

Information utility under the IBC

Last month, National e-Governance Services Ltd (NeSL) became India's first information utility (IU) for bankruptcy cases under the Insolvency and Bankruptcy Code 2016. NeSL is owned by State Bank of India and Life Insurance Corporation Ltd., among others. Recently, the Insolvency and Bankruptcy Board of India (IBBI) eased ownership norms for setting up such utilities.

What is an information utility?

Information utility is an information network which would store financial data like borrowings, default and security interests among others of firms. The utility would specialise in procuring, maintaining and providing/supplying financial information to businesses, financial institutions, adjudicating authority, insolvency professionals and other relevant stake holders.

Why is it important? How useful is it?

The objective behind information utilities is to provide high-quality, authenticated information about debts and defaults, as per the report of the Working Group on Information Utility published by the Ministry of Corporate Affairs. Information utilities are expected to play a key role as they allow storage of financial information of registered users and expeditiously process and verify information received. Moreover, the database and records maintained by them would help lenders in taking informed decisions about credit transactions. It would also make debtors cautious as credit information is available with the utility. More importantly, information available with the utility can be used as evidence in bankruptcy cases before the National Company Law Tribunal.

What are the rules governing these utilities?

Information utilities are governed by the Insolvency and Bankruptcy code 2016 and IBBI (Information Utilities) Regulations 2017. The Insolvency and Bankruptcy Board of India (IBBI) oversees aspects such as registration and cancellation of these entities, their shareholding and governance among others. Recently, IBBI eased norms for information utilities, allowing Indian firms listed on stock exchanges to hold 100% in such firms. It also allowed individuals to hold 51% in the utility for a period of three years.

How will the utilities help stakeholders in the insolvency process?

Corporate lawyer Anant Merathia explains: Financial creditors (banks which provide loans to the company): It is mandatory for financial creditors to provide financial information to the information utility. When they initiate insolvency proceedings against the defaulting firm (known as corporate debtor), the utilities may help as they would act as a centralised platform for accessing data.

Operational Creditor (Suppliers of goods and services to the firm in question): Unlike financial creditors, it is optional for the operational creditor to provide financial information to the utility. While the idea behind information utility is to have a financial data repository, it has to be seen to what extent firms provide data with regard to dues owed to operational creditors and how the utility is going to help the operational creditors during insolvency process.

What are the key challenges for these utilities?

While the onus is on financial creditors, operational creditors and corporate debtors to provide the required information, procuring authentic information might be a challenge due to the sensitivity involved. There may also, be resistance in sharing information. Since it is a digital database, there

is the risk of exposure to data piracy and data theft.

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