

# Insolvency and Bankruptcy Code Maintains its Popularity

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## Overview

India faced a severe NPA issue which has currently abated to a large extent and earlier options for effective asset resolution were not performing as per expectations. This could partly be attributed to over-stretched capacity and inadequate infrastructure. Consequently, the IBC was introduced in 2016 to speed up the resolution process. IBC has reduced the time for resolution, and the quantum of recoveries (albeit trending downwards) is higher as compared with earlier schemes. However, there still exists significant pendency in the resolution of cases.

## Update on Avoidance Transactions

Under the IBC, resolution professionals (RP) can reverse any transaction entered by the debtor company before the IBC is invoked if the RP can prove that the transaction was intended to divert funds or alienate assets. These provisions are generally used on related party transactions, fund diversions and other relevant corporate actions and any money so recovered is distributed amongst the lenders. However, such claims can only be done after approval by the NCLT.

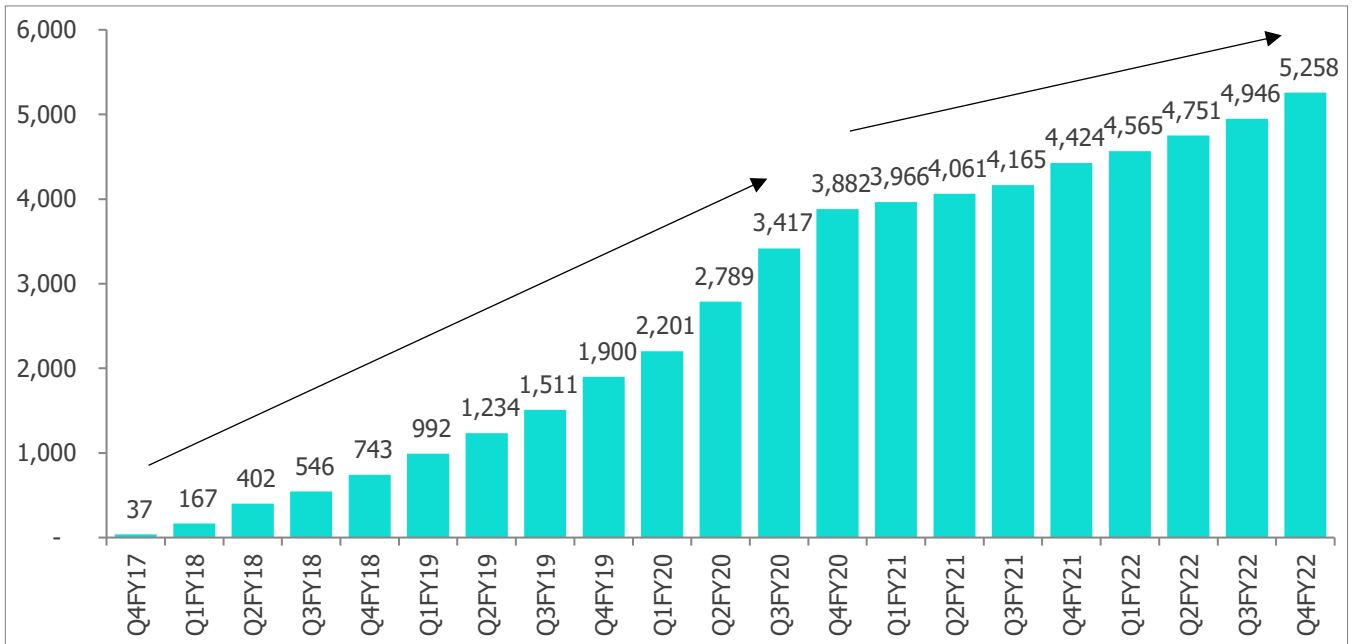
**Figure 1: Status of Avoidance Transactions**

| Nature of Transactions | Applications Filed |                   | Applications Disposed |                            |                             |
|------------------------|--------------------|-------------------|-----------------------|----------------------------|-----------------------------|
|                        | #                  | Amount (Rs crore) | #                     | Amount involved (Rs crore) | Amount recovered (Rs crore) |
| Preferential           | 123                | 14,435            | 20                    | 518                        | 29                          |
| Undervalued            | 15                 | 884               | 1                     | 352                        | -                           |
| Fraudulent             | 132                | 21,760            | 10                    | 354                        | 4                           |
| Extortionate           | 3                  | 71                | 0                     | -                          | -                           |
| Combination            | 504                | 1,83,511          | 40                    | 13,882                     | 17                          |
| <b>Total</b>           | <b>777</b>         | <b>2,20,661</b>   | <b>71</b>             | <b>15,106</b>              | <b>49</b>                   |

Source: IBBI

As per figure 1, RPs have filed 777 applications for avoidance transactions amounting to approximately Rs 2.2 lakh crore. Of these, only 71 transactions involving over Rs 15,000 crore (approximately 6.8% of the amount involved) were disposed of and only Rs 49 crores (only 0.3% of the amount disposed) have been recovered. Further in one case 758 acres of land out of 858 acres valued at Rs. 5,500 crore has been recovered by a company which is under the bankruptcy resolution process.

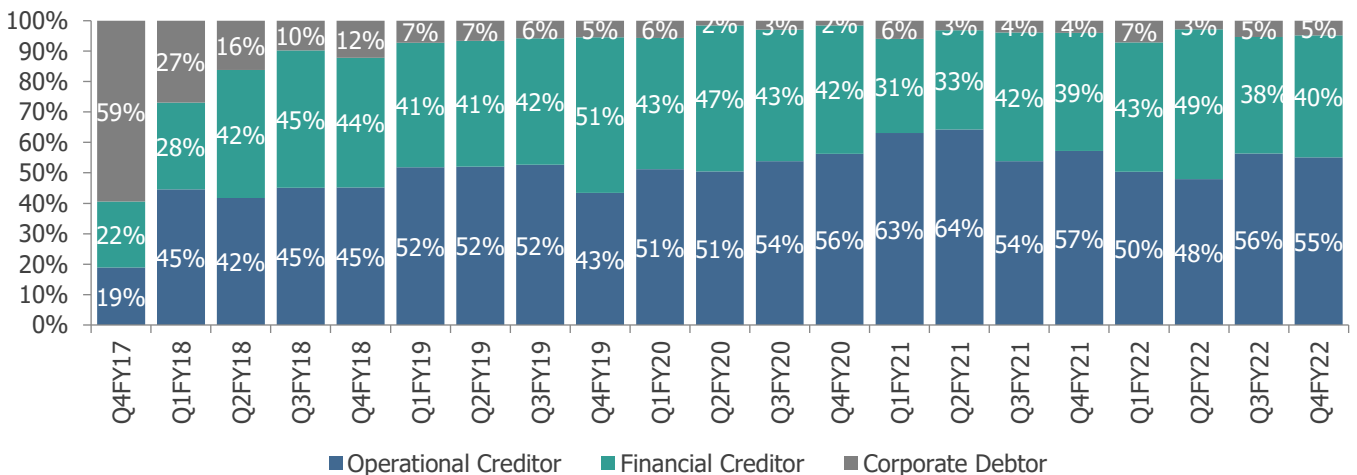
**CIRP continues to remain popular**  
**Figure 2: Cumulative # of CIRPs admitted**



Source: IBBI

The number of cases admitted for Corporate Insolvency Resolution Processes (CIRPs) has witnessed a quantum jump with the cases generally increasing every quarter. It should be noted that a major portion of these cases have been admitted over the last ten quarters, thereby highlighting the rising acceptance of IBC as an effective debt resolution mechanism. It can be noted that the cases admitted increased in Q3FY22 (312) increased both sequentially Q3FY22 (195 cases) and on a year on year (y-o-y) basis with approximately 250 cases admitted in Q4FY21.

**Figure 3: Stakeholder-wise Distribution of CIRPs during the quarter**



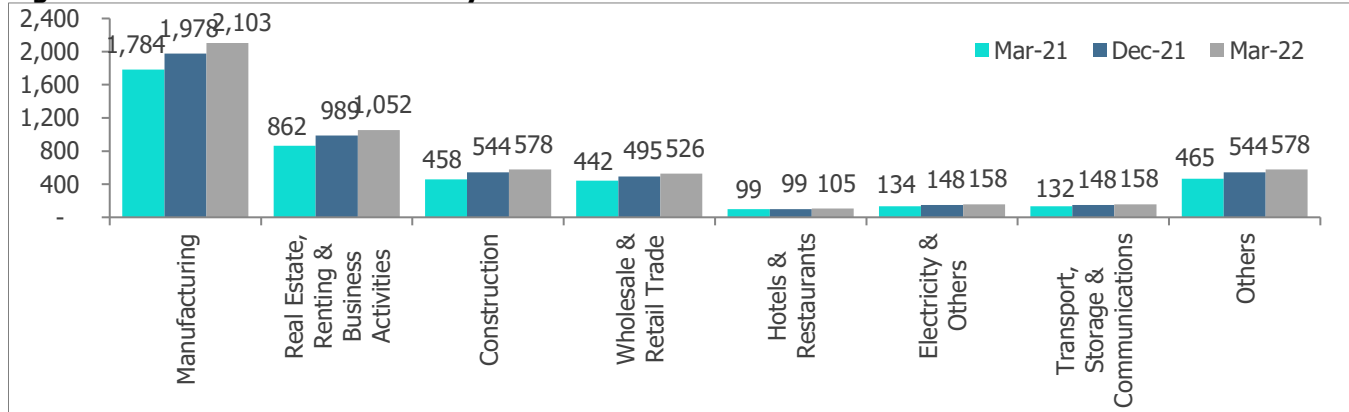
Source: IBBI

As seen in Figure 2, IBC has continued to gain in popularity, with over 5,200 companies being admitted and a significant number of these cases on a cumulative basis being filed by the operational creditors (2,699 cases) followed by the financial creditors (2,236 cases). As of March 2022, the share of financial creditors has increased,

while that of operational creditors has decreased. The share of corporate debtors has continued to remain the smallest over the same period.

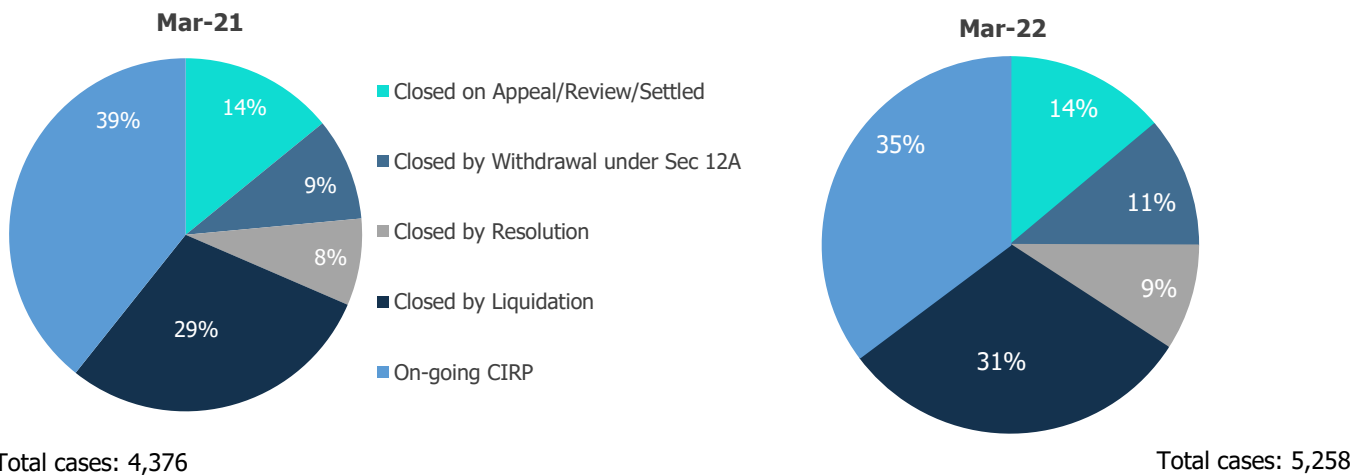
The following figure 4 shows the dispersion of the admitted cases by sector. As can be observed, the manufacturing sector accounts for the highest share at 40% of the overall cases, followed by the real estate (20%), construction (11%) and trading sectors (10%). The share of the various sectors has largely remained constant compared with the previous period.

**Figure 4: Cumulative # of CIRPs by sector**



Source: IBBI

**Figure 5: Status of CIRPs**



Source: IBBI

Of the total 5,258 cases admitted into CIRP at the end of March 2022:

- 35% of the cases continue to remain in the resolution process against 39% as at the end of March 2021, with manufacturing sector accounting for a majority, followed by real estate and the construction segment.
- 1,609 cases have ended into liquidation (i.e., 31% of the total cases admitted, similar compared with the last quarter). However, 76% of the CIRPs ending in liquidation (were either BIFR cases and / or defunct).
- Around 9% (731 CIRPs) of the cases have been closed on appeal or review or settled which is same share when compared with the last quarter and around 100 bps higher than Q4FY21.

- 11% of the cases have been withdrawn under Section 12A: A significant number of such cases (around 55%) were less than Rs.1 crore. The primary reason has been either the full settlement with the applicant which has increased to 42.6% against 37% as at end of March 2021 or other settlement with creditors (21.2%).
- Only 9% of the total cases have ended in approval of resolution plans (an increase by only 1% compared with March-2021 and same as the last quarter).

### Despite lower realizations...

**Figure 6: Summary of CIRPs Yielding Resolution**

| Particulars  | Amt/%            |            |                  |
|--|------------------|------------|------------------|
|  | Up to March 2021 | For Q4FY22 | Up to March 2022 |
| Total admitted claims of Financial Creditors (Rs cr) | 516,047.0        | 12,610.1   | 684,901.3        |
| Liquidation value (Rs cr)                            | 112,643.7        | 1,316.1    | 131,447.9        |
| Realisable by FCs (Rs cr)                            | 202,617.8        | 1,287.6    | 225,293.8        |
| Realizable by FCs as a % of their claims admitted    | 39.3             | 10.2       | 32.9             |
| Realisable by FCs as a % of their liquidation value  | 179.9            | 97.8       | 171.4            |

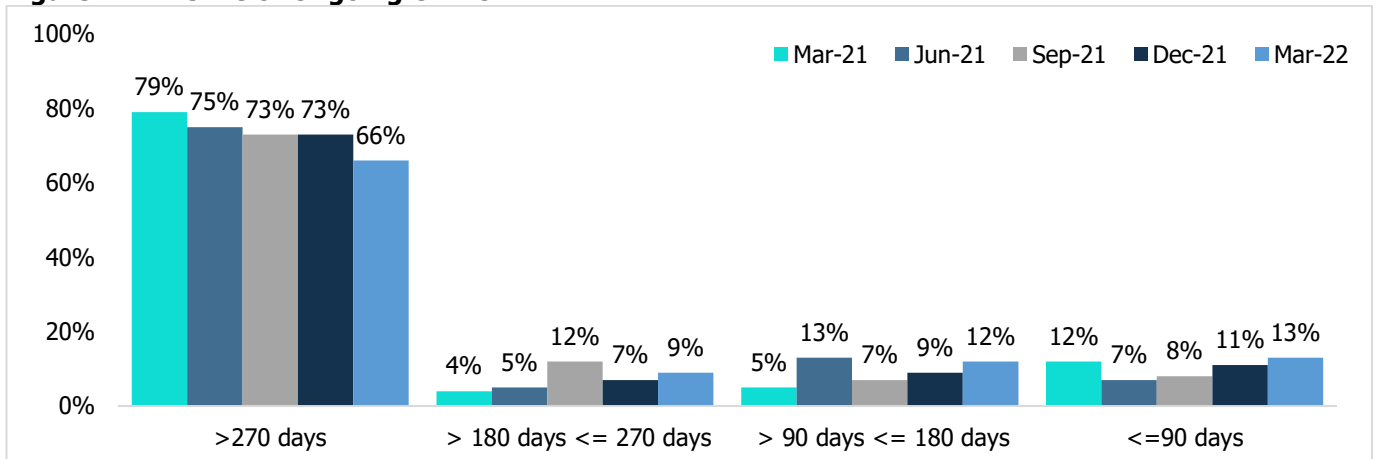
Source: IBBI

Post implementation of the IBC, as can be seen in figure 6, the overall recovery rate till Q4FY21 in India improved to 39.3%, which was significantly better than the earlier recovery rate of 26% (26 cents to a 1 USD). However, the recovery rate for Q2FY22 stood at 49.2%, which has shrunk significantly to 13.41% in Q3FY22 and even further to 10.2% in for Q4Fy22 and taking the cumulative rate to 32.9%. Although the recovery rate has been higher compared to other measures, the same has declined over a period (it declined from 45.9% in March 2020 to 36% in June 2021 and even further in December 2021 to 33.1%). According to the report of the Standing Committee on Finance issued in August 2021, the delay in resolution can be attributed to 1) delay in admitting cases to NCLT, 2) unsolicited bids outside the process which delay resolution, 3) subsequent litigations after resolution plan has been approved, and 4) short-staffed NCLT and to the fact that NCLTs also handle cases relating to corporate affairs, M&As, etc.

### ...and delays in ongoing Corporate Insolvency Resolution Process (CIRPs)...

Of the 1,852 on-going CIRPs, there has been a delay by more than 270 days for the completion of process of 66% of on-going CIRPs in March 2022 which is a decline of 13% as compared to 79% in March 2021. Further we can observe that the less than 90 days segment is the second largest indicating that quite a few cases have commenced in the quarter, while the other two categories continue to have quite a few cases in them highlighting the significant delays in the process. The delays for closure of CIRP are similar across various categories of stakeholders, but the corporate debtor segment takes a somewhat longer time for resolution compared to the other two stakeholders (financial creditor and operational creditor).

**Figure 7: Timeline of Ongoing CIRPs**

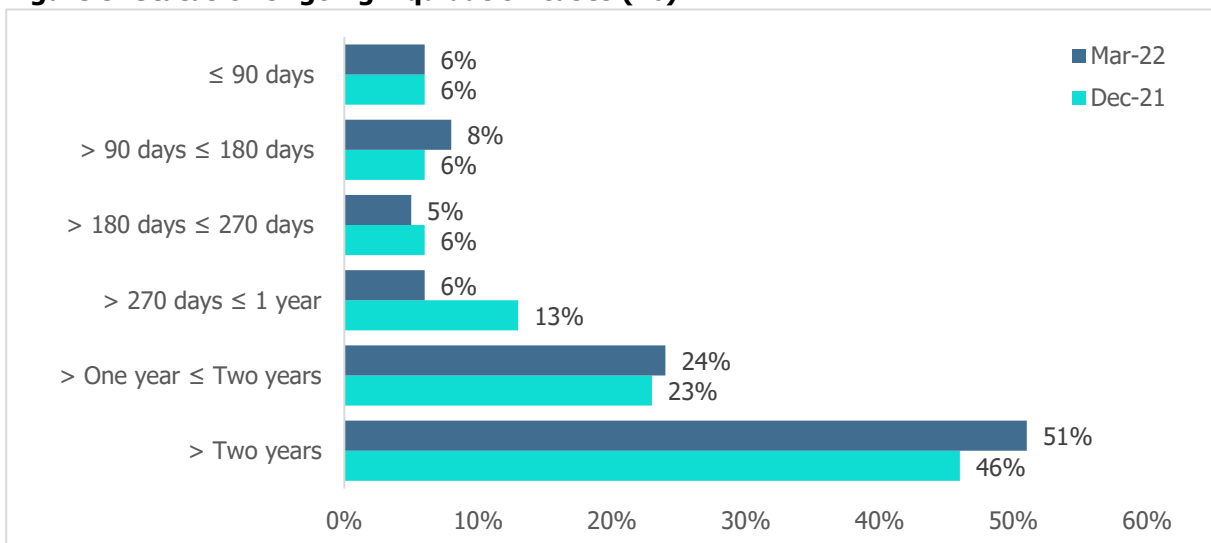


Source: IBBI

**...and even in the liquidation process**

Figure 8 highlights the pendency even for cases which have gone into liquidation with more than 51% of the cases pending for more than two years and another 24% of the cases pending for more than one year.

**Figure 8: Status of Ongoing Liquidation cases (%)**



## Contact

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