



GSAP & ASSOCIATES LLP

Chartered Accountants

Insolvency and Bankruptcy Code, 2016 - A paradigm shift

Contents

Media reports on IBC	3
Key aspects of IBC	4
Corporate insolvency in India	5
Individual insolvency in India	6
Persons covered under IBC	7
Objectives of IBC	8
Ecosystem of IBC	9
Corporate insolvency resolution process	10
Liquidation process	14
Our services	15
GSAP IP Team	16
Our contact details	19

Insolvency and Bankruptcy Code

Media reports

India ranked 136 out of 189 countries in Ease of Doing Business. After reforms like IBC and GST, India jumped to 100

Source:

<https://timesofindia.indiatimes.com/business/india-business/indias-jumps-30-places-in-world-banks-ease-of-doing-business-rankings/articleshow/61360578.cms>

Fearing loss of control, over 2,100 companies have settled their dues of around Rs. 83,000 crores before action was initiated under IBC

Source:

<https://timesofindia.indiatimes.com/business/india-business/owners-settle-rs-83k-crore-bank-dues/articleshow/64279946.cms>

Of the 12 biggest cases before the IBC in last over one year, out of total loan outstanding of Rs. 76,239 crores, Rs. 42,885 crores has been realised by the banks which is 237% of the liquidation value of these companies

Source:

http://ibbi.gov.in/Newsletter_IBBI_April_jun_2018.pdf

Insolvency and Bankruptcy Code

Key aspects

- 1 Shift from the existing '**Promoter in possession**' to a '**Creditor in control**' regime.
- 2 **Consolidated all existing insolvency related laws** including the Companies Act.
- 3 **Strict time-bound process of recovery of debt** of 180/270 days, else go into liquidation.
- 4 **Moratorium over all proceedings** against debtor till corporate insolvency process is on.
- 5 IBC has **overriding effect over all other laws**.
- 6 **Insolvency Professional (IP) takes control of the debtor**; directors loses control.
- 7 **Clearly defined 'order of priority'** or the waterfall mechanism for payment of debt.
- 8 Waterfall mechanism- **unsecured financial creditors gets priority over Government dues**.
- 9 **Antecedent transactions can be investigated**; personal contribution by promoters possible.
- 10 **Establishment of the Insolvency and Bankruptcy Board of India (IBBI)** under Government of India as an independent regulatory body for the administration of IBC.

IBC – An overview

Corporate insolvency in India

1956 Companies Act, 1956

1985 Sick Industrial Companies (Special Provisions) Act [SICA]

1993 Recovery of Debts Due to Bank and Financial Institutions Act [RDDB]

2002 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act [SARFAESI]

2013 Companies Act, 2013 – Chapter XIX & XX

2016 Insolvency and Bankruptcy Code, 2016 [IBC]

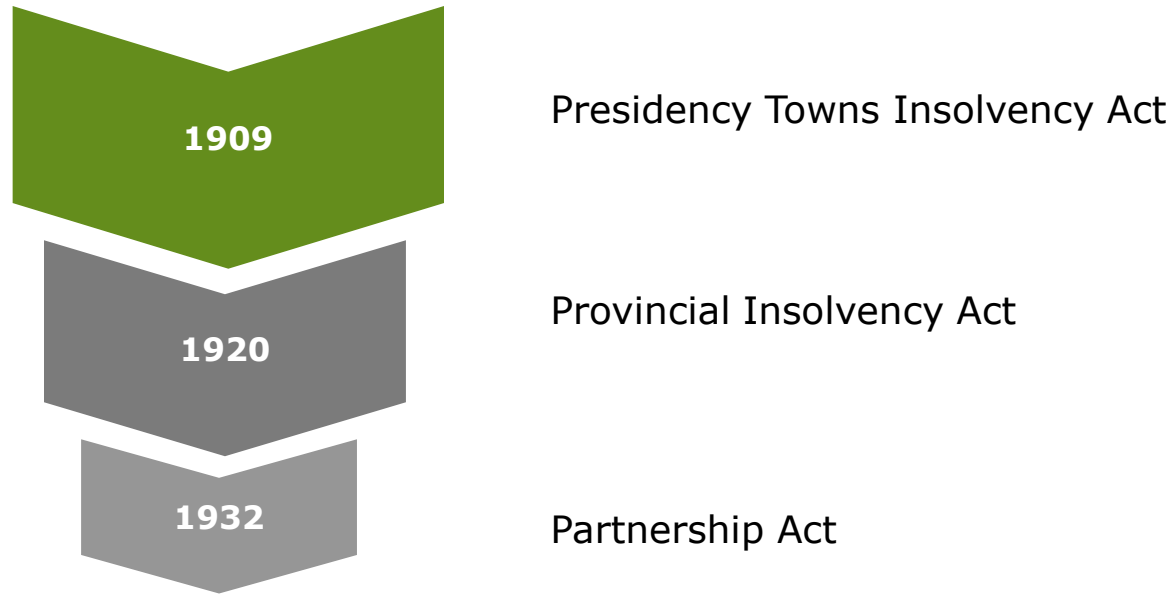


**Laws
relating to
Corporate
insolvency**

IBC consolidates all the previous laws relating to insolvency and bankruptcy into one law

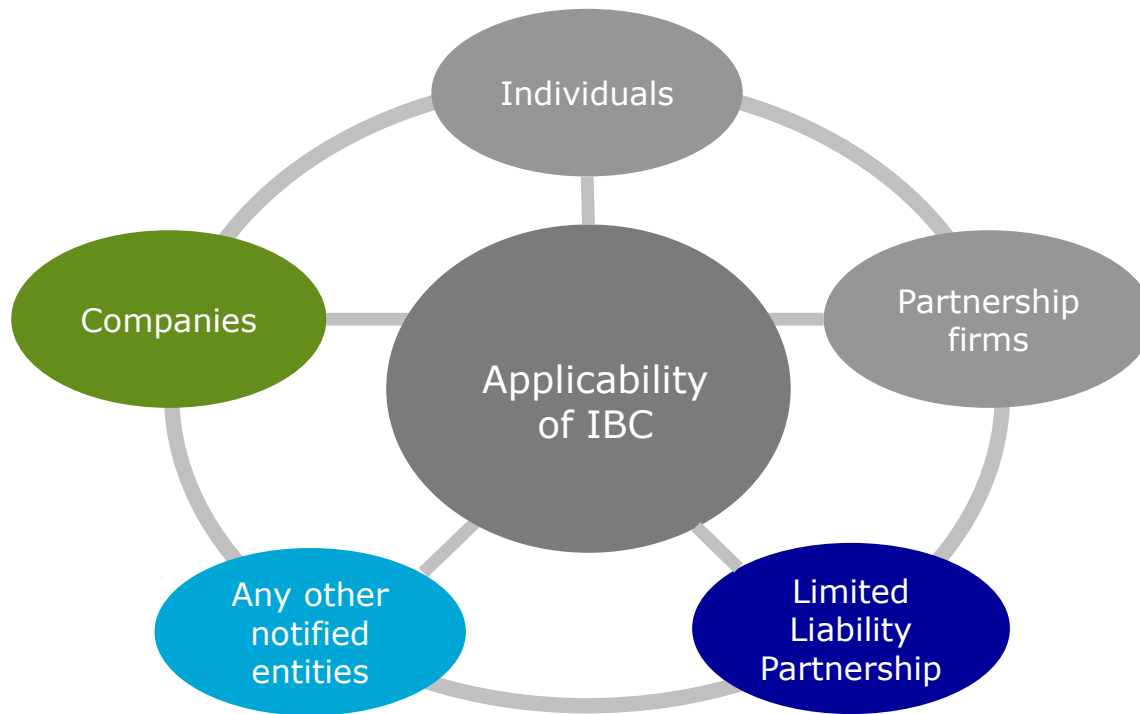
IBC – An overview

Individual insolvency in India



IBC – An overview

Persons covered



Part III of IBC is yet to be notified. So, insolvency for individuals and partnership firms is not yet dealt by IBC

IBC – An overview

Objectives of IBC

IBC is an Act to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for-

- Maximisation of value of assets

Maximisation of value of assets of the corporate persons, partnership firms and individuals who defaulted in payment of debt is the prime objective

- Promote entrepreneurship

IBC aims at running the business and resolve insolvency situation, rather than just to liquidate

- Protect interest of all stakeholders

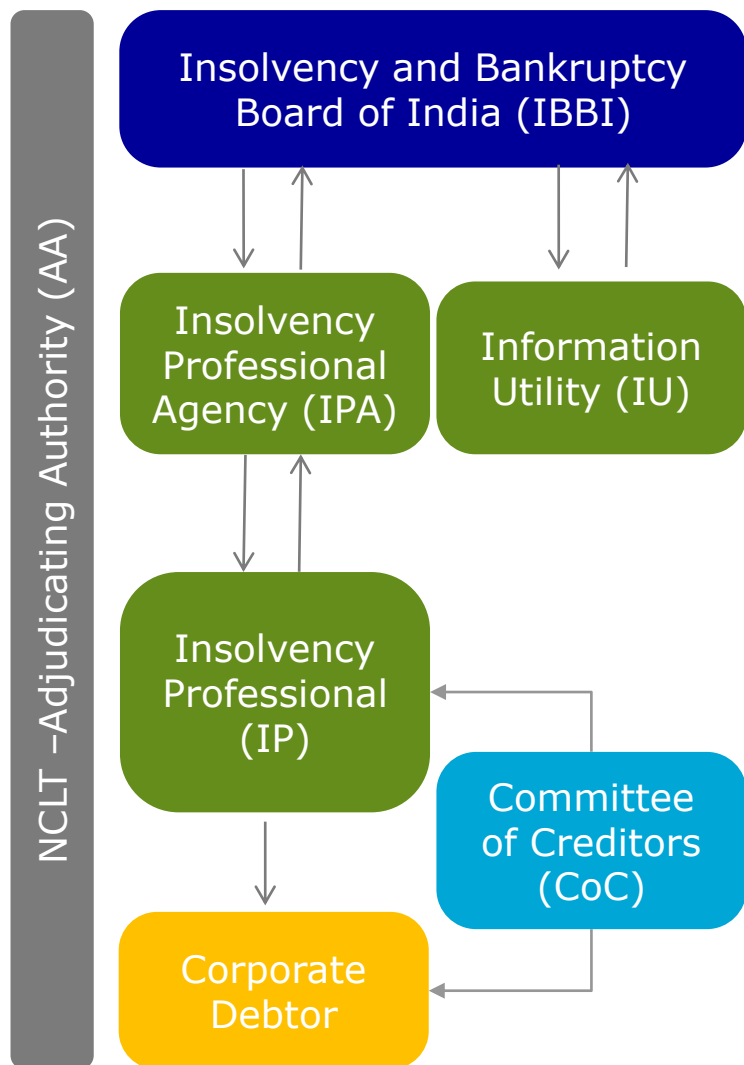
Efforts are made to ensure the availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues

- Establish IBBI

An independent and professionally managed regulator has been set-up for matters under IBC. Further, the National Company Law Tribunal (NCLT) is the Adjudicating Authority to oversee resolution processes for corporate and LLP

IBC – An overview

Ecosystem



1. IBBI

- Apex body for promoting transparency and governance in the administration of IBC; grants accreditation to IPAs, IUs and IPs

2. IUs

- Centralised repository of financial and credit information of borrowers; would validate the information and claims of creditors vis-à-vis borrowers

3. IPAs

- Professional bodies registered with IBBI to promote and regulate the insolvency profession
 - these bodies enrol IPs

4. IPs

- Qualified and licensed professionals to conduct insolvency profession
 - IPs also act as liquidator/bankruptcy trustee/authorised representative

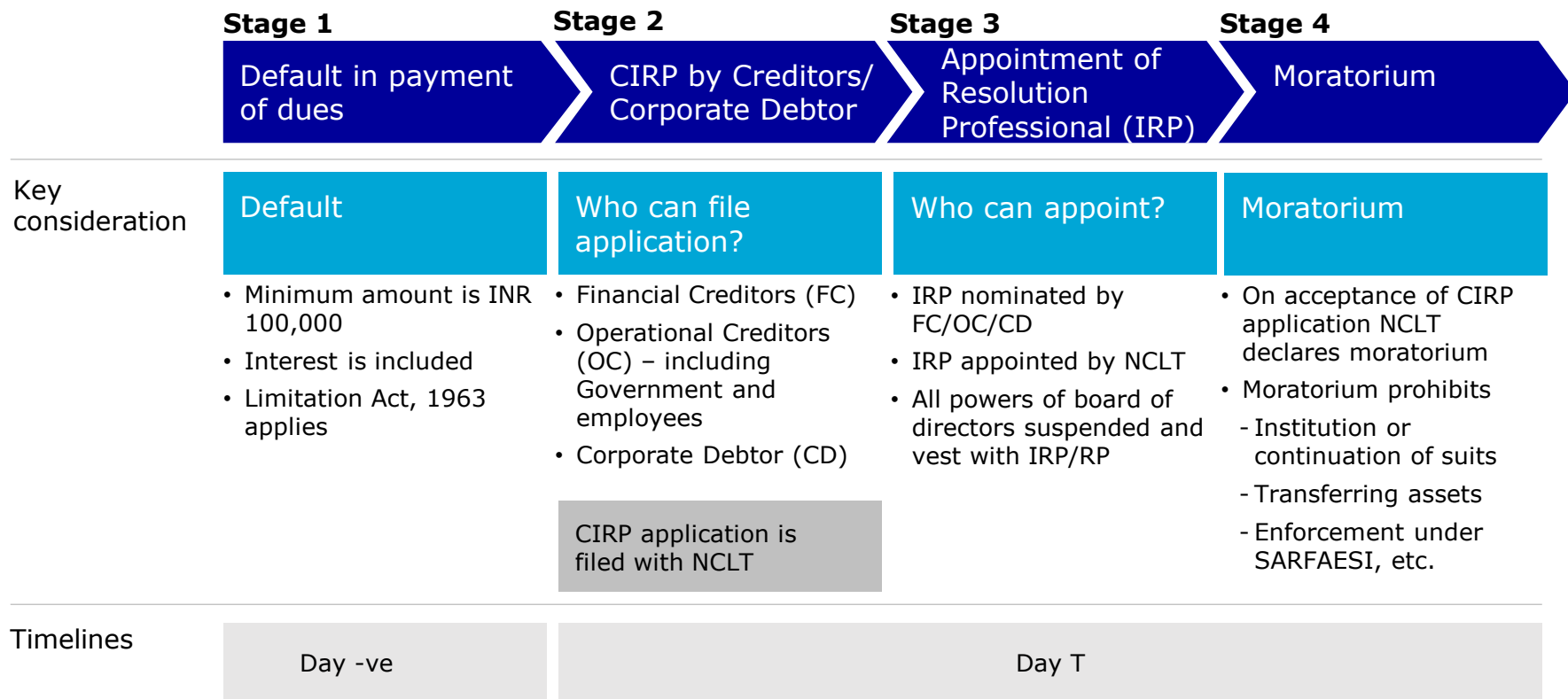
5. AA

- NCLT acts as AA for corporate insolvency; entertain or dispose any insolvency application, approve/ reject resolution plans, decide in respect of claims or matters of law/ facts thereof

6. CoC

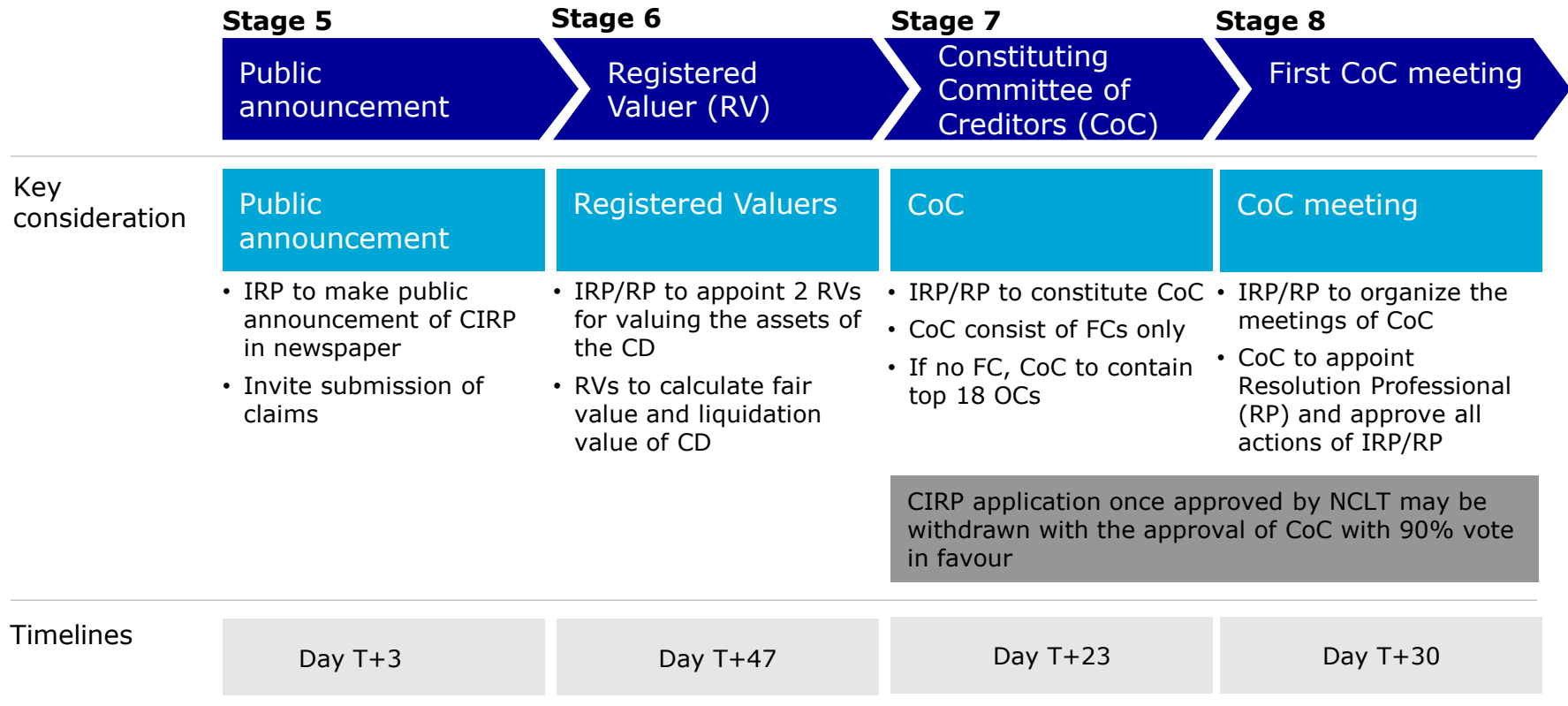
- Consists of financial Creditors (FCs) to appoint and approve actions of IPs

Corporate Insolvency Resolution Process (CIRP) For Corporate and Limited Liability Partnerships

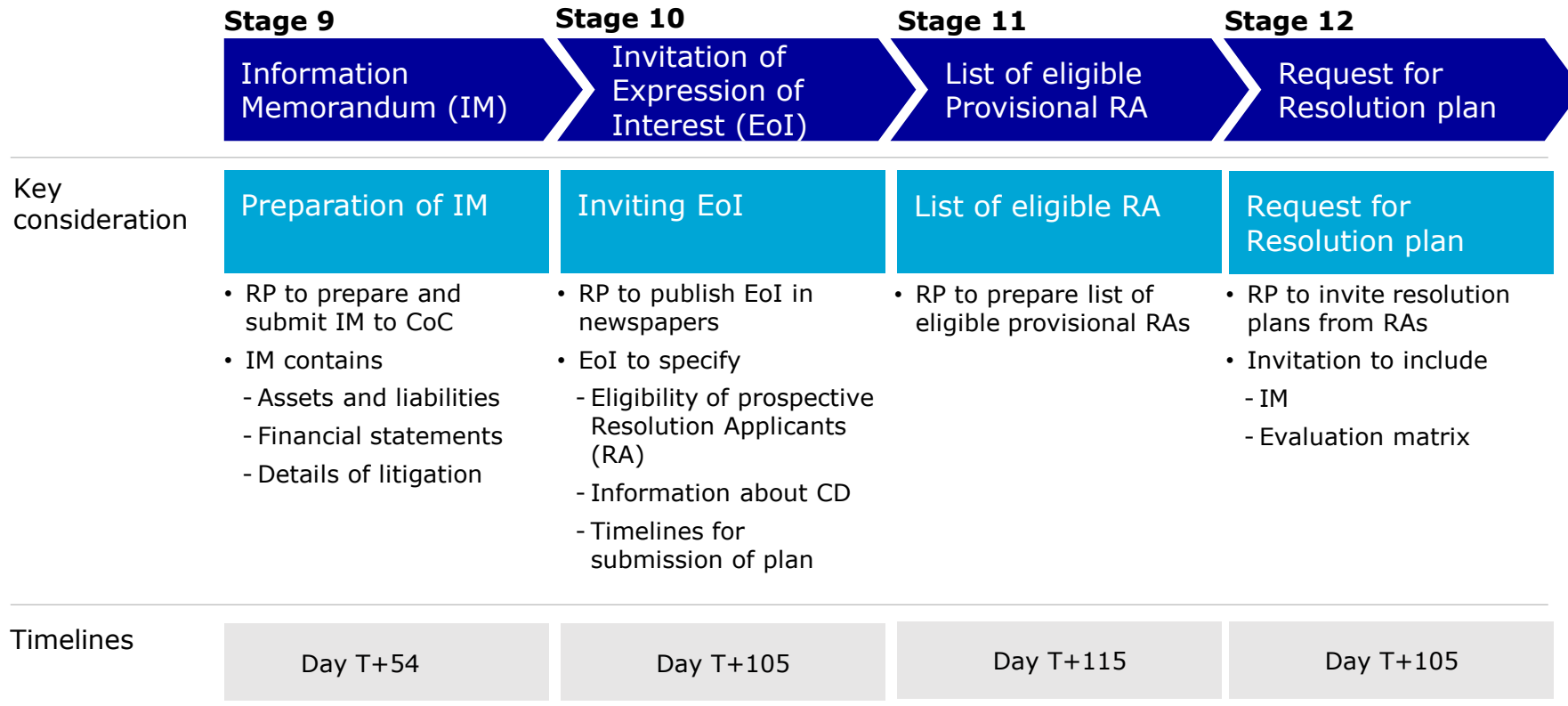


Moratorium ends on expiry of CIRP period or approval of resolution plan by NCLT, whichever is earlier

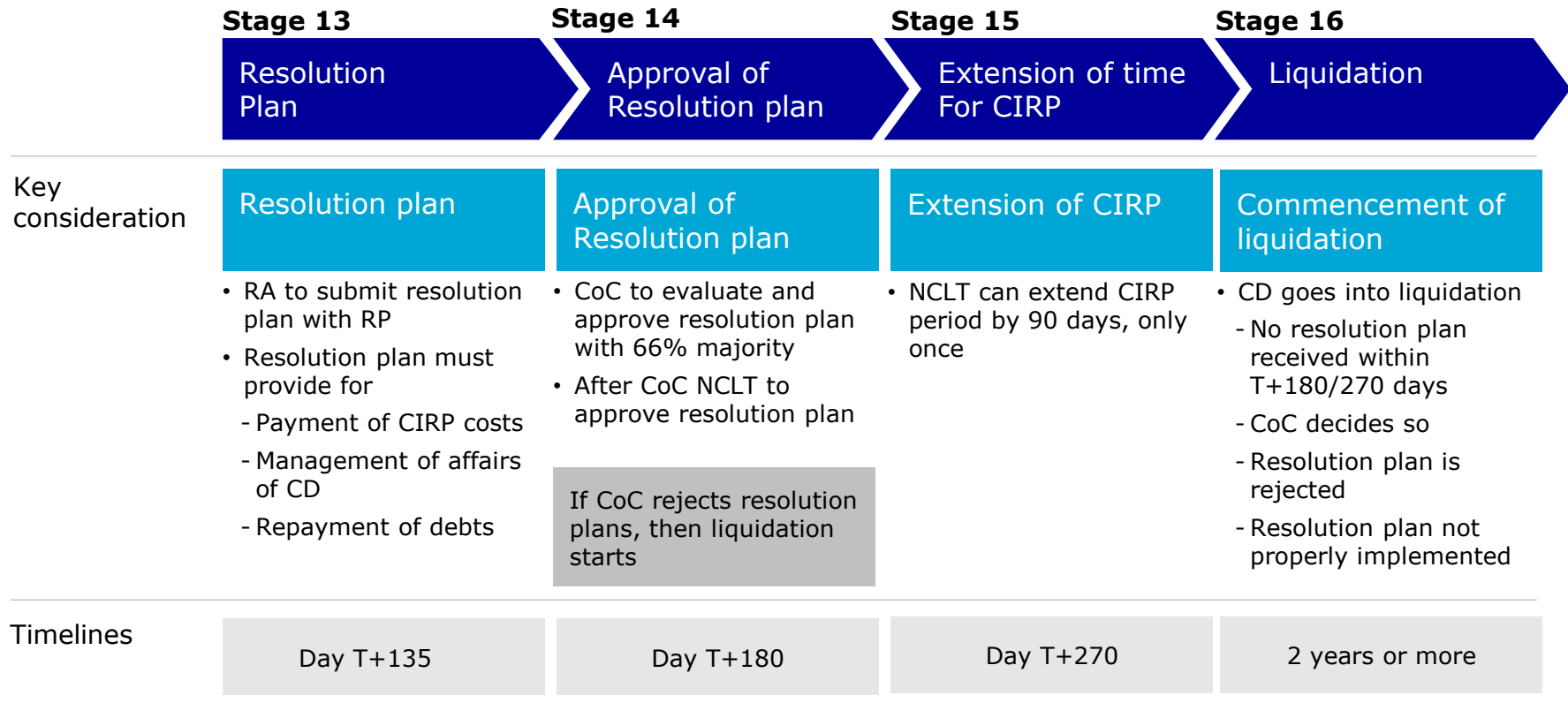
Corporate Insolvency Resolution Process (CIRP) For Corporate and Limited Liability Partnerships



Corporate Insolvency Resolution Process (CIRP) For Corporate and Limited Liability Partnerships

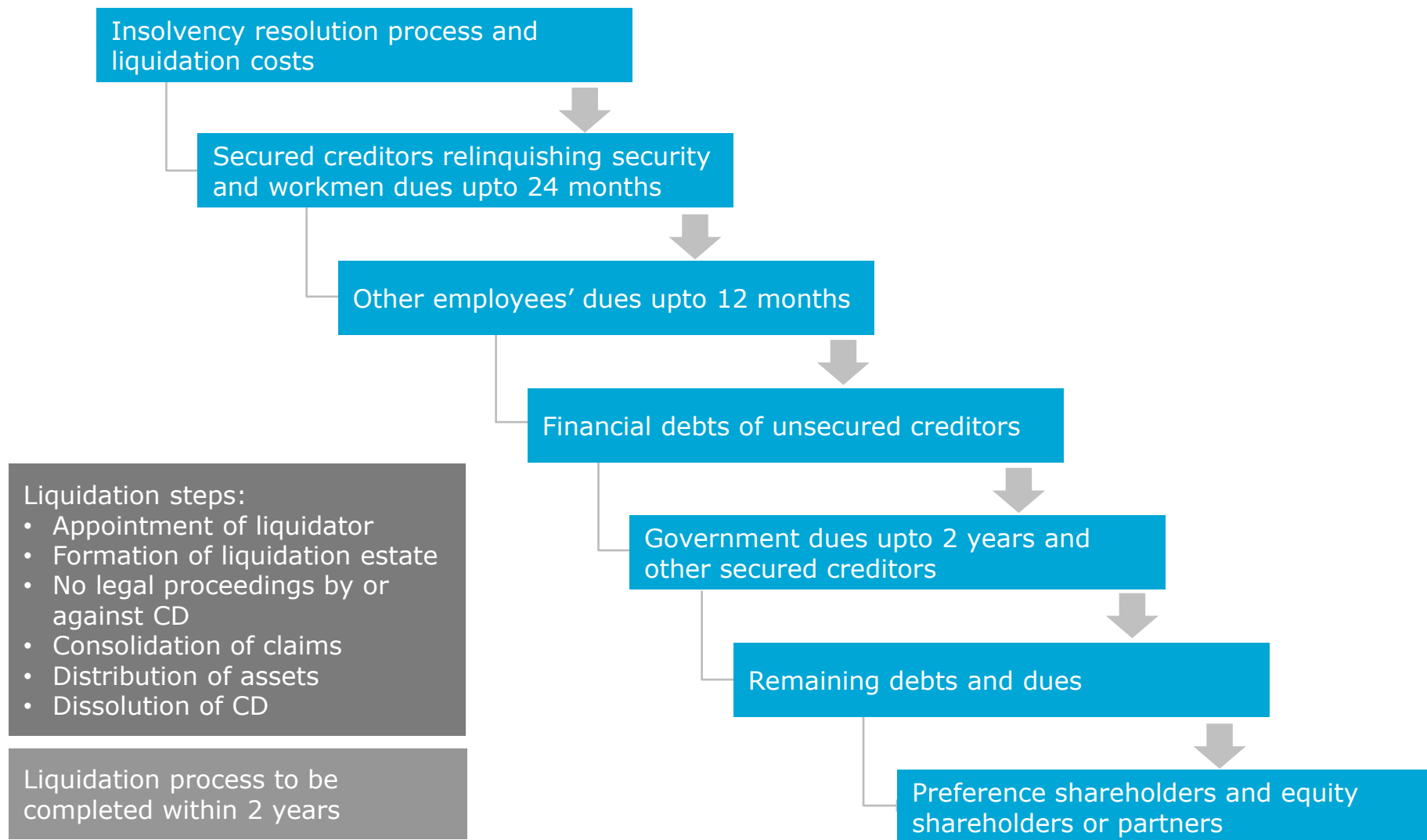


Corporate Insolvency Resolution Process (CIRP) For Corporate and Limited Liability Partnerships



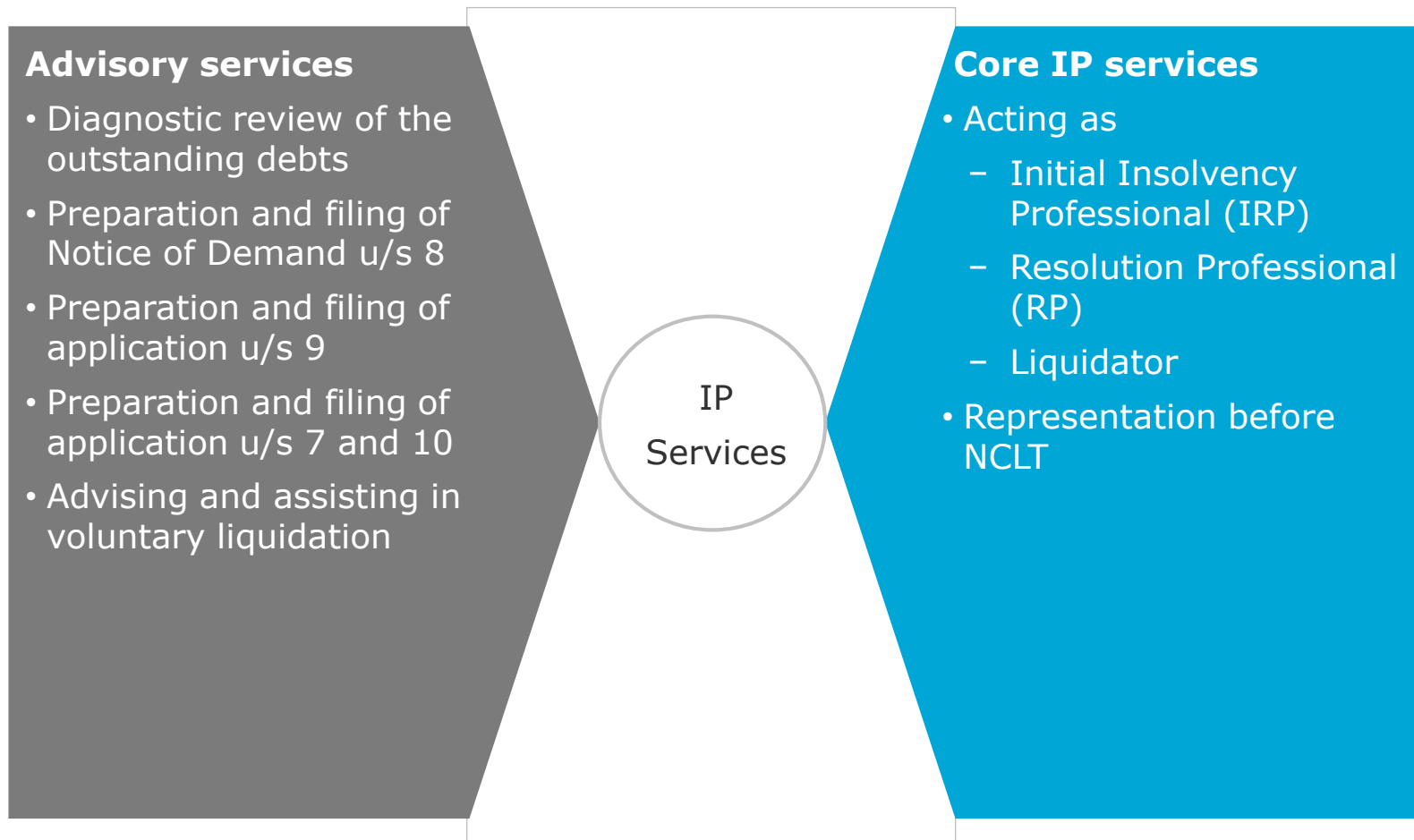
Liquidation process

Order of priority for distribution of assets



GSAP & Associates LLP

IP services





Anil Kumar Gupta B.Com, FCA, DISA, IP
Senior Partner
Direct Tax and Insolvency Resolution Services
akgupta@gsapadvisors.com
+91 9810 06 0686

- Anil Gupta is Chartered Accountant with more than 30 years of experience in the fields of taxation and audit. He has extensive experience in handling statutory audits, internal audits, bank audits, setting up accounting systems, income-tax search and seizure cases. He has independently and successfully represented clients before the Settlement Commission.
- Over the years, Anil has established himself as an expert in representing before tax authorities and has a decorated record of getting rulings in favour of his clients.
- He further specializes in giving opinions in matters related to tax planning, FEMA, accounting, fund raising through banks and setting up of branch office in India.
- As an enthusiast towards learning, Anil is a certified DISA professional. He is also a qualified Insolvency Professional (IP) and leads the IP practice at GSAP.
- Anil loves to network and interact with people. He has delivered seminars on motivation and team building at various forums.



Praveen Garg B.Com, FCA, IP
Founder Partner
Audit and Indirect Taxation
pgarg@gsapadvisors.com
+91 9999 02 6564

- Praveen Garg is the managing partner of GSAP. He is a Chartered Accountant with over 14 years of experience in running a propriety CA concern based on principles of respect for integrity, hard work, dedication and commitment.
- At GSAP, Praveen leads the indirect tax and audit practices. He has considerable experience of bank audit, statutory, revenue, stock and concurrent audits.
- Praveen carries vast experience of conducting statutory and internal audits, consolidation of accounts, review of overall accounting and compliance along with payroll management for private and public limited companies in diversified industries. His area of expertise also includes corporate and project financing and restructuring thereof.
- Praveen has extensive exposure in advising clients in the field of service tax and Value Added Tax (VAT) and represented them before various service tax and VAT authorities for audit and appellate proceedings. On rollover of Goods and Services Tax Act, 2017 (GST) he has successfully advised/assisted clients for its smooth implementation.
- Praveen has significant knowledge and experience of establishment, statutory compliance, accounting and taxation matters of liaison and branch office of foreign companies in India.
- Praveen is a qualified Insolvency Professional (IP).



Sharad Goyal B.Com, FCA, IP
Founder Partner
Corporate and Expatriate Taxation
sgoyal@gsapadvisors.com
+91 9999 25 6677

- Sharad is a Chartered Accountant and founder partner of GSAP. He leads the corporate and expatriate taxation and regulatory practices at GSAP.
- He has more than 15 years of experience in public accounting and consulting including 9 years with Deloitte India, and about 3 years' secondment with Deloitte, Tokyo, Japan. During secondment to Tokyo he extensively worked with the Japanese companies making investment in India with their tax issues.
- Sharad actively assisted various clients with setting-up of business in India (wholly owned subsidiary company, liaison office, branch office and project office) with responsibilities like ensuring timely and effective tax and regulatory compliance management.
- Sharad, on a regular basis, advised clients on domestic income-tax, international tax and regulatory matters like foreign direct investment regulations, issues under foreign exchange control regulations (FEMA), etc.
- As a litigation professional, Sharad has represented clients before various authorities from assessing officer level to tax tribunal in matters like tax audit proceedings, appellate proceedings, seeking tax exemption and relief, briefing senior legal counsels for seeking advance ruling from the Authority for Advance Rulings (AAR).
- Sharad has also assisted clients with addressing and managing the challenges of home and host country tax compliance in relation to their globally mobile employee population. This particularly involves an in-depth research on the provisions of the relevant tax treaties.
- Sharad has the credit of setting-up India desk for Deloitte at Tokyo.
- Sharad is a qualified Insolvency Professional (IP).



Contact us

GSAP & Associates LLP



H-59AB, Lower Ground Floor
Kalkaji, New Delhi 110019
India



info@gsapadvisors.com



+91 (11) 4056 0819
+91 (11) 4154 4443

Disclaimer: The content herein are solely meant for commercial purposes & shall not be considered as professional advice and/or used as base for any technical decision. GSAP & Associates LLP, its employees, contractors, associates are not responsible for loss whatsoever sustained by any person who relies on the information contained herein.