

# **Insolvency and Bankruptcy Code (Amendment) Act, 2026**

A comprehensive analysis of legislative reforms, judicial context, and practical implications.

## Practical Implementations & Structural Gaps

- ⚠ Persistent delays in admission and approval stages
- ⚠ Judicial backlogs before NCLT and NCLAT
- ⚠ Misuse of insolvency proceedings for recovery purposes
- ⚠ Lack of clarity on treatment of claims post-resolution
- ⚠ Absence of group insolvency and cross-border framework



## Addressing Inefficiencies

- ✓ Strengthening creditor control and accountability
- ✓ Introducing out-of-court resolution mechanisms
- ✓ Enhancing timelines and reducing judicial delays
- ✓ Providing statutory backing to evolving jurisprudence



**14 Days**

Sections 7, 9, 10 —  
Mandatory admission  
or rejection.

**30 Days**

Section 31 —  
Resolution plan  
approval.

Section 33 & 54 —  
Liquidation and  
dissolution orders.

**3 Months**

Section 61 — Appeals  
before NCLAT to be  
disposed of.

### Impact

Failure to adhere requires recording of reasons, increasing judicial accountability.

Reduces delay tactics, ensures faster resolution and value maximisation, and improves investor confidence.

### Judicial Context

In ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta, the Supreme Court emphasized that timelines are the backbone of IBC and must be strictly adhered to.

# Introduction of Creditor-Initiated Insolvency Resolution Process (CIIRP)

Sections 58A–58K: A hybrid, creditor-driven, out-of-court mechanism.

## Initiation

- Initiated by financial creditors with a minimum 51% approval.
- Requires 30-day prior notice to corporate debtor.

## The Process

- Completion within 150 days (extendable by 45 days).
- Management remains with the corporate debtor.
- Moratorium is optional.

## Outcomes

- Faster and less disruptive resolution.
- Reduced burden on NCLT.
- Can be converted into CIRP in case of failure.

**Comparative Insight:** Inspired partly by global frameworks like UK schemes of arrangement and pre-pack models.

# Shifting the Balance: Traditional Model vs. Hybrid CIIRP

	Traditional CIRP	Hybrid CIIRP
Nature of Process	Court-centric and structurally rigid	<b>Out-of-court</b> mechanism; marks a shift towards a balanced hybrid model
Initiation Threshold	Individual creditor initiation	Requires minimum 51% approval from financial creditors
Corporate Control	Creditor-in-control / RP takes over	Management remains with the corporate debtor
Operational Impact	Automatic strict moratorium	Moratorium is optional; increased flexibility for financial creditors

# Reinforcement of the Clean Slate Principle (Section 31)

## Statutory Recognitions:

- All prior claims extinguished upon approval of the resolution plan.
- No continuation of proceedings unless provided in the plan.
- Licenses, permits, and concessions cannot be terminated post-resolution.
- Retrospective applicability (except concluded cases).

**Impact:** Enhances certainty for resolution applicants, encourages higher bids, and prevents revival of past liabilities.



## Judicial Context

*'In Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, the Supreme Court held that a successful resolution applicant must start on a 'clean slate'.'*

### Impact

Greater creditor control, reduced judicial interference, and improved commercial decision-making.

**Section 21(11):**  
Supervision over liquidation process.

**Threshold Rationalisation:** 51% for MSME pre-packs.

**Committee of Creditors (CoC)**

**Section 34A:**  
Power to replace liquidator.

**Section 33(1A):**  
Restoration of CIRP before liquidation.

### Judicial Context

In *K. Sashidhar v. Indian Overseas Bank*, the Supreme Court upheld the primacy of the CoC's commercial wisdom.

**Note:** Recent jurisprudence allows limited judicial review only in cases of illegality or procedural irregularity.

# LIQUIDATION FRAMEWORK: STRUCTURED REFORMS AND SECTION 53 WATERFALL

## Structured Reforms

- Strict 180-day timeline (extendable by 90 days).
- CoC oversight continues during liquidation; CoC can replace the liquidator.
- Resolution Professional cannot automatically become a liquidator.

## Judicial Context

In *Ghanashyam Mishra & Sons v. Edelweiss Asset Reconstruction Company*, the Court clarified the treatment of statutory dues, leading to fairer asset distribution and reduced litigation.

## Section 53 Waterfall Mechanism



## Group Insolvency (Section 59A)



- Coordination of multiple group entities.
- Appointment of a common insolvency professional.
- Implementation of joint CoC meetings.

Impact: Effective handling of complex corporate groups.

## Cross-Border Insolvency (Section 240C)



- Statutory recognition of foreign proceedings.
- Framework for international judicial cooperation.
- Alignment with global best practices.

Impact: Improved ease of doing business and alignment with international insolvency regimes.

# SYSTEMIC INTEGRITY

## AVOIDANCE TRANSACTIONS & FRAUDULENT TRADING

Look-back period clarified.

Creditors can directly approach NCLT if RP fails to act.

Fraudulent trading provisions extended to liquidation stage.

## DETERRENCE AGAINST MISUSE

Section 64A & 183A:  
Penalty up to ₹2 crore for frivolous applications.

Penalties introduced for moratorium violations.

## COMPLIANCE STRENGTHENING

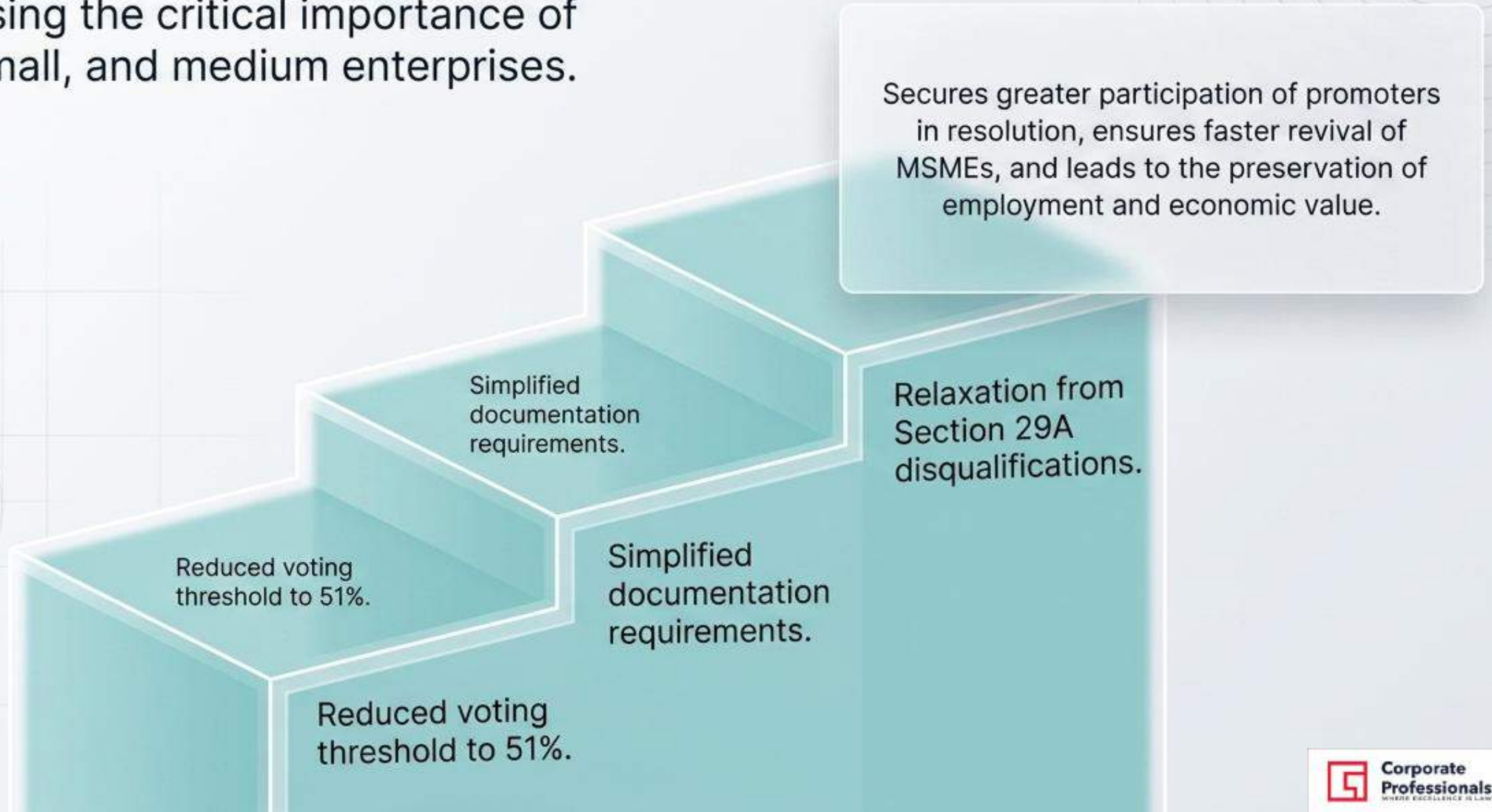
Section 215:  
Mandatory filing with Information Utilities.

Section 235A: Civil penalties introduced.

**OBJECTIVE & IMPACT:** To prevent misuse of IBC as a recovery tool and prevent value erosion through preferential/fraudulent transactions. Results in stronger compliance ecosystems and increased management accountability.

# MSME-Friendly Reforms

Recognising the critical importance of micro, small, and medium enterprises.



# Key Takeaways: The Paradigm Shift

- Moves towards creditor-driven and time-bound resolution

- Introduces flexible/hybrid mechanisms (CIIRP)

- Aligns India with global insolvency standards

A Court-Centric Process



A Commercially Driven Resolution Framework

1. Judicial discipline in adhering to timelines.

2. Institutional capacity of NCLT/NCLAT.

3. Practical adaptability by insolvency professionals.

The Amendment transforms IBC, reinforcing its core objective – maximisation of value and timely resolution