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COMPANIES P2

**IL&FS board submits
fresh affidavit to NCLAT**

The board of Infrastructure Leasing and Financial Services (IL&FS) submitted a fresh affidavit to the National Company Law Appellate Tribunal (NCLAT). In the affidavit, it asked the tribunal to direct all financial creditors of the relevant IL&FS group entities, including group lenders, to be part of the committee of creditors.

No say for lenders in distribution of sale proceeds: IL&FS to NCLAT

CoC's role should be limited to voting on highest bidder, contends firm

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Mumbai, 11 January

The board of Infrastructure Leasing and Financial Services (IL&FS) has submitted a fresh affidavit to the National Company Law Appellate Tribunal (NCLAT), asking the tribunal to direct all financial creditors of the relevant IL&FS group entities, including group lenders, to be part of the committee of creditors.

IL&FS added the creditors' committee should only be approached for its vote on the highest bidder of an asset but should have no say in the distribution framework of sale proceeds.

"... approval of creditors' committee of the relevant IL&FS group company will not be required for distribution which will be as per the revised distribution framework or for effecting the settlement/termination agreement with the authorities or distribution of the settlement/termination claims," said the new board in its prayers to the NCLAT.

The new board has also suggested a new distribution framework for creditors of

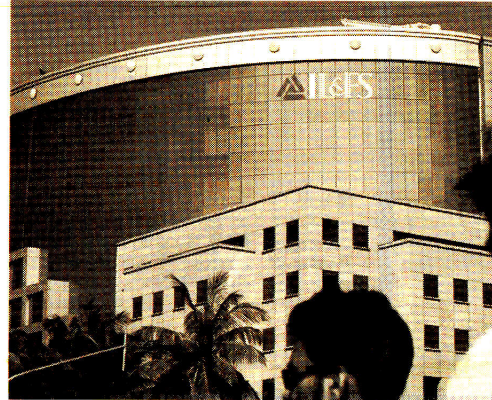
the company. This will be done so that all costs related to the resolution process are settled followed by distributing average liquidation value to the creditors. Any remaining proceeds will subsequently go to the creditors on a pro-rata basis.

According to the new distribution network proposed by the board, all resolution process costs incurred in the resolution process of the relevant group entity of IL&FS have to be settled in full.

These include fees payable to the financial and transaction advisors, legal counsels, resolution consultant, claims management consultant, independent valuers along with costs for issuing advertisements and conducting audits.

After settling the resolution process cost fully, distribution of sale proceeds will then go to creditors of the relevant group company. This will cover the average liquidation value in accordance with Section 53 of the IBC.

Then, the remaining sale proceeds will be distributed pro-rata to each class of creditors of the relevant



IL&FS has a total debt of ₹94,215 crore, of which the four holding companies have consolidated debt of ₹48,000 crore

group company.

It will be adjusted for any recovery made by the relevant creditor.

"The new board believes that the revised distribution framework provides a fair and equitable formula for distribution of sale proceeds. This caters to the interests of various classes of creditors, including secured financial creditors, given that they are being provided with protection of the average liquidation value," the IL&FS board said in the affidavit.

"The Revised Distribution Framework also protects the interests of other sets of creditors, given the role of every creditor (howsoever ranked) in ensuring an optimal resolution for the IL&FS group," the board said.

IL&FS has a total debt of ₹94,215 crore of which the four holding companies of the group — IL&FS, IL&FS Financial Services (IFIN), IL&FS Transportation Networks (ITNL), IL&FS Energy Development Company (IEDCL) — have a consolidated debt of ₹48,000 crore.

This comprises 51 per cent of the total group's debt.

Further, of the ₹94,000 crore debt, public fund creditors — entities such as pension funds, employee welfare funds, provident funds, gratuity funds and superannuation funds — have an exposure of ₹10,173 crore, or 10.79 per cent of the total debt. Scheduled commercial banks have an exposure of ₹44,075 crore.