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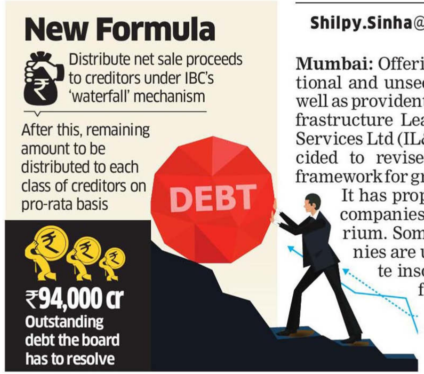
IL&FS Board Proposes Distribution Framework for Group Resolution

In a report to NCLAT, new board recommends equitable distribution of proceeds to all classes of creditors beyond the insolvency code and release of 55 cos from the moratorium



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Mumbai: Offering relief to operational and unsecured creditors as well as provident funds, the new Infrastructure Leasing & Financial Services Ltd (IL&FS) board has decided to revise the distribution framework for group resolution.

It has proposed to release 55 companies from the moratorium. Some of these companies are under the corporate insolvency process or facing liquidation, and a few entities have limited business operations, the board told the National Company Law Appellate Tribunal (NCLAT).

The board has proposed a mechanism for distribution of the financial bid, or liquidation, amounts for considering interest of each set of creditors. After distribution of net sale proceeds to creditors under the Insolvency and Bankruptcy Code's (IBC) 'waterfall' mechanism, the remaining amount will be distributed to each class of creditors on pro-rata basis.

Once approved, this will set a precedent for group resolution.

"Based on analysis of the current position and challenges, the assessment of the new board is that the revised distribution framework is a fair and equitable manner of distribution of relevant sale proceeds, and is in the best interest of all stakeholders and creditors," noted a board report sent to the NCLAT through the ministry of corporate affairs, a copy of which has been seen by **ET**.

An IL&FS spokesperson declined to comment on the story.

IL&FS defaulted on its debt obligations in August 2018, triggering a financial sector meltdown in India. The government-appointed board took over IL&FS in October that year, and made Uday Kotak its chairman. The board is addressing a total outstanding debt of ₹94,000 crore, of which IL&FS Transportation Networks Ltd, IL&FS Energy Development Company Ltd, IL&FS Financial Services Ltd and IL&FS together holds ₹48,000 crore.

Provident funds of companies such as Philips India, SAS Employees Provident Fund Trust, British Airways' Cabin Crew Pension Fund, PLC Staff Fund and superannuation fund are estimated to have invested ₹15,000-20,000 crore in IL&FS group entities.

Provident and pension funds of cos are estimated to have invested ₹20,000 cr in IL&FS group

Distribution of proceeds from sale of wind energy assets is pending, and will be based on the revised distribution framework. Orix has bought seven special purpose vehicles from IL&FS for ₹5,920 crore.

Sale of wind, road and education assets is likely to fetch around ₹18,000 crore. The board is actively considering alternatives such as infrastructure investment trusts for value maximisation of assets with debt of ₹10,300 crore.

The company has received a binding bid for Chongqing Yuhe Expressway Company, which has debt of ₹1,600 crore. It is considering the Swiss challenge process for sale of its technology, environment and BPO assets. The board also expects recovery of ₹3,000-3,500 crore from sale of real estate assets, including the IL&FS headquarters in Bandra Kurla Complex, Mumbai.

Parent company IL&FS took equity ownership in roads, power companies and educational institutions, which led to it promoting hundreds of companies. Much of its debt is equity in operating companies — difficult to recover as other assets are yet to generate cash. Six entities are already under the Corporate Insolvency Resolution Process. Resolution has been passed for seven entities, while eight are green entities with no debt and are under monetisation. Six are trusts with no operations and five have insignificant assets.

The board observed that creditors are concerned about maximising recovery at individual entity level, without regard to its adverse impact on other creditors.