

I am undertaking a PhD on comparative study on SME Insolvency on Australia and India from the University of Sydney. Based on my research in Indian insolvency law, I have some comments for the commission.

One of the systems used by the union government is the use of Information Utilities or IUs. It is a storage system, a real time electronic database, that stores key credit information about all the parties in an insolvency case before the courts¹. Any person that wishes to file the case under the IBC must be registered to one of the IUs. IUs ought to be interoperable with one another. The IBBI describes the IUs as one of the four pillars that help the stakeholders resolve the insolvency dispute². IUs are meant to resolve the information asymmetry problem within the process.

The use of data within the IU is meant to so that the adjudicators can determine when the default has happened, the quantity of the default and verify the claims of the creditors and insolvency professionals³. One of the biggest queries in the process is when did the default occur. Australia covers default based on the guidelines established in the *ASIC v Plymin*⁴ case. IUs are meant to assist in determining whether the default has taken place already or not. Section 7 of the IBC mandates that any financial creditor has to first carry proof of default recorded within the IU and submit it to the adjudicator before the process can proceed. Section 9 puts the same responsibility on operational creditors if they wish to bring a case to the adjudicators. The government also amended the IBC in 2026 to clarify that the record of the IU would be considered sufficient evidence to prove default and that adjudicators will proceed to the next evidence based on the report (Clause 4 of the IBC Amendment Act 2026). Thus, the adjudicators will have to consider the reports of the IUs as the complete evidence necessary and proceed accordingly. This should make the process more efficient than it currently is and also reflects the Indian government's belief in the IU system and its efficacy in delivering an efficient insolvency process⁵. Some recommendations for IUs are that operational creditors ought to be encouraged to use the repository as it will lead to even better data integration⁶.

The use of IUs also has to be seen in the context of digital financial infrastructure in India. The Unified Payments Interface (UPI) for digital payments, Open Network of Digital Commerce (ONDC) and other online platforms have changed Indian finance in ways that affect micro, small and medium enterprises (MSME) in a significant manner⁷. UPI is helping keeping

¹ National E-Governance Services Ltd, *NeSL Utility Manual*

https://www.ipaicmai.in/IPANEW/UploadFiles/Other/NeSL_UTILITY_Manual.pdf.

² Insolvency and Bankruptcy Board of India, *Information Utilities: A Key Pillar of Insolvency Proceedings* (Information Brochure, 30 November 2020)

<https://ibbi.gov.in/uploads/publication/ee64e0a0330c81c11c0ab538b5e4b946.pdf>.

³ Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017.

⁴ (2003) 46 ACSR 126.

⁵ Select Committee on the Insolvency & Bankruptcy Code (Amendment) Bill, 2025, *Report* (Lok Sabha, 17 December 2025) <https://ibbi.gov.in/uploads/resources/2ce0f4a4a146d49fb96f4939aa4fbc25.pdf>.

⁶ Ameya Gokhale and Kriti Kalyani, 'Technology and Insolvency: Leveraging Digital Tools for Faster Resolutions' (Article, BW Legal World, 1 August 2024) <https://www.bwlegalworld.com/article/technology-and-insolvency-leveraging-digital-tools-for-faster-resolutions-527995>.

⁷ Joydip Gupta and Chandan Pal, 'The balance sheet is dead. India just hasn't buried it yet' (19 March 2026) *The Economic Times* <https://economictimes.indiatimes.com/small-biz/sme-sector/the-balance-sheet-is-dead-india-just-hasnt-buried-it-yet/articleshow/129671766.cms>.

track of the transactions for merchants who have never been part of the formal credit system⁸. The Reserve Bank of India (RBI) is using this data and combining it with their new pilot project, the Unified Lending Interface (ULI) to integrate all property records and make borrowing more efficient and faster⁹. Linking the digital infrastructure with insolvency shows that the process can be more efficient if the staff are trained to handle the systems and integrate the different systems in order to simplify the process¹⁰. This will reduce costs which will benefit the small businesses the most in the long run as they will be more likely able to access the insolvency system.

Another relevant feature of the Indian insolvency resolution system is the dominance of the Council of Creditors (CoC). Financial creditors to the debtor firm create a council whose votes are necessary for the insolvency approval. While debtor-in-possession models are present, the confidence of the CoC is necessary. It is the CoC that decides on the final plan, unlike in Australia where the trustee decisions can be taken to court, prolonging the process.

Based on the Indian experience, Australia can learn that making the insolvency process as well as the financial sector more digitized can lead to financial benefits for the small businesses and the economy as a whole. If the Commonwealth administration can create a digital information repository, based on the Indian IU model, that all parties have access to before they can even claim default, it will clarify whether or not default has taken place quicker than what it currently takes. Also, giving the creditors council a binding vote on the arrangement will make the process easier and cheaper

⁸ PricewaterhouseCoopers India, *The Indian Payments Handbook – 2023–2028* (Report, 2023) <https://www.pwc.in/assets/pdfs/consulting/financial-services/fintech/publications/the-indian-payments-handbook-%E2%80%93-2023%E2%80%932028.pdf>.

⁹ Reserve Bank Innovation Hub, *Unified Lending Interface* (Web Page) <https://rbihub.in/projects/unified-lending-interface>.

¹⁰ Vaidehi Gulati, 'The Future of Indian Insolvency Law: New-Age Business, Technology and Sustainability' (2026) *Chartered Secretary Journal* art 18 <https://www.icsi.edu/media/webmodules/CSJ/Apr2026/18.pdf>.