liabilities of DHFL.

B. SREI Infra: A Case of Regulatory Blindness

SREI Infrastructure Finance and SREI Equipment Finance entered CIRP (Corporate Insolvency Resolution Process) in October 2021 after a unanimous decision from the Reserve Bank of India (RBI) to supersede their boards for governance and default issues, appointing an Administrator in accordance with the FSP (Financial Service Providers) regime.[18] The consolidated Committee of Creditors subsequently approved a NARCL-

[16] DHFL Lenders Stare at 65% Haircut; Some May Lose More Than 90%, *Bus. Line* (Oct. 18, 2020), https://www.thehindubusinessline.com/money-and-banking/dhfl-lenders-staring-at-65000-crore-haircut/article32887353.ece.

[17] DHFL Depositors Set to Get Nothing in Resolution Plan, *New Indian Express* (June 7, 2021), https://www.newindianexpress.com/business/2021/Jun/07/dhfl-depositors-left-high-and-dry-after-nclt-approves-piramals-bid-2312893.html.

[18] 'NCLT Approves NARCL's Resolution Plan for Two Srei Group Firms' (The Economic Times) <https://economictimes.indiatimes.com/industry/banking/finance/nclt-approves-narcls-resolution-plan-for-two-srei-group-firms/articleshow/102655650.cms> accessed 25 August 2025

IDRCL resolution plan with 89.25% voting share following the bidding challenge mechanism.[19] NCLT Kolkata approved the consolidated resolution plan on 11 August 2023, allowing implementation to proceed. The approved plan proposed approximately ₹3,180 crore in upfront cash plus the remainder in deferred consideration through security receipts and optionally convertible debentures, with a widely reported NPV of approximately ₹5,555 crore. Implementation required the issuance of the implementation notice, constitution of an implementation monitoring committee, and disbursal of the upfront cash in line with the distribution pact. Previous reporting claiming Arena-Värde offered a structure indicating 20-25% recovery only demonstrated the interim structure of bidding proposals and did not reflect the approved outcome at the end of the process.[20] With a sovereign-backed NARCL structure, some downside and timing risk transferred to a state-backed platform, supporting the paper's overarching conclusion about public risk absorption in clean-ups. Any statement about further investigations or potential sanctions on the management of SREI should be restricted to evidence in public regulatory orders beyond the RBI's supersession and the commencement of CIRP.

C. Reliance Capital: Lender Silence, Public Risk

Reliance Capital went into insolvency proceedings after the RBI superseded its board in November 2021. After a lengthy process, the National Company Law Tribunal approved the resolution plan of IndusInd International Holdings, owned by the Hinduja Group, for an amount of Rs 9,650 crore.[21] Most public sources report that Reliance Capital's total debts are over Rs 40,000 crore, not above Rs 25,000 crore, so the "60 percent haircuts" wording is misleading. The plan that was approved had been undertaken through a challenge

[19]Dasgupta M, 'The Financial Express' (Industry News | The Financial Express, 15 February 2023) <https://www.financialexpress.com/business/industry-srei-coc-approves-narcl-resolution-plan-with-highest-voting-among-biddersspan-stylecolor-rgb34-34-34-font-family-arial-helvetica-sans-serif-font-size-small-font-weight-400-white-space-normalspan-2982722/> accessed 25 August 2025

[20] Insolvency T, 'A Low down on Resolution Plan of Srei Infrastructure Finance' (Insolvency Tracker, 14 August 2023) <https://insolvencytracker.in/2023/08/14/a-low-down-on-narcls-resolution-plan-for-srei-infrastructure-finance/> accessed 25 August 2025

[21] K P, 'Hinduja Group Emerges Highest Bidder with Rs 9,650 Crore Offer for Reliance Cap in 2nd Auction' (The New Indian Express, 27 April 2023) <https://www.newindianexpress.com/business/2023/Apr/26/hinduja-group-emerges-highest-bidder-with-rs-9650-crore-offer-for-reliance-cap-in-2nd-auction-2569626.html> accessed 25 August 2025

mechanism and creditor voting, and the implementation timelines thereafter from the tribunal and lenders. The case has arisen concerns regarding distributional outcomes for different classes of creditors, and the broader theme of how public balance sheets are being indirectly exposed to risk via regulated resolution routes. Any consideration of possible impacts to bonds and small investors should be assessed through the final approved plan terms and disclosed distributions models, rather than interim bid expectations.

D. IL&FS: The Canary in the Coal Mine[22]

While IL&FS did not undertake an IBC resolution, it exposed many of these dynamics. Its default in 2018 led to a liquidity crisis in the NBFC sector due to the fact that IL&FS had over 300 group entities with ₹99,000 crore in outstanding debt.[23] The government intervened by replacing the board and facilitating asset sales through a bespoke resolution process. The primary bailout agents in the process were state owned LIC and SBI. The systemic default and mismanagement notwithstanding, the entire defaulted IL&FS group, and the NBFCs and asset management firms that had irresponsibly extended creditor would not be scrutinized.

VI. SYSTEMIC RISK TRANSFER AND THE ILLUSION OF MARKET-BASED RESOLUTION

The IBC's goal was speedy market-based solutions, but NBFCs find it ineffective. Bad loans are transferred to public sector organizations rather than being resolved, which makes the procedure a means for NBFCs to shift their financial burden onto the larger economy. Consider public sector bidders like LIC, PNB, Indian Bank, or Canara Bank, who are frequent buyers or financing parties in CIRPs. In the DHFL process, Piramal raised some the financing through public markets and quasi-government entities.[24] In the case of

[22] *Performance Audit of IL&FS Exposure*, Comptroller and Auditor General of India (2020), https://cag.gov.in/en/audit-report?ts=word&title=education&page=76

[23] '*Flashback 2018: When IL&FS Nearly Sank the Financial System' (Moneycontrol, 27 December 2018) <https://www.moneycontrol.com/news/business/economy/flashback-2018-when-ilfs-nearly-sank-the-financial-system-3300731.html> accessed 25 August 2025*

[24] Piramal's Financing Structure for DHFL Acquisition, *Bus. Line* (June 10, 2021), https://www.thehindubusinessline.com/companies/piramal-pays-lenders-for-dhfl-acquisition/article36729720.ece.

Reliance Capital, government-owned banks financed the resolution applicant.[25] The risk may be transferred, but the risk remains within the larger context of the balance sheet of the Indian state. In SREI and IL&FS, the story was more obvious; regulatory intervention and acquisition with government backing was done directly.

The procedure creates an apparent commercial resolution but, in reality, the ability to price is absent. While many CIRPs are attracted by only one or two bidders, commonly focused consortiums of PSUs or ARC platforms funded by public banks[26], these are not competitive auctions, but instead structured risk transfers from one regulated entity to another, with no meaningful market validation of asset value being achieved. An example is SREI, whose final haircut could potentially exceed 80% and where no apparent questions have been asked about the original lending judgment, credit underwriting or systemic exposure created by NBFCs.[27] Bank recapitalizations involve the allocation of funds in budgets, accountability plans, legislative scrutiny and disclosures, but this workout operates tacitly to the edge of legality. While a PSU bank lends money to finance an acquisition that absorbs the haircut from a failed firm on behalf of the government, there are no Parliamentary accountability requirements triggered, nor CAG audits, that look at how bad loans originated and were later cleaned up in resolution.[28] This, essentially, is a function of cash accounting only this is a hidden, opaque, fiscal event.

International comparisons are telling. While the UK requires insolvency administrators to consider and reflect on the actions of the company directors and large lenders involved in an insolvent company.[29] The U.S. Chapter 11 procedures require scrutiny on debtor-in-

[25] Reliance Capital Resolution Backed by PSU Lending, *LiveMint* (Mar. 6, 2024), https://www.livemint.com/companies/news/reliance-capitals-lenders-legal-advisors-ask-hinduja-group-to-submit-resolution-plan-before-march-31-says-report-11709706613007.html.
[26] Insolvency & Bankr. Bd. of India, *Quarterly Newsletter*, vol. 26, at 15–18 (Apr.–June 2023), https://ibbi.gov.in/publication.
[27] SREI Resolution Update: Lenders Brace for 85% Haircut, *Bus. Standard* (Mar. 2023), https://www.business-standard.com/topic/srei-infrastructure-finance.
[28] Comptroller & Auditor Gen. of India, *Performance Audit on Management of Non-Performing Assets*, Report No. 20 of 2022, https://cag.gov.in/uploads/performance_activity_report/Performance-Report-of-SAI-India-2022-23-1-066ab5121c70bf4-42780497.pdf.
[29] UK Insolvency Serv., *Conduct Reports in Insolvency Cases*, https://www.gov.uk/government/organisations/insolvency-service.

possession financing to ensure that no class of creditors is receiving value in the resolution that is more than others.[30] India has no claw back or accountability regime for creditors to be held accountable for their conduct unless misconduct is proven, which supports a much higher evidential threshold to meet in practice.

VII. COMPARATIVE JURISDICTIONS: HOW OTHER COUNTRIES HANDLE LENDER MISCONDUCT

The activities of the debtor, such as deceptive transactions, undervalued transfers, or fraud, are the primary focus of the IBC. However, it doesn't truly investigate the involvement of lenders, despite the fact that in many other nations, lenders are also investigated to see whether they contributed to the company's financial difficulties. This is a significant weakness in the insolvency system of India.

A. United Kingdom: Proactive Lender Oversight

Directors in the UK may be held accountable for improper trade if they go on with their business in spite of its impending insolvency. The Insolvency Service also looks into funders or creditors whose careless lending could have played a role in the demise of a business.[31] Insolvency practitioners must prepare detailed "director conduct reports" where the first can spark the commencement of disqualification or civil liability.[32]

B. United States: Judicial Scrutiny in Chapter 11

To the extent that the fairness inquiry was always subjective, the U.S. system applies an even greater degree of subjective oversight. Under Chapter 11 of the U.S. Bankruptcy Code, debtor-in-possession (DIP) financing must be approved by the court, and any proposed resolution plan must pass a fairness test under § 1129.[33] Courts look to whether

[30] 11 U.S.C. § 1129 (2018), https://codes.findlaw.com/us/title-11-bankruptcy/11-usc-sect-1129/.
[31] Insolvency Act 1986, c. 45 (UK), https://www.legislation.gov.uk/ukpga/1986/45/contents.
[32] U.K. Insolvency Serv., *Guidance on Director Conduct Reports*, https://assets.publishing.service.gov.uk/media/5a8193b8ed915d74e623303e/Guidance_notes_for_Service_Manager_and_Staff_access_to_DCRS_.pdf.
[33] 11 U.S.C. § 1129 (U.S. 2018), https://www.law.cornell.edu/uscode/text/11/1129.

the financing terms, creditor rankings, and distributions proposed by a plan disproportionately benefit insiders or senior lenders.[34]

C. Australia: Administrator Accountability

In Australia, administrators must report on the conduct of both debtors and creditors, including to ASIC under section 438D of the Corporations Act in cases of misconduct. This includes instances of imprudent or irresponsible lending by banks or other non-bank lenders.[35] The policy reflects a broader principle that financial intermediaries, not just borrowers, are accountable during periods of financial distress.[36]

D. India: Silence, Despite the Noise

In India, the IBC lacks provisions to scrutinize or penalize creditor conduct. NBFCs can initiate insolvency proceedings and vote on resolution plans despite risky lending, with little accountability[37] unless fraud is proven. There are no lender claw-backs, unless fraud can be proved, a standard that is very rarely met.[38] NBFCs are able to avoid accountability because India lacks regulatory control of lender behaviour in bankruptcy proceedings.

VIII. WHAT MUST CHANGE: FROM DISCIPLINE OF DEBTORS TO DUAL-SIDE ACCOUNTABILITY

The IBC must transition from a debtor-centric enforcement mechanism to a holistic system of financial accountability if it is to restore integrity.

A. Mandatory Disclosure of NBFC Exposure in CIRPs

Foremost, any Corporate Insolvency Resolution Process (CIRP) application must always disclose the class-wise breakup of financial creditors, namely, identify NBFCs and other

[34] *In re Pac. Lumber Co.*, 584 F.3d 229 (5th Cir. 2009)
[35] Corporations Act 2001 (Cth) s 438D (Austl.), https://www5.austlii.edu.au/au/legis/cth/consol_act/ca2001172/s438d.html.
[36] Austl. Sec. & Invs. Comm'n, *Regulatory Guide 82: External Administrator Reports*, https://www.asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-82-external-administration-deeds-of-company-arrangement-involving-a-creditors-trust/.
[37] Insolvency and Bankruptcy Code, No. 31 of 2016, Acts of Parliament, 2016 (India), https://www.indiacode.nic.in/handle/123456789/2154.
[38] Insolvency & Bankr. Bd. of India, *Report on Avoidance Transactions*, at 23–25 (Feb. 2021), https://ibbi.gov.in/.

non-bank lenders' exposures. Currently, CoC compositions are opaque, and we have limited public visibility on how much of the haircut is absorbed by NBFCs as opposed to banks or institutional investors.[39] This transparency is important in determining whether, in fact, private credit risk is being absorbed publicly.

B. Audit Haircuts Above a Threshold

Second, the Insolvency and Bankruptcy Board of India (IBBI) must be statutorily enabled to audit all resolution plans where the aggregate haircut is greater than 66% or where recovery is below a certain benchmark (e.g., 20% of admitted claims).[40] These audits must be more than post-facto box-ticking, and be real audits of asset measures (valuation, bid transparency, participation structure). Where NBFCs "exit" at frightening discounts, the audit must consider their loan conduct prior to resolution.

C. RBI Supervision of Pre-Resolution Conduct

Third, in cases of insolvency or CIRP where NBFCs constitute greater than 25% of creditor claims or where there are NBFC defaults greater than ₹1,000 crore the Reserve Bank of India (RBI) shall undertake forensic or compliance reviews.[41] The RBI has sufficient supervisory powers under its Master Directions for NBFCs and now needs to take what it has to the next level to include the resolution space, so that it can act against institutions where the mispricing of credit risk or insufficient due diligence is systemic.[42]

D. Carve-Outs and Consequence Frameworks

Fourth, the legislature should consider specific carve-outs to prevent NBFCs from escaping CIRPs with no consequences. A suggestion could be to ban NBFCs that have continued to

[39] Insolvency & Bankr. Bd. of India, *Format for Filing CIRP Forms*, https://ibbi.gov.in/en/intimation-applications/iaaa.
[40] IBBI, *Discussion Paper on Insolvency Resolution Metrics* (July 2023), https://ibbi.gov.in/uploads/whatsnew/7f55e29ae9c0023184a3895f849cd2ef.pdf.
[41] **KPMG**, *Framework for Scale-Based Regulation of NBFCs* (Oct. 2021), https://assets.kpmg.com/content/dam/kpmg/in/pdf/2022/06/chapter-1-aau-scale-based-framework-revised-regulatory-framework-nbfcs.pdf.
[42] **Reserve Bank of India**, *Master Directions – NBFC Prudential Norms*, https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10585.

get 75%+ haircuts from voting in future CIRPs or any CoC for a cooling-off period.[43] Alternatively, if an NBFC undertakes CIRPs causing substantial losses to the public, they could be required to create a restitution fund connected to the resolution, in a way similar to a performance bond in a public procurement project.

E. Claw backs and Pattern Recognition

To identify repeat offenders like NBFCs that abuse insolvency procedures and flee losses, the IBC should set up monitoring systems. Such lenders can be held responsible by means of instruments like reputational risk scores, performance-linked monitoring, and clawback clauses. It is essential to move away from a debtor-only approach and toward shared accountability as non-bank borrowing grows in order to preserve financial stability and public confidence.

IX. CONCLUSION: THE COST OF SILENCE

This paper has illustrated how the current framework of the IBC allows NBFCs to avoid "deeply impaired" exposures through high-haircut resolutions while offloading loss and liquidity risks onto quasi-sovereign and sovereign balance sheets. This practice erodes price discovery, market discipline, and regulatory credibility. The policy implication is obvious: in the absence of dual-sided accountability, a creditor-driven system is free to normalize socialized losses and private gains while embedding fiscal blindness and moral hazard. For this reason, legislators should implement planned disclosure of creditor composition, automatic audits for extreme haircuts, and Lender-conduct review with scaled sanctions; regulators should perform targeted supervisory reviews of chronic high-haircut NBFC exit and unlink prudential sanctions from underwriting quality and post-resolution standardized scorecards; market institutions should incorporate uniform challenge and valuation protocols and disclose sovereign or para-sovereign backstops within plans; and tribunals should explicate rationale on distributions to signal unyielding stance on opacity and procedural manipulation. This study is restricted due to access of

[43] Anupam Sinha, Proposed Sanctions for Repeat CIRP Misuse by Lenders, *58* Econ. & Pol. Wkly. 3 (2023).

public orders, filings, and reportage which may underreport non-public supervisory findings and case diversity. More research is needed to construct static panel datasets and evaluate post-plan asset performance under sovereign-guaranteed or publicly financed structures to determine fiscal exposure and sculpt an Indian model of proportionate lender conduct accountability analysing the mix of backstop creditor use, bid structure, and realized recoveries.

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4) Insolvency and Bankruptcy Board of India, *Insolvency and Bankruptcy News*, vol 20 (Jan–Mar 2022) 14 https://ibclaw.in/swiss-ribbons-pvt-ltd-v-union-of-india-the-constitutionality-of-ibc-upheld-understanding-the-procedural-aspect-and-the-after-effects-by-ms-manisha-arora-and-mr-pranav-ashutosh/.

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