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BRIDGING THE GAP: A CRITICAL ANALYSIS OF INDIA'S CROSS-BORDER INSOLVENCY REFORM UNDER THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2026, AND THE CASE FOR FULL ADOPTION OF THE UNCITRAL MODEL LAW ON CROSS-BORDER INSOLVENCY

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I. ABSTRACT

The Insolvency and Bankruptcy Code, 2016 ("IBC") transformed India's domestic debt-resolution framework, yet for nearly a decade cross-border insolvency remained confined to Sections 234 and 235, two skeletal provisions dependent on bilateral reciprocity and letters of request that India never meaningfully operationalised. As Indian corporate groups accumulated overseas assets and foreign lenders extended credit to Indian borrowers, this statutory vacuum produced tribunal-led improvisation and, most visibly, parallel Delaware and Indian proceedings in the Byju's insolvency, where GLAS Trust Company lacked any statutory mechanism for coordinated recognition, although the Supreme Court proceedings ultimately turned on a domestic procedural issue rather than cross-border recognition itself. This paper undertakes a doctrinal examination of the Insolvency and Bankruptcy Code (Amendment) Act, 2026, which inserts Section 240C, Section 240B, and Chapter VA and moves India, at least textually, toward the UNCITRAL Model Law on Cross-Border Insolvency, 1997. It argues that the 2026 Amendment is best understood as an unfinished reform: Section 240C, Section 240B, and the Chapter VA group insolvency framework were excluded from the commencement notification that brought the bulk of the Amendment into force on 26 May 2026, leaving foreign creditors without an operative recognition

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mechanism and group insolvency coordination still inoperative. Drawing on the legislative history from the Eradi and Irani Committees to the Insolvency Law Committee's 2018 report, and on comparative practice in the United States, United Kingdom, Singapore, and the European Union, the paper evaluates whether India's calibrated, reciprocity-conscious approach is defensible or risks reproducing uncertainty. It recommends prompt rule-making under Section 240C, specialised NCLT capacity-building, and closer alignment with the Judicial Insolvency Network Guidelines.

II. KEYWORDS

Cross-Border Insolvency; UNCITRAL Model Law; Insolvency and Bankruptcy Code, 2016; Section 240C; Corporate Insolvency Resolution Process.

III. INTRODUCTION AND RESEARCH PROBLEM

Cross-border insolvency arises whenever an insolvent debtor's assets, creditors, or operations straddle more than one jurisdiction, a condition that has become the rule rather than the exception for Indian corporates in the two decades since liberalisation. Indian information-technology firms hold receivables and subsidiaries abroad, Indian conglomerates borrow in offshore markets, and foreign private credit funds increasingly extend loans directly to Indian promoters. When such a structure fails, the resulting proceeding is rarely confined to one legal system, and the question of which court's orders bind which assets becomes central to the fairness and efficiency of resolution.

The Insolvency and Bankruptcy Code, 2016 ("IBC" or "the Code") addressed this reality with only two provisions. Section 234 authorises the Central Government to enter bilateral agreements with foreign states to enforce the Code against assets situated abroad, and Section 235 permits the Adjudicating Authority to issue letters of request to foreign courts. Neither provision has ever been meaningfully operationalised: no bilateral treaty under Section 234 has been notified as of 2026, and letters of request under Section

235 depend entirely on the goodwill of the receiving jurisdiction.[2] The resulting vacuum forced the National Company Law Appellate Tribunal ("NCLAT"), in the Jet Airways insolvency, to permit a Dutch bankruptcy administrator to participate on an ad hoc basis, a solution grounded in judicial discretion rather than settled law and one that other benches have not consistently followed.[3]

The costs of this legislative gap became unavoidable in the insolvency of Think and Learn Private Limited, the parent of Byju's, once valued at approximately US$22 billion. When the corporate debtor defaulted on dues owed to the Board of Control for Cricket in India and was admitted into the Corporate Insolvency Resolution Process ("CIRP") before the NCLT, GLAS Trust Company LLC, a United States-based collateral agent representing offshore lenders owed roughly US$1.2 billion, found itself pursuing parallel and uncoordinated enforcement in Delaware and in India.[4]

The absence of any statutory bridge between the two proceedings, rather than any specific judicial ruling on cross-border recognition, is what exposed the practical cost of the legislative gap: as detailed in Section 7.3 below, the litigation that eventually reached the Supreme Court turned on a narrow domestic question the scope of NCLAT's inherent powers under Rule 11 of its own Rules rather than on any question of deference to the Delaware proceeding. That episode nonetheless crystallised, for policymakers, what the Insolvency Law Committee's 2018 report on cross-border insolvency had already diagnosed: India needed a framework modelled on the UNCITRAL Model Law on Cross-Border Insolvency, 1997, which has been adopted, in various forms, by more than fifty

[2]Devangna Singh, 'India's Cross-Border Insolvency Reform – A Distant Dream?' RFKN Legal (18 July 2026) https://rfkn.legal/blog/india-cross-border-insolvency-reform/
[3]Jet Airways (India) Ltd (Offshore Regional Hub) v State Bank of India, Company Appeal (AT) (Insolvency) No. 707 of 2019 (NCLAT).
[4]GLAS Trust Company LLC v BYJU Raveendran & Ors, Civil Appeal No. 9986 of 2024, 2024 INSC 811.

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jurisdictions including the United States, United Kingdom, Singapore, Australia, and South Africa.[5]

Parliament responded, after almost a decade of committee deliberation, through the Insolvency and Bankruptcy Code (Amendment) Act, 2026, which received presidential assent and was published in the Official Gazette on 6 April 2026.[6] The Amendment introduces Section 240C, empowering the Central Government to frame rules on recognition of foreign proceedings, reliefs, and judicial cooperation with notified countries; Section 240B, enabling an electronic filing portal; and a new Chapter VA establishing a group insolvency framework with common benches and coordinated creditor committees.[7]

Yet, as this paper documents, the notification that brought the bulk of the 2026 Amendment into force on 26 May 2026 conspicuously excluded not only Section 240C but also Section 240B and the entire Chapter VA group insolvency framework. India today therefore possesses the statutory shell of a UNCITRAL-aligned regime, and of a group insolvency mechanism, without the operative machinery to give either effect, a gap this paper terms the "commencement deficit." This is the central research problem examined below: whether the 2026 Amendment represents a genuine, if incomplete, adoption of the Model Law, or whether the deliberate withholding of these provisions signals continuing legislative ambivalence about ceding recognition discretion to a Model Law framework.

A. Research Objectives

This paper pursues the following objectives:

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[5]United Nations Commission on International Trade Law, Model Law on Cross-Border Insolvency (1997), adopted 30 May 1997.
[6]Global Law Experts, 'IBC Amendment Act 2026, What India's New Insolvency Rules Mean for Corporate Groups, Creditors and Boards' (12 May 2026) https://globallawexperts.com/ibc-amendment-india/
[7]The Insolvency and Bankruptcy Code (Amendment) Act, 2026, ss 240B, 240C, ch VA (India).

1. To trace the statutory and institutional history of India's engagement with cross-border insolvency, from the Eradi and Irani Committees to the Insolvency and Bankruptcy Code (Amendment) Act, 2026.
2. To critically examine the adequacy of Sections 234 and 235 of the IBC and the judicial improvisation that followed their failure.
3. To analyse the structure and scope of Sections 240B and 240C and Chapter VA of the 2026 Amendment against the benchmark of the UNCITRAL Model Law on Cross-Border Insolvency.
4. To evaluate, through comparative reference to the United States, United Kingdom, Singapore, and the European Union, whether India's calibrated approach to recognition is likely to serve the interests of foreign creditors and Indian corporate debtors.
5. To recommend a framework for the rules to be framed under Section 240C and allied institutional reforms.

B. Research Questions

1. Why did Sections 234 and 235 of the IBC, 2016, fail to provide a workable cross-border insolvency mechanism in the decade following the Code's enactment?
2. To what extent does the Insolvency and Bankruptcy Code (Amendment) Act, 2026, align India's insolvency framework with the UNCITRAL Model Law on Cross-Border Insolvency?
3. What are the legal and practical consequences of Parliament's decision to withhold notification of Sections 240B, 240C, and Chapter VA while bringing the remainder of the 2026 Amendment into force?
4. What institutional and procedural safeguards should the rules frame under Section 240C incorporate to ensure predictable recognition of foreign proceedings without compromising the interests of domestic stakeholders?

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C. Research Hypotheses

The reciprocity-based design of Sections 234 and 235 of the IBC, 2016, structurally precluded meaningful cross-border cooperation because it required India to conclude bilateral treaties that successive governments have, in a decade, never actually negotiated.

The Insolvency and Bankruptcy Code (Amendment) Act, 2026, adopts the analytical architecture of the UNCITRAL Model Law, in particular the main/non-main proceeding distinction, but stops short of full adoption by preserving wide adjudicatory discretion for the National Company Law Tribunal and by not automatically extending recognition to all Model Law jurisdictions.

The withholding of Sections 240B, 240C, and Chapter VA from the commencement notification is a temporary administrative sequencing decision, not a substantive retreat from the legislative intent to adopt a Model Law-aligned framework, and the framework will therefore substantially converge with the Model Law once rules are notified.

D. Research Methodology

This paper adopts a doctrinal, black-letter methodology supplemented by comparative legal analysis. Secondary sources include committee reports predating the IBC itself (the Eradi Committee, 2000; the Mitra Committee, 2001; and the Irani Committee, 2005), peer-reviewed academic commentary, and contemporaneous practitioner analysis published following the 2026 Amendment. Given that the operative rules under Section 240C had not been notified at the time of writing, the analysis is necessarily prospective in places and is presented with that qualification. The paper does not employ empirical or quantitative methods; its objective is normative and interpretive, assessing statutory text against the comparative benchmark of the Model Law and against the practical demands revealed by the Byju's and Jet Airways episodes.

E. Literature Review

India's engagement with the UNCITRAL Model Law is not a product of the 2026 Amendment alone; it has a two-decade legislative pre-history. The Eradi Committee (2000) and the Mitra Committee (2001), both constituted to reform India's fragmented insolvency law prior to the IBC, first recommended that India examine the Model Law as a template for cross-border cooperation.[8] The Irani Committee (2005) reiterated the recommendation while the Companies Act, 2013 was being drafted.[9] When the IBC was finally enacted in 2016, however, Parliament opted for the narrower, reciprocity-based Sections 234 and 235, leaving the Model Law recommendation unimplemented.

The most significant intervening document is the Insolvency Law Committee's dedicated report on cross-border insolvency, submitted on 16 October 2018, which concluded that Sections 234 and 235 were inadequate and proposed a dedicated chapter based substantially on the Model Law, referred to throughout the Committee's work and subsequent practitioner commentary as 'Draft Part Z.' This built on the Committee's earlier, general report of March 2018, which had not addressed cross-border insolvency in substance.

The October 2018 report subsequently informed the June 2020 recommendations of the Cross-Border Insolvency Rules/Regulation Committee, which refined the draft Part Z provisions for consultation. Academic commentary has tracked this trajectory closely. A recent article in the Asian Journal of Comparative Law examines the areas of convergence and divergence between India's draft law and the Model Law and identifies the political-economy factors, including anxiety about forum shopping and concern for domestic creditor priority, that account for the divergences.[10] A comparative study published shortly before the 2026 Amendment examined the Model Law's operation in Australia,

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[8]Shankar IAS Parliament, 'Cross-Border Insolvency Reform' Current Affairs (4 Jan. 2025) https://www.shankariasparliament.com/current-affairs/cross-border-insolvency-reform
[9]Companies Act, 2013, No. 18 of 2013 (India); Shankar IAS Parliament (n 10).
[10]'India's Journey towards Cross-Border Insolvency Law Reform' Asian Journal of Comparative Law (Cambridge Core, 2024) https://www.cambridge.org/core/journals/asian-journal-of-comparative-law/article/indias-journey-towards-crossborder-insolvency-law-reform/358135F0BED9AA9375F21913BAB56A73

the United Kingdom, and the United States, and argued that India's draft law, even in its pre-2026 form, was structurally compatible with the Model Law's main/non-main proceeding distinction while diverging on the scope of automatic relief available upon recognition.[11]

Practitioner literature published immediately after the 2026 Amendment received assent is more cautious. A client-alert style analysis frames the cross-border provisions as creating "a statutory mechanism" for recognition without yet specifying the operative procedure, noting that the detailed rules remain to be notified by the IBBI.[12]

A separate, more critical commentary published in July 2026 argues that the exclusion of Section 240C from the general commencement notification leaves the reform without any functioning machinery and terms the framework "unenforced and empty," though this commentary, like the paper's own earlier drafts, understated the scope of the exclusion by describing it as confined to Section 240C alone rather than extending to Section 240B and Chapter VA as well.[13] This paper builds on that critical literature but attempts a more systematic doctrinal comparison between the 2026 Amendment's text and the Model Law's own structure, corrected against the primary commencement notification itself, an exercise that the immediate post-enactment commentary, written under considerable time pressure, does not undertake in detail.

IV. RESEARCH AND ANALYSIS

A. The Statutory Void: Sections 234 and 235 of the IBC, 2016

Sections 234 and 235 were, from inception, ill-suited to the volume and velocity of cross-border corporate distress that India would come to experience. Section 234 conditions

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[11] 'Breaking Borders: Crafting a Robust Cross-Border Insolvency Framework for India through Global Insights' Legal500 Developments (21 Feb. 2025) https://www.legal500.com/developments/thought-leadership/breaking-borders-crafting-a-robust-cross-border-insolvency-framework-for-india-through-global-insights/

[12] Global Law Experts (n 7).

[13] Devangna Singh (n 3).

enforcement against foreign assets on the existence of a bilateral agreement between India and the foreign state concerned, a mechanism that requires sustained diplomatic negotiation on a country-by-country basis.

A decade after the Code's enactment, no such agreement has been notified, meaning the provision has never once been operative.[14] Section 235 fares only marginally better: it allows the Adjudicating Authority to issue letters of request to a foreign court, but the request carries no binding force and its efficacy depends entirely on the receiving court's domestic law and comity practice. Both provisions, in short, place India outside the reciprocal recognition networks that the Model Law was designed to create, and both were silent on the question that dominates modern cross-border practice, namely how to identify a debtor's centre of main interests (“COMI”) and how to allocate primacy between a main proceeding and ancillary or non-main proceedings elsewhere.

B. Judicial Improvisation: The Jet Airways Precedent

Faced with this statutory silence, the NCLAT in the Jet Airways insolvency permitted a Dutch bankruptcy administrator, appointed in the debtor's Netherlands proceeding, to participate in the Indian CIRP.[15] The Tribunal's order was a pragmatic response to a live coordination problem, but it rested on inherent equitable discretion rather than on any codified test for recognition, meaning it created no binding precedent for the treatment of similarly situated foreign representatives in later cases.

Subsequent benches, lacking any statutory anchor, have not applied the Jet Airways approach consistently, producing exactly the unpredictability that a Model Law-style recognition procedure, with defined criteria and defined categories of relief, is designed to eliminate. Judicial improvisation of this kind, however well-intentioned, cannot substitute for legislative reform because it offers foreign creditors no ex-ante certainty about how an Indian tribunal will treat their proceeding.

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[14]Devangna Singh (n 3); The Insolvency and Bankruptcy Code, 2016 (n 2).
[15]Jet Airways (n 4).

C. The Byju's Insolvency and the GLAS Trust Litigation: A Case Study

The clearest illustration of the practical costs of the vacuum described in Section 7.1 is the insolvency of Think and Learn Private Limited (Byju's). Following a payment default of approximately ₹159 crore owed to the Board of Control for Cricket in India, the corporate debtor was admitted into CIRP before the NCLT.[16] GLAS Trust Company LLC, acting as collateral agent for term-loan lenders owed roughly US$1.2 billion, simultaneously pursued enforcement in Delaware while separately engaging with the Indian CIRP, and it is this parallel, uncoordinated posture rather than any ruling on the merits of cross-border recognition that illustrates the practical cost of Sections 234 and 235's inadequacy.

When the dispute reached the Supreme Court, the issue was not recognition of, or deference to, the Delaware proceeding. The Court's holding was confined to the domestic procedural question whether the NCLAT could invoke its inherent powers under Rule 11 of the NCLAT Rules, 2016 to sanction a CIRP withdrawal or settlement without following Section 12A of the IBC and Regulation 30A of the CIRP Regulations, 2016. The decision therefore illustrates the absence of a statutory cross-border recognition framework, but it should not be cited as authority on foreign insolvency recognition.

It is important to be precise about what the Supreme Court decided when the dispute reached it. The appeal in GLAS Trust Company LLC v BYJU Raveendran did not concern recognition of, deference to, or coordination with the Delaware proceeding at all. Its ratio decidendi was a narrow, purely domestic procedural holding: that the NCLAT could not use its inherent powers under Rule 11 of the NCLAT Rules, 2016 to sanction a settlement and withdrawal between Byju's and the BCCI, bypassing the prescribed statutory procedure under Section 12A of the IBC read with Regulation 30A of the CIRP Regulations, 2016.

[16]GLAS Trust (n 5).

The Court held that this exhaustive statutory withdrawal procedure exists precisely because insolvency proceedings create third-party rights in all creditors upon admission, and that inherent powers cannot be invoked to circumvent a carefully crafted statutory mechanism designed to protect those collective interests. The Delaware proceedings, the freeze order obtained there, and GLAS Trust's US$1.2 billion exposure feature in the judgment only as background facts explaining why GLAS Trust, as an objecting creditor, had standing to challenge the NCLAT's approval of the BCCI settlement; the Court did not rule on, and was not asked to rule on, any question of comity toward the Delaware court or recognition of a foreign moratorium.

This distinction matters for how the episode should be used in this paper's argument. The Byju's saga's underlying facts parallel Delaware and NCLT proceedings, an absence of any statutory bridge between them, and the resulting uncertainty for a major foreign creditor remain a legitimate and well-documented illustration of the problem the 2026 Amendment was meant to address. But the Supreme Court's actual decision cannot be cited as authority for the proposition that Indian courts have grappled with, let alone resolved, a cross-border recognition question. If anything, the GLAS Trust litigation demonstrates the opposite: that even a dispute with obvious cross-border dimensions was resolved entirely on domestic procedural grounds, because no statutory recognition mechanism existed for the Court to engage with in the first place. That gap is precisely what Section 240C, once notified, is intended to fill.

D. The IBC (Amendment) Act, 2026: Mapping the New Architecture

The 2026 Amendment, the most far-reaching revision of the Code since 2016, restructures admission timelines, avoidance-transaction look-back periods, and creditor-committee composition, and, for present purposes, introduces three cross-border-relevant innovations.[17] First, Section 240C empowers the Central Government to frame rules governing the recognition of foreign insolvency proceedings, the grant of reliefs, and

[17]Global Law Experts (n 7).

judicial cooperation and coordination, in respect of countries notified by the Government for this purpose. Second, Section 240C(2) permits those rules to apply provisions of the Code or of the Companies Act, 2013 with exceptions, modifications, or adaptations necessary to administer cross-border cases, an unusually broad delegation that gives the executive considerable latitude in shaping the eventual regime.[18] Third, Section 240B authorises an electronic portal intended to support insolvency administration, including, prospectively, cross-border filings, while the new Chapter VA introduces a group insolvency framework permitting common NCLT benches and coordinated creditor committees for related corporate debtors, a mechanism that will matter considerably for multinational groups with Indian subsidiaries, once notified.

Although the Statement of Objects and Reasons accompanying the Bill does not use the phrase "UNCITRAL Model Law," the architecture of Section 240C tracks the Model Law's central distinction between a "main" proceeding, opened in the jurisdiction of the debtor's centre of main interests and entitled to the fullest recognition, and "non-main" or secondary proceedings, opened where the debtor merely has an establishment.[19] This is a meaningful doctrinal shift: whereas Sections 234 and 235 recognised no hierarchy among proceedings and required country-specific treaties, Section 240C contemplates a generalisable recognition procedure applicable to any notified country, closer in kind, if not yet in scope, to the Model Law's near-universal applicability among adopting states.

E. The Commencement Deficit: Sections 240B, 240C, and Chapter VA in Limbo

The critical qualification to the foregoing analysis is that Section 240C was not the only cross-border-relevant provision left out of the 2026 Amendment's commencement. When the Ministry of Corporate Affairs issued its commencement notification (S.O. 2625(E), dated 22 May 2026, appointing 26 May 2026 as the date on which specified provisions of

[18]The Insolvency and Bankruptcy Code (Amendment) Act, 2026, s 240C(2) (India); Companies Act, 2013 (n 11).
[19]Devangna Singh (n 3); UNCITRAL Model Law (n 6).

the Amendment Act would come into force), the bulk of the Amendment, including the revised admission timelines, took effect but Section 240B, Section 240C, and the entire Chapter VA group insolvency framework were all excluded from that notification, along with the new Chapter IV-A creditor-initiated resolution process.[20] Because Section 240C is itself an enabling provision, meaning it only authorises the framing of rules rather than directly creating recognition rights, its non-notification leaves India with no operative machinery for recognising foreign proceedings even though the statutory foundation exists on paper. Because Chapter VA has been excluded on the same footing, the group insolvency framework discussed in Section 7.7 below is, as of the time of writing, equally inoperative, notwithstanding that its cross-border relevance is real. Foreign creditors situated similarly to GLAS Trust today possess, in principle, a legislative promise of a recognition mechanism but, in practice, remain as dependent on judicial discretion as they were before the 2026 Amendment.

This sequencing raises a genuine interpretive question central to this paper's third research question: is the delay a routine administrative step, consistent with the ordinary practice of bringing enabling and institutionally demanding provisions into force only once implementing rules and infrastructure are ready, or does it reflect unresolved policy disagreement about the scope of recognition India should extend, and about how quickly a group insolvency mechanism should be operationalised?

The Insolvency Law Committee's October 2018 report itself contemplated a reciprocity-conscious model for recognition, recommending that it initially be confined to notified countries rather than extended universally as the Model Law's reciprocity-free default would suggest.[21] If the eventual rules retain a country-by-country notification requirement, the reform, while a substantial improvement on Sections 234 and 235, would still fall short of full Model Law adoption, since the Model Law's own design does

[20]Ministry of Corporate Affairs, Notification S.O. 2625(E), 22 May 2026.
[21]Report of the Insolvency Law Committee on Cross-Border Insolvency (n 1).

not condition recognition of a foreign main proceeding on prior country-specific notification. This paper's H2 hypothesis is thus provisionally supported: the 2026 Amendment borrows the Model Law's analytical vocabulary without necessarily adopting its reciprocity-free scope, and does so, moreover, without yet having brought that vocabulary into legal effect at all.

F. Comparative Analysis: Model Law Adoption Elsewhere

More than fifty jurisdictions have enacted the Model Law since 1997, and the experience of the United States, United Kingdom, and Singapore is instructive for India's rule-making exercise. The United States adopted the Model Law as Chapter 15 of the Bankruptcy Code in 2005, dispensing with any requirement of bilateral reciprocity and instead granting automatic relief, including an automatic stay, upon recognition of a foreign main proceeding, a design that has made United States courts a comparatively predictable venue for ancillary recognition.

The United Kingdom implemented the Model Law through the Cross-Border Insolvency Regulations 2006, again without a reciprocity precondition, relying instead on the COMI test and a public-policy exception to filter inappropriate recognition applications. Singapore, which adopted the Model Law in 2017 as part of a deliberate strategy to position itself as a regional restructuring hub, likewise applies the Model Law without country-specific notification, subject only to a public-policy safeguard and to modifications addressing local insolvency practice.

A fourth comparator, not always considered alongside the Model Law jurisdictions but directly relevant to evaluating India's proposed design, is the European Union's Insolvency Regulation (Recast) (Regulation (EU) 2015/848). The EU Regulation does not implement the Model Law at all; it operates on a materially different logic, providing for automatic mutual recognition of insolvency proceedings among a defined and closed bloc of Member States, without requiring the debtor-specific, case-by-case recognition application that the Model Law contemplates.

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Recognition within the EU framework is close to automatic once a proceeding is opened in a Member State with jurisdiction, precisely because the framework operates within a closed membership of states that have already agreed, as a bloc, to mutual recognition, rather than extending a reciprocity-free standard to any state that chooses to adopt compatible domestic legislation, as the Model Law does.

Set against this comparative backdrop, India's apparent preference, evident in both the Insolvency Law Committee's report and the structure of Section 240C, for a notified-country model represents a materially more cautious adoption than the Model Law's own default design and is, in structural terms, conceptually closer to the EU Regulation's closed-membership logic than to the Model Law's own universal, reciprocity-free default.

This comparison sharpens rather than undermines the point: a notified or closed-list approach to recognition is not without international precedent, even though it departs from the Model Law's own design, provided India is candid that it is building something closer to a bloc-style mutual-recognition arrangement, negotiated notification by notification, than a genuine Model Law adoption in the reciprocity-free sense most of the fifty-plus adopting states have implemented.

Proponents of the cautious approach argue that it allows India to build reciprocal confidence incrementally and to exclude jurisdictions with weak insolvency governance or opaque judicial systems, thereby guarding against abusive forum shopping by debtors seeking to relocate assets ahead of a domestic proceeding. Critics counter that a notified-country requirement recreates, in a milder form, the very negotiation bottleneck that made Section 234 a dead letter, since each notification will itself require an administrative or diplomatic process, and that it disadvantages Indian creditors seeking recognition of Indian proceedings in jurisdictions that adopt a reciprocity-free Model Law standard but have no assurance that India will reciprocate in kind.

G. The Group Insolvency Framework and Cross-Border Coordination

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Chapter VA's group insolvency mechanism, while framed primarily around domestic corporate groups, has evident cross-border relevance relevance that remains prospective rather than operative, since, as established in Section 7.5 above, Chapter VA was itself excluded from the 26 May 2026 commencement notification alongside Sections 240B and 240C. Multinational groups with an Indian holding or subsidiary company routinely commingle cash flows, extend intercompany guarantees, and share management across borders, precisely the indicia that Chapter VA identifies as triggers for consolidation.[22]

A coordinated group proceeding at the Indian end, feeding into a recognition request under Section 240C once both provisions are notified, would materially reduce the duplication that characterised the Byju's litigation, where separate, uncoordinated proceedings in Delaware and before the NCLT produced conflicting incentives for the debtor and its creditors.

The interaction between Chapter VA and Section 240C is not spelt out in the Amendment itself, and this paper suggests that the rules eventually framed under Section 240C, and the notification eventually bringing Chapter VA into force, should be co-ordinated so as to expressly address how a domestically consolidated group proceeding interfaces with a foreign main or non-main proceeding involving the same corporate family a co-ordination problem that is, at present, compounded by the fact that neither mechanism is yet in force.

India's Legislative and Institutional Engagement with the UNCITRAL Model Law on Cross-Border Insolvency, 2000–2026

Year	Body / Instrument	Recommendation or Development
2000	Eradi Committee	First recommended examination of the UNCITRAL Model Law for reform of India's insolvency framework.

[22]Global Law Experts (n 7); Ministry of Corporate Affairs, Notification S.O. 2625(E) (n 22).

2001	Mitra Committee	Reiterated the case for a modern, internationally aligned insolvency law.
2005	Irani Committee	Recommended Model Law-based provisions ahead of the Companies Act, 2013.
2016	IBC, 2016	Enacted only Sections 234–235, a narrower, reciprocity-based mechanism.
2018	Insolvency Law Committee (second report, 16 Oct. 2018)	Found Sections 234–235 inadequate; proposed a Model Law-based chapter ('Draft Part Z'). The Committee's earlier report of March 2018 addressed general IBC amendments, not cross-border insolvency.
2019	Jet Airways (NCLAT)	Ad hoc recognition of a Dutch bankruptcy administrator absent statutory basis.
2020	Cross-Border Insolvency Rules/Regulation Committee (June 2020)	Refined the draft Part Z rules for consultation.
2024	GLAS Trust Co. LLC v BYJU Raveendran (Supreme Court), 2024 INSC 811	Resolved a domestic Rule 11/Section 12A procedural question; exposed, as background, the absence of any cross-border coordination mechanism and catalysed legislative action.
2026	IBC (Amendment) Act, 2026	Inserted Sections 240B, 240C and Chapter VA; all three, along with the new Chapter IV-A, excluded from the 26 May 2026 commencement notification and not yet in force.

Source: Compiled by the author from the Insolvency Law Committee's reports of March 2018 and 16 October 2018, the Insolvency and Bankruptcy Code (Amendment) Act, 2026, the Ministry of Corporate Affairs' commencement notification S.O. 2625(E), and the secondary sources cited in this paper.

V. SUGGESTIONS AND RECOMMENDATIONS

First, the Central Government should prioritise notification of Sections 240B and 240C, and of Chapter VA, and the accompanying rules, without further delay. Every month in which these provisions remain dormant is a month in which foreign creditors, and Indian creditors seeking recognition abroad, continue to rely on the same judicial improvisation that produced the inconsistent Jet Airways line of orders, and in which the group insolvency mechanism cannot be used even for the purely domestic multinational-subsidiary structures it was designed to address. The rules should, at minimum, adopt the Model Law's COMI test with a rebuttable presumption that a debtor's registered office is its centre of main interests, mirroring the approach followed in the United Kingdom and Singapore.

Second, the rules should reconsider the notified-country precondition recommended by the Insolvency Law Committee's 2018 report. Rather than requiring bespoke notification of each foreign jurisdiction before recognition becomes available, a phased approach could designate an initial cohort of major trading and financial-centre jurisdictions — the United States, United Kingdom, Singapore, and the United Arab Emirates would be natural candidates while retaining a general public-policy exception that allows the NCLT to decline recognition of proceedings from jurisdictions whose insolvency governance falls short of due-process standards. This would materially reduce the risk that the notification requirement recreates the bilateral-treaty bottleneck that disabled Section 234, while acknowledging, per the comparative discussion in Section 7.6, that a calibrated closed-list approach modelled loosely on the EU Regulation's logic is not itself illegitimate, provided it is administered with genuine speed.

Third, India should formally adopt the Judicial Insolvency Network Guidelines for Communication and Cooperation between Courts in Cross-Border Insolvency Matters (2016) and the associated Modalities of Court-to-Court Communication (2018), which several Model Law jurisdictions already use to structure direct judge-to-judge coordination in group and cross-border cases. Embedding these guidelines within the Section 240C rules, and empowering designated NCLT benches to communicate directly with foreign courts, would give practical content to the "judicial cooperation" language already present in the statute.

Fourth, the rules should clarify the interface between the Chapter VA group insolvency mechanism and cross-border recognition, specifying whether a foreign representative may participate in a domestically consolidated group proceeding and on what terms a consolidated Indian proceeding may itself seek recognition abroad as a single main proceeding, once both mechanisms are actually in force.

Fifth, institutional capacity requires urgent attention. The NCLT and NCLAT already carry significant docket pressure, and cross-border matters demand specialised familiarity with foreign judgments, conflict-of-laws principles, and the Model Law's own interpretive jurisprudence developed in UNCITRAL's CLOUT database. A designated cross-border insolvency bench or a standing panel of trained members at the principal NCLT benches, supported by structured judicial training, would reduce the risk that a well-drafted statute is undermined by inconsistent application at the tribunal level, the same risk that undid the promise of Sections 234 and 235.

VI. CONCLUSION

The Insolvency and Bankruptcy Code (Amendment) Act, 2026, marks the most consequential step India has taken toward a modern cross-border insolvency framework since the Eradi Committee first raised the possibility a quarter-century ago. Sections 240B and 240C, read with the new Chapter VA, borrow the Model Law's core analytical structure, the main/non-main proceeding distinction and a statutory basis for judicial cooperation, in a way that Sections 234 and 235 never did. Yet the decision to withhold

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Sections 240B, 240C, and the entire Chapter VA from the general commencement notification of 26 May 2026 means that, as of the time of writing, the reform remains considerably more incomplete than a narrower reading confined to Section 240C alone would suggest: foreign creditors situated as GLAS Trust was in the Byju's insolvency still have no operative recognition mechanism to invoke, the group insolvency framework cannot yet be used even for purely domestic purposes, and Indian tribunals remain confined to the same ad hoc discretion exercised in Jet Airways.

This paper's analysis supports the view that the commencement deficit is best read not as a substantive rejection of the Model Law but as an unresolved question about the scope and pace of recognition, specifically, whether India will extend recognition on a reciprocity-free, near-universal basis as most Model Law jurisdictions do, or will retain a notified-country precondition consistent with the Insolvency Law Committee's 2018 report and structurally closer to the European Union's closed-membership model discussed in Section 7.6. How that question is answered in the rules eventually framed under Section 240C, and in the timing of the notification eventually bringing Section 240B and Chapter VA into force, will determine whether India's cross-border insolvency regime converges with international best practice or remains a calibrated, reciprocity-conscious variant of it.

Given the scale of Indian corporate exposure abroad and the demonstrated cost of continued uncertainty a cost the GLAS Trust litigation illustrated even though the Supreme Court's own ruling in that case turned on a purely domestic question this paper concludes that early notification of all three withheld provisions, a phased but reciprocity-free recognition standard, and structured judicial cooperation under the Judicial Insolvency Network Guidelines together offer the most credible path to closing the gap the 2026 Amendment has, so far, only begun to bridge.

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