RESTRUCTURING

Indian Stressed Asset Market: The Next Investment Wave in India

NOVEMBER 2019

Alvarez & Marsal

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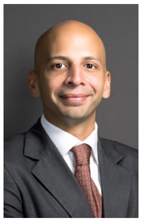
Foreword

The USD 150+ bn stressed asset market in India presents a large opportunity for investors with multiple routes to participate, through the Indian Insolvency and Bankruptcy Code as well as with out-of-court alternatives. With Indian lenders facing capital constraints and increased scrutiny by the Reserve Bank of India ("RBI") on asset quality, there is a strong need for capital inflows from outside India. The entry of global capital in this space can strengthen the process based on best practices observed in more developed stressed asset markets. USD 7 bn has been raised so far across seven major investment firms.

The market is still evolving with a rapidly changing legal and policy landscape, including regular IBC amendments, the RBI's June 7 circular, new jurisprudence, etc., that aim to address key concerns faced by different stakeholders, including investors. As a global thought leader in the turnaround and restructuring of stressed assets, Alvarez & Marsal has always been at the forefront in assisting stressed borrowers, creditors and policy makers. The objective of this report is to provide a view on the stressed asset market from an investor's perspective. This report is the outcome of multiple discussions with various stressed asset investors and extensive secondary research. The report outlines the size of stressed asset market potential in India, sector attractiveness, key investor concerns and the way forward in order to make this a win-win situation for all stakeholders.



NIKHIL SHAH
MANAGING DIRECTOR
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Nikhil Shah, Managing Director

Nikhil specializes in operational and financial performance improvement and turnaround management. He has served as interim CEO, CFO and Chief Restructuring Officer in many stressed assignments, interim country head for Lehman Brothers for India and Mauritius, as part of the largest bankruptcy in the world. Currently he is leading the resolution of Essar Steel, IL&FS and DHFL. He has also advised the Bankruptcy Law Reform Committee and Ministry of Corporate Affairs on the development of the Indian Insolvency and Bankruptcy Code. He has also authored several white papers on the stressed asset market including "Revitalizing Stressed Assets in India: Industry Practitioners' Perspective," "Outlook for Stressed Asset Market in India and Asset Reconstruction Companies: Small Steps on a Long Road Ahead" and "NCLT Readiness." He is on the board of governor's of INSOL India and serves as a member of FICCI's stressed asset committee.

Khushboo Vaish, Senior Director

Khushboo has worked on several restructuring and performance improvement engagements. Ms. Vaish has served as Project Lead at a large textile company and at a large airline, among several other engagements. Currently she is advising on liquidity and the resolution of IL&FS and DHFL for the Board and Lenders, respectively. Ms. Vaish has coauthored several white papers on the stressed asset market including "Revitalizing Stressed Assets in India: Industry Practitioners' Perspective," "Outlook for Stressed Asset Market in India and Asset Reconstruction Companies: Small Steps on a Long Road Ahead" and "NCLT Readiness."

Kavya Ramanathan, Senior Manager

Kavya has worked on several restructuring and performance improvement client engagements within the retail, healthcare, housing finance and power sectors. Ms. Ramanathan has worked in Resolution Professional advisory roles on IBC engagements and has coauthored white papers in the stressed asset and private equity space.

Special thanks to the team for assisting in developing and producing this report – Bimlesh Singh, Manager; Anshul Dhanuka, Manager; and Sanjana Goel, Analyst with A&M India and the A&M Global Marketing team.

This report is an outcome of extensive secondary research, interviews with lenders in the Indian stressed asset market and learning gained from A&M's global restructuring heritage of more than 30 years to deliver the best creditor recoveries. We have highlighted best practices from more efficient bankruptcy jurisdictions and suggested measures that are best suited in the Indian context.

Introduction

The enactment of Insolvency and Bankruptcy Code, 2016 ("IBC" or the "Code") was a watershed moment in corporate regulatory and economic landscape in India, as it changed the credit culture and the way capital and businesses are managed. The Code was launched in May 2016 with an unwavering focus on finding a resolution for nonperforming assets ("NPA") from the banking system so that the resources and capital can be reallocated to more credit-worthy companies. For the first time, it brought a collective resolution framework for insolvent companies through a creditor-in-control approach based on the internationally accepted principle of insolvency resolution. The Code allows a transparent and market-driven change of ownership as a route to resolution. And hence, following the enactment of IBC, the stressed investment market has garnered significant interest from both domestic and global strategic and financial investors.

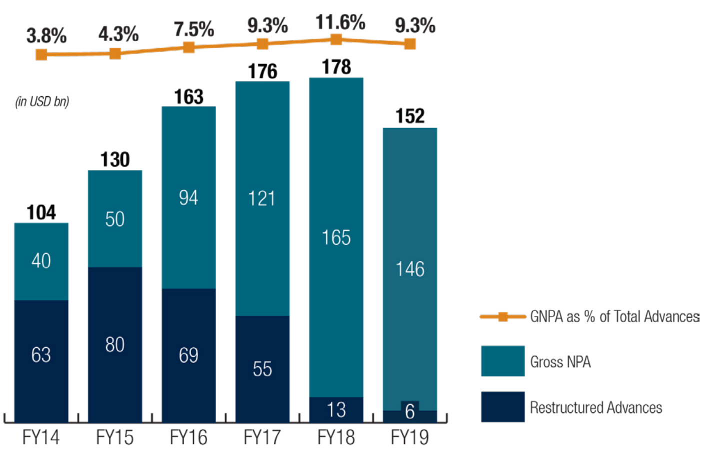
Distressed asset and special situation funds have been setting up operations in India either through tie-ups with local partners or on a standalone basis. This article explores the magnitude of this opportunity, key sectors of interest, how funds are tapping into this opportunity and concerns faced by stressed asset investors, as well as the way forward in terms of improving the attractiveness of this market. To understand investors' perspectives, Alvarez & Marsal ("A&M") interviewed several active funds in the stressed investments space and captured interesting insights from these investors.

Large Opportunity for Stressed Asset Investors

According to the Reserve Bank of India ("RBI") Financial Stability Report 2019, the gross nonperforming assets ("GNPA") ratio stood at 9.3 percent as of March 2019. While the quantum of stressed advances reduced in March 2019, the stressed asset market in India is still approximately USD 150+ bn, indicating significant potential for investments, either through IBC or mechanisms outside IBC such as the "Prudential Framework for Resolution of Stressed Assets" provided for in the RBI circular released on 7 June 2019.

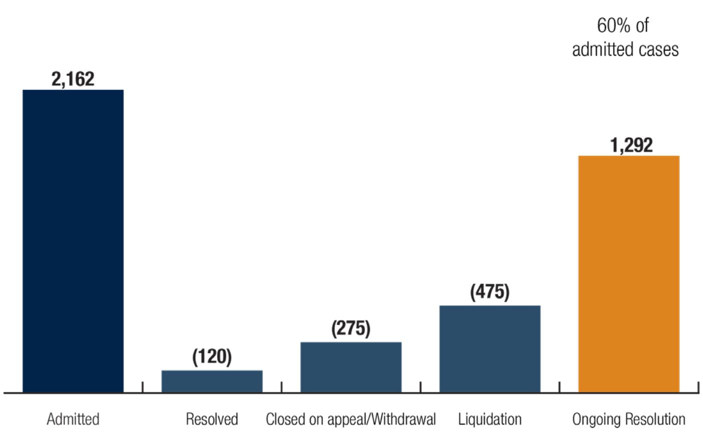
The National Company Law Tribunal ("NCLT") has witnessed ~12,000 case filings as of March 2019. As of June 2019, ~2,162 have been admitted, out of which 1,292 cases are still pending resolution, indicating significant potential for stressed asset investors.

Chart 1: Stressed Advances of Scheduled Commercial Banks



Source: RBI Financial Stability Reports

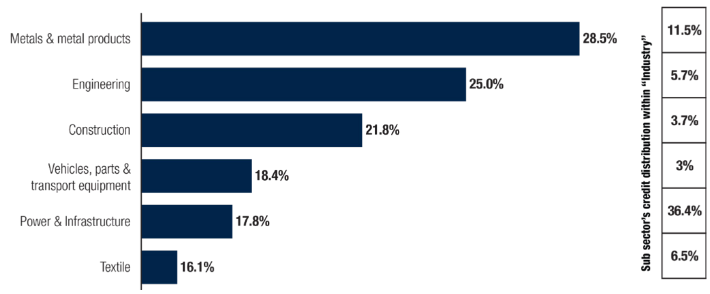
Chart 2: Resolution status of IBC cases as of June 2019



Source: IBBI

"Industry" sector continued to exhibit highest GNPA ratio at 17.5 percent, with Metals, Mining, Engineering and Construction showing high levels of stressed advances.

Chart 3: Stressed Advances Ratio of Major Sub Sectors within "Industry" as of March 2019

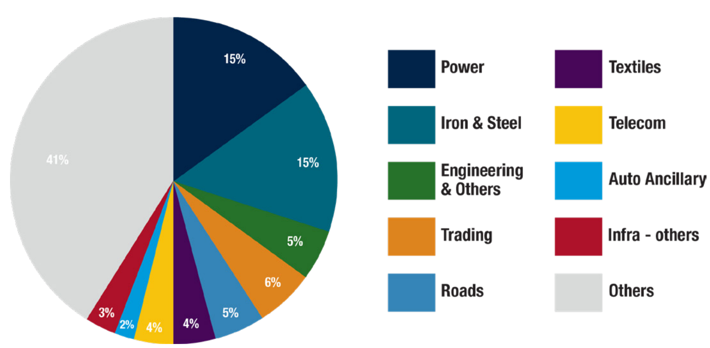


Source: RBI Financial Stability Reports

A closer look at the NPA portfolio of State Bank of India ("SBI"), India's largest lender, indicates that most of the NPAs are concentrated in Iron and Steel, Power, Textiles, Engineering and Telecom.

The Corporate Insolvency Resolution Process ("CIRP") case filings also follow a similar pattern, with 899 admitted cases in manufacturing, out of which 162 are from basic metal subsector and 151 are from textile and apparel products. Power sector witnessed delayed resolution action despite significant stress due to litigation over the RBI circular dated 12 February 2018, which was eventually made inoperative by the Supreme Court. Thus far only 46 cases have been admitted in the Electricity and other related sectors. With RBI's June 7 circular, more action is expected out-of-court for this sector.

Chart 4: SBI NPA Portfolio in FY19

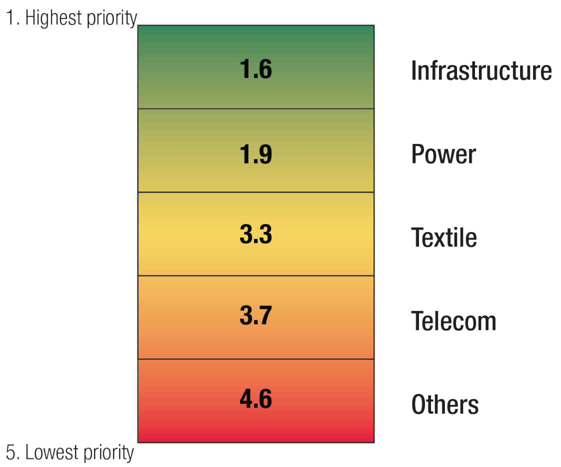


Source: SBI Annual Report – 2019

Sector Attractiveness for Stressed Asset Investments

Stressed asset funds believe that significant potential exists in the Power and Infra sectors for investments in the near to medium term.

Chart 5: Sector Attractiveness Ranking



Source: Interviews with stressed asset funds

Infrastructure

Table 1: Select Infrastructure Deals in 2018 and 2019

Target	Investor	Deal Value (USD MN)
GMR Airports	TRIL Urban++	1,153
Sadbhav Infrastructure	IndInfravit Trust	957
DA Toll Road	Cube Highways & Infrastructure	518
Mumbai Intl. Airport	GVK Power & Infra	305
Ghaziabad Aligarh Expressway	Cube Highways & Infrastructure	263

Note: "++" indicates consortium of investors

Source: VCCEdge, news articles

Infrastructure is a key pillar for the Indian economy and comprises of roads, bridges, dams, urban infrastructure, etc. Stress in this sector is largely driven by land acquisition challenges, delays in utility shifting, poor performance of contractors and delays in processing of claims, with a majority of disputes driven by Engineering Procurement and Construction ("EPC") projects.

The Government of India ("GOI") has taken up several initiatives at a project and policy level to revive this sector, including Hybrid Annuity Model that reduces the capital requirement during the construction phase (as opposed to the EPC model), project monetization for already-operational projects, policy interventions to reduce stalled projects and budgetary support via allocation of INR 4.56 lakh crore (USD 65 bn) in the Union Budget announced in June 2019.

With favorable government initiatives and an investment requirement of USD 777 bn by 2022, the infrastructure sector offers ample opportunity for stressed asset investors with attractive ROIs in the medium to long term.

Power

Table 2: Select Power Sector Deals in 2018 and 2019

Target	Investor	Deal Value (USD MN)
Essel Infraprojects	Sekura Energy	814
SKS Power	Agritrade Resources	667
GMR Chhattisgarh	Adani Power	512
Korba West Power	Adani Power	174
Bhushan Energy	Tata Steel BSL	113

Note: "++" indicates consortium of investors

Source: VCCEdge, news articles

As per the Bank of America-Merrill Lynch report (April 2018), power sector has debt of ~ INR 11.7 trillion (USD 178 bn), out of which INR 3.5 trillion (USD 53 bn) is already under stress. The power sector is expected to lead to bulk of the next round of resolution. The sector faces several challenges including nonavailability of fuel, insufficient power purchase agreements ("PPA") and aggressive bidding to secure PPAs, the inability of promoters to infuse incremental equity and working capital, tariff-related disputes, delayed payment by state electricity board ("DISCOM" or "SEB") and other operational issues.

The GOI formed a high level empowered committee ("HLEC") in July 2018 to address issues faced by this sector. The HLEC introduced some key initiatives including auction of coal linkages under the program called SHAKTI, additional PPAs with PTC India acting as a power aggregator, rationalization of coal index, recovery of additional costs of upgrade in the tariff, DISCOM monitoring through program called PRAAPTI and DISCOM reforms.

RBI's circular dated 12 February 2018 generated some significant opposition, with several companies in power, sugar and fertilizer sectors challenging the strict criteria for willful default and the 180 days' timeline to cure defaults. The Supreme Court's annulment of the circular paves the way for the resolution of power assets outside IBC including within the framework of the RBI's circular dated 7 June 2019.

With favorable government initiatives and annulment of the Feb 12 circular, India's power and renewable energy sector presents a unique opportunity for distressed investments which, according to industry experts, can generate IRR of 15–20 percent through a combination of financial, operational and contractual interventions.

Textile

Table 3: Select Textile Sector Deals in 2018 and 2019

Target	Investor	Deal Value (USD MN)
Alok Industries	JM Financial, Reliance Industries	889
Bombay Rayon Fashions	JM Financial: Debt buy-out	125
Mandhana Industries	Under IBC	57

Note: "++" indicates consortium of investors

Source: VCCEdge, news articles

With an installed capacity of more than 50 million spindles and more than eight lakh rotors, India's textile industry is the second largest in the world, employing over 45 million people. The sector is under stress due to high raw material costs driven by anti-dumping duties on polyester and increase in the minimum support price ("MSP") for cotton, greater capacity ramp-up (relative to demand) and export expansion by China. GNPA in textiles has improved over a period of time (from 27.5 percent in FY17 to 16.1 percent in FY19), due to a pickup in domestic demand and government initiatives targeted toward technology upgrades, infrastructure development, export promotion, resolution of Good and Services Tax ("GST") issues and the introduction of special package of USD 1 bn per annum for three years.

Telecom

Table 4: Select Telecom Sector Deals in 2018 and 2019

Target	Investor	Deal Value (USD MN)
Vodafone India	Vodafone Idea	12,636
Indus Towers	Bharti Infratel	10,070
Tata Teleservices	Bharti Airtel	N/A
RCOM	Under IBC	N/A
Aircel	Under IBC	N/A
Telkom Kenya	Airtel Networks	N/A
GTL Tower	BoAML, Edelweiss and Oaktree	342

Note: "++" indicates consortium of investors

Source: VCCEdge, news articles

Post September 2016, stress in the telecom sector aggravated, leading to a consolidation in the sector to three primary operators. This could be attributed mainly to tariff wars brought on by a new player, Reliance Jio, higher spectrum reserve prices, and high taxes and levies. The Economic Survey 2017–18 had highlighted stress in the telecom sector and called for policy measures to provide sector-wide solutions.

GOI formed an inter-ministerial group ("IMG") and recommended initiatives for stress resolution through restructuring of deferred payment liabilities for spectrum and revision of limits of caps for spectrum holding, based on technological advancement, measures to facilitate consolidation and efficiencies in spectrum usage. With the restructuring of the spectrum payments, there is expected to be less pressure on the cash flow of telecom operators in the short to medium term.

Steel

Table 5: Select Steel Sector Deals in 2018 and 2019

Target	Investor	Deal Value (USD MN)
Essar Steel	Arcelor Mittal++	5,975
Bhushan Steel	Tata Steel++	5,250
Monnet Ispat	JSW Steel & AION	416
Electrosteel	Vedanta	788
Usha Martin	Tata Sponge Iron	630
SPS Steels	Shakambhari Ispat and Power	49

Note: "++" indicates consortium of investors

Source: VCCEdge, news articles

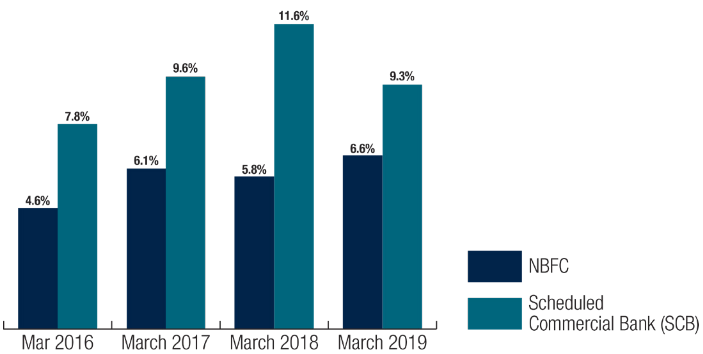
Several steel cases have already been admitted under CIRP and are progressing towards resolution. This was largely driven by an upturn in the global and domestic steel sector following an increase in steel prices and government interventions in the form of higher import duties. The sector witnessed 28 M&A deals and three PE deals in 2018 and 2019.

Outlook on New Sectors Experiencing Stress

Stressed asset investors believe that non-banking financial companies ("NBFC"), real estate and renewable energy have a high likelihood of slipping into distress over the next five years.

Non-Banking Financial Companies

Chart 6: NPA of NBFCs vs Scheduled Commercial Banks (SCB)



Source: RBI Financial Stability Reports

The NBFC sector has recently grabbed the spotlight among stressed sectors, with marquee names such as IL&FS, DHFL, and Reliance Home and Commercial Finance having defaulted. The stressed sectors covered earlier were capital intensive, and after a period of fast growth fueled by debt capital, the incumbent stress did not come as a surprise. While stress was building up with rising indebtedness of these sectors, a parallel channel of credit, i.e., NBFC was growing faster than banking credit. NBFC credit growth was almost double at 19.6 percent in 2018 as compared to banking credit. Loan delinquencies of NBFCs were also relatively lower than banks.

The inherent business risk of NBFC model of short-term financing for long-term project loans created asset-liability mismatch ("ALM") in pursuit of growth and resulted in stress build-up. Major defaults by NBFC players can be attributed to ALM, the vicissitudes of infrastructure financing, slowdown in real estate and a portfolio of riskier assets. Cumulatively, these defaults resulted in liquidity crisis in the market as short-term funding to NBFC became very expensive or unavailable to most of the players. Its domino effect resulted in further liquidity squeeze and fresh defaults from the otherwise healthier NBFCs.

As the NBFC stress came as a surprise, neither were regulators ready with an appropriate resolution framework, nor were the investors ready with earmarked capital. This throws open opportunities for investors to acquire NBFC assets or their part thereof and rectify the ALM, and large deals may be sealed in the NBFC sector, which were not contemplated in the IBC regime.

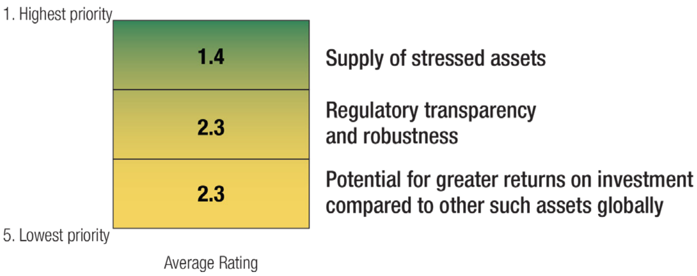
In order to resolve the NBFC crisis and streamline the resolution framework, the GOI has recently undertaken several initiatives to infuse liquidity and rein in sectoral challenges to retain its attractiveness to investors and lenders alike. The initiatives include one-time partial credit guarantee by GOI to public sector banks ("PSBs") to buy high-rated pooled assets of financially sound NBFCs, exemption from maintaining debenture redemption reserve for raising public funds and transferring regulatory authority of housing financing companies ("HFCs") from National Housing Board ("NHB") to RBI. These initiatives shall help restrict the liquidity crisis limited to isolated cases and empower RBI to fast track resolution and stimulate credit expansion to revive growth. The investors are watchful as to whether these initiatives are sufficient to revive the sector or merely a temporary measure before more stressed NBFCs are exposed.

The best resolution outcomes for stressed NBFCs would involve finding a new owner / investor with a strong balance sheet that can allow origination of new loans to take place.

Stressed Asset Funds Have Been Actively Evaluating This Opportunity

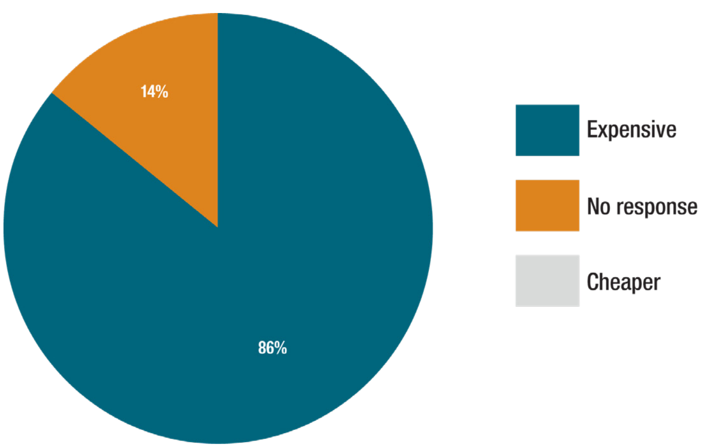
Stressed asset funds recognize the potential for investments in India, both through and outside IBC. In 2018, ~15 percent of the M&A deals in India worth USD 18 bn were completed through the IBC. The majority of investors also believe that this opportunity is supply driven and there is a unanimous view that these assets are expensive as compared to other matured markets.

Chart 7: Drivers of foreign investors interest in the Indian stressed asset market



Source: Interviews with stressed asset funds

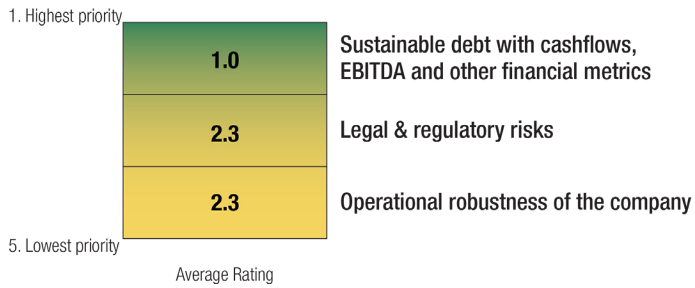
Chart 8: Price of stressed assets in India as compared to other developing economies



Source: Interviews with stressed asset funds

Sector attractiveness and substantial supply of stressed assets was quoted to be a key driver for interest in a stressed asset, followed by regulatory transparency and potential for greater returns with probability of turnaround. While selection of potential assets for stress investments is driven by several factors, investors consider sustainable debt, cashflows, EBITDA and other financial metrics to be the most important metrics when assessing a potential investment.

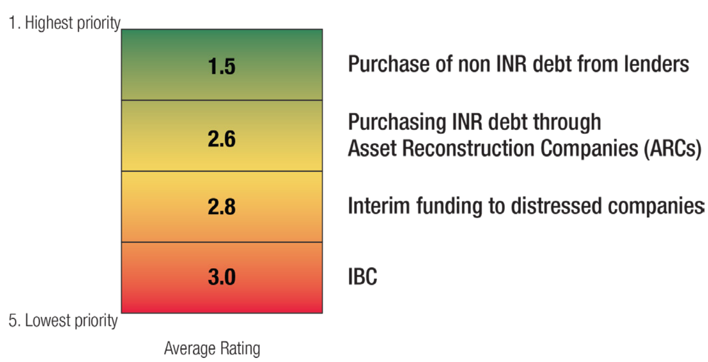
Chart 9: Key parameters used to evaluate a stressed asset for potential investment



Source: Interviews with stressed asset funds

Investors also feel that while the IBC serves as a deterrent for willful default and aims to offer a timebound process, out-of-court restructuring such as one-time settlements ("OTS") can be a win-win for lenders, investors and incumbent promoters. Funds also have different views on the 7 June RBI circular. While a few believe that this would lead to more cases getting resolved faster outside the IBC, others believe that similar modes of restructuring have always existed and that the challenge lies in implementation as per the circular and collective decision-making of the lenders.

Chart 10: Preferred modes of stressed asset investments



Source: Interviews with stressed asset funds

"The large assets have realised good value. They have not gone cheap as they are hard to re-create leading to competition for them. However, for the tier 2 companies there are limited players who can acquire them. To get funds interested in such opportunities the quality of information needs to be much better, which is not always the case"

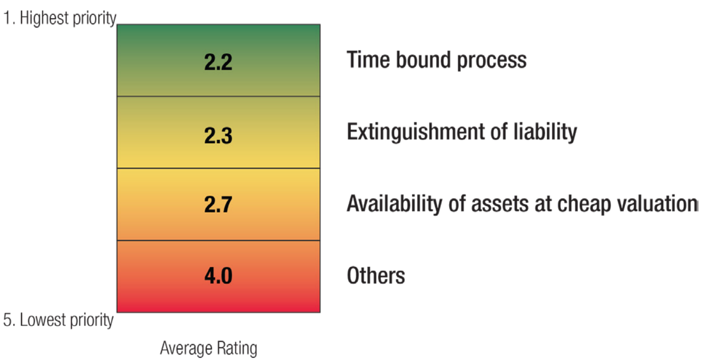
Nikhil Gahrotra, AION

"ICA is welcome step, will result in fewer people to negotiate. However, pricing expectation of lenders shall not undergo change. Further, the time frame for ICA (6months) is too long and credit rating requirements should be market driven."

Credit Business Head of Global Investment Firm

In the current state, the IBC is not the preferred mode of investment in stressed assets despite certain specific advantages of being a time-bound resolution process with the ability to acquire a clean balance sheet. It is important to evaluate other aspects of IBC which are of major concern to investors.

Chart 11: Advantages of IBC



Source: Interviews with stressed asset funds

"Such alternative routes (June 7 circular) might be preferred by the market to avoid the challenges seen in IBC"

Eshwar Karra, Kotak Special Situations Fund

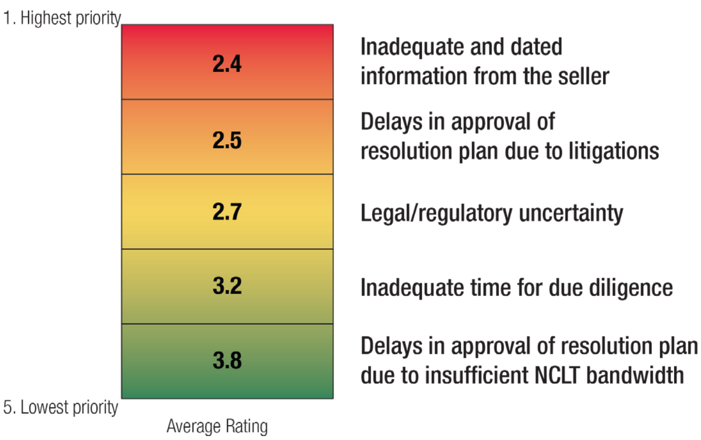
"IBC is doing a wonderful job and with time it will get better. Even US Chapter 11 took 11-12 years to get stabilized before the same was widely used for resolution"

Ravi Chachra, Eight Capital

Investor Concerns With Respect to IBC

While there exists tremendous investment opportunity under the IBC regime, participation of stressed asset investors under IBC has been tepid so far. Though USD 7+ bn of capital has been raised between seven major stressed asset investors, most resolutions have been driven by strategic investors, and funds have still not deployed large amounts of capital in stressed assets. The interviews with key investors shed some light on the challenges and and concerns related to IBC.

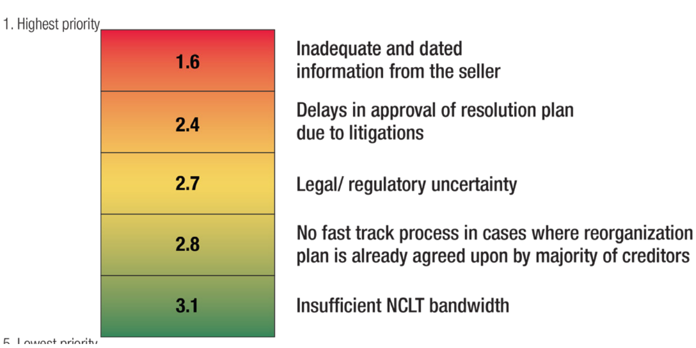
Chart 12: Major issues faced by stressed asset investors in investments under IBC



Source: Interviews with stressed asset funds

Information asymmetry, litigation delays and legal uncertainty are major factors deterring investors from actively exploring IBC. Delayed CIRP cases extending beyond 180 / 270 days has left their capital blocked. Since delays are mostly due to legal issues including frivolous litigations, judicial inconsistencies and the need for clarification on certain judicial provisions, investors face a high degree of uncertainty in their investment outcomes.

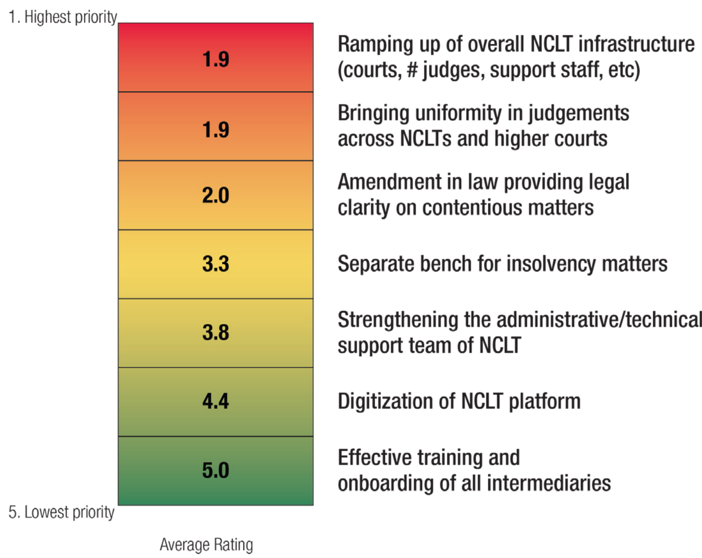
Chart 13: Key reason for resolution delays beyond 180/270 days



Source: Interviews with stressed asset funds

As the NCLT, as an institution, plays a very crucial role in ensuring a time-bound process, bringing transparency, fairness and certainty, investors believe that the GOI should take more capacity-building measures to strengthen the NCLT infrastructure, including ramping up infrastructure in terms of judges, benches and supporting administrative teams, ensuring uniformity in judgments across NCLTs and setting up specialized benches for insolvency cases.

Chart 14: Measures that can be taken to reduce the NCLT bandwidth constraints



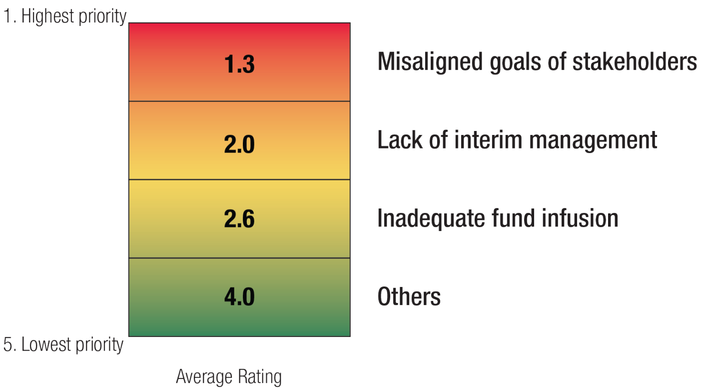
Source: Interviews with stressed asset funds

"On strategic vs financial: Lenders prefer strategic investors due to better present value. Further, if you consider the liquid assets (liquid paper) then the financial investor (secondary market) will value more than the strategic investor"

Rahul Chawla, Deutsche Bank

The challenges under IBC continue even post approval of a resolution plan. The handover and transition process is not smooth. Challenges include unpaid creditors (including operational creditors and government agencies) engaging in activism, promoters' related parties withdrawing support from the business, management void due to attrition and delays in approvals from various authorities.

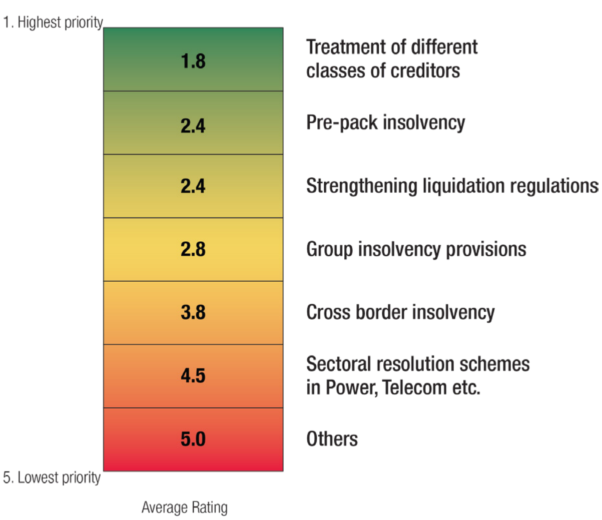
Chart 15: Challenges faced by funds in the interim period before takeover of the distressed asset



Source: Interviews with stressed asset funds

In light of the IBC experience over last three years, improvement of IBC regulations emerges as a key focus area. Absence of clarification on several creditors' issues, including rights of specific creditor classes within the broad definition of financial creditors and distribution of proceeds, has resulted in long drawn litigations. Also, difficulty in consensus-building either resulted in derailment of the process or suboptimal outcomes from the resolution.

Chart 16: Key focus areas for amendments to the code/regulations in the next 2 years



Source: Interviews with stressed asset funds

Some of the concerns discussed above have been addressed by GOI through recent amendments in IBC in August 2019.

"Corporate turnaround is important because where companies are operating at sub optimal capacity with provision of financing, new working capital and operational fixes, the companies can be made economically viable"

Eshwar Karra, Kotak Special Situations Fund

"There is no doubt that pre-pack will lead to faster resolution of stress assets. However, the question remains on the transparency and value creation for all stakeholders under this process. It will be great if PSU banks can come with a fair and transparent process to adopt pre-pack and move faster."

Amit Agarwal, Edelweiss Stress Asset Investments

IBC Evolution – Pivotal for Faster & Successful Resolutions

IBC has been one of the most important legislations for building a speedy and effective NPA resolution ecosystem. The GOI has recognized the practical and real-time challenges faced by various stakeholders, such as resolution applicants, investors, lenders, corporate debtors, resolution professionals, etc., and is proactively dealing with process-related impediments. Timely amendments in IBC and other existing frameworks regulated by RBI, Securities Exchange Board of India ("SEBI"), etc., are expected to improve judiciary, legal and regulatory certainty, and thereby address expectations of stakeholders, including stressed asset funds.

Key Amendments and Their Implication on the Investor Fraternity

Mandatory completion of the CIRP within 330 days (Section 12)

The first and foremost objective of the IBC was to provide a time-bound resolution for nonperforming assets or, if a resolution was not found, to have them liquidated. However, ambiguity in the law and varied legal interpretations by the NCLTs, NCLAT and Supreme Court have led to widespread litigations by stakeholders and non-adherence to the 180 / 270 day timeline.

In order to address investor concerns on prolonged delays in terms of deterioration in asset value, change in the market fundamentals and blocking of capital, impacting the internal rate of return ("IRR"), GOI has introduced a mandatory timeline of 330 days for completion of the process, including the time taken in legal proceedings.

Rights of creditor classes clarified

The IBC's original intent was to accord the priority to financial creditors (in comparison to operational creditors) at the time of distribution of proceeds from any resolution or liquidation plan.

While Section 53 of the IBC provided for the order of priority of distribution proceeds under liquidation, there was no hierarchy of claims to be followed for a resolution scenario. This led to an interpretation that financial creditors should be treated in priority to operational creditors only in a liquidation scenario, resulting in several litigations over the distribution of proceeds from the resolution plan.

The GoI Amendment provided the clarification that financial creditors need to be treated above operational creditors, but further clarity required on the mechanism to be used to settle inter-creditor disputes on the distribution of proceeds.

Government authorities or bodies to be bound by IBC and resolution plans (Section 31(1))

Though Section 238 of IBC clearly stated that the provisions of this act would override other laws, government agencies and regulators such as tax authorities, customs, electricity board, SEBI, etc., seldom adhered to these provisions and continued parallel proceedings against the corporate debtor. In several instances, these agencies challenged the non-obstante clause. The recent amendment has now clarified that NCLT approval shall be binding on government agencies and is expected to reduce litigation going forward.

Comprehensive restructuring schemes such as mergers and acquisitions can be part of the resolution plan (Section 5(26))

In order to provide flexibility to investors in terms of tax-efficient structures and rightsizing of operations through mergers and acquisitions, the recent amendment has clarified that a resolution plan may include provisions of restructuring by way of merger, amalgamation and demerger. This will facilitate single window clearance and also aid in reducing the investor's compliance and procedural time, post-acquisition of the corporate debtor.

Disqualification of resolution applicants (Section 29A)

In order to prevent back door entry of promoters and thereby set up a level playing field for other bidders, Section 29A was introduced. This defined the parameters for qualifying as a potential resolution applicant and barred existing promoters who did not meet the qualification criteria for submitting a bid under IBC. This step attracted more funds to the Indian distressed asset market as it showcased the government's commitment in resolving cases through a fair mechanism.

"IBC has led to cultural change and created financial discipline among the promoters and companies"

Eshwar Karra, Kotak Special Situations Fund

Indian Stressed Asset Market – The Way Forward

While the GOI has been proactive in addressing concerns of various stakeholders, the following are key areas of focus for future amendments and developments that will further boost investor sentiment in the distressed asset market.

NCLT Infrastructure and Consistency of Judgments and Use of Technology

Acknowledging the need for immediate ramp-up in NCLT infrastructure, GOI has proposed to appoint 32 new members (14 judicial and 18 technical) and new benches at Indore and Amaravati. This will double the current strength at NCLT benches and help meet the 330 day timeline for resolution. In addition, there is a need to introduce uniformity in the judgments across NCLTs and higher courts, improve training and onboarding effectiveness of all intermediaries, strengthen administrative / technical support team of NCLT, set up larger court facilities and digitize the NCLT platform to ensure time-bound resolution is achieved in the IBC process.

Introduction of Pre-Pack Insolvency

In many developed markets pre-pack insolvency acts as a mechanism to reduce cost, time and uncertainty associated with the insolvency process. A similar framework may also benefit Indian stressed asset investors, especially in terms of speedy resolution.

Further Clarity on Creditor Classes

While the GOI has clarified treatment of financial and operational creditors in its recent set of amendments, there continues to be ambiguity around treatment of creditors with different security structures under a same class. For instance, currently in India all the financial creditors are treated at par, irrespective of their security structures. This phenomenon impedes resolution process in both pre and post IBC scenario.

As per the World Bank, the corporate bond market of India forms only 14 percent of its GDP, compared with 119 percent in the U.S. With enhanced clarity on credit classes, global investor confidence will increase in the Indian bond market. This will lead to a more well-developed credit market that is not reliant on bank debt primarily.

Introduction of Cross-Border Insolvency Frameworks

As per the economic survey of 2018–19, India has initiated steps to adopt the UNCITRAL Model Law on Cross-Border Insolvency, the most widely accepted blueprint to effectively deal with cross-border insolvency issues while ensuring the least intrusion into each country's internal insolvency and bankruptcy laws. This will not only aid in resolving process-related issues of companies in more than one country but also increase foreign investments in India, providing much needed capital to stressed asset markets.

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