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Study on Mitigating Risk in Real-Estate Insolvency Resolution of Project-Wise CIRP under the IBC Amendment Act 2026

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***Abstract*—The Insolvency and Bankruptcy Code (Amendment) Act, 2026 gives statutory footing to asset-level and project-specific resolution of real-estate developers, a practice that earlier grew through judicial decisions. This study examines how the project-wise Corporate Insolvency Resolution Process (CIRP) can be made safer for homebuyers, creditors, resolution applicants and insolvency professionals. Using doctrinal analysis of the amended Code, leading Supreme Court and NCLAT decisions, the CIRP Regulations and the June 2026 Discussion Paper of the Insolvency and Bankruptcy Board of India (IBBI), the paper identifies eight categories of risk and maps each to a mitigation instrument. It finds that the Amendment Act addresses mainly structural risks, namely entity-wide admission, loss of statutory approvals and post-approval claims, while operational risks such as cash-flow leakage, information gaps, cost-to-complete misestimation and premature liquidation depend on subordinate regulation and on how tribunals and professionals apply the new framework. The paper proposes a three-layer mitigation framework (statutory, regulatory and practice) and flags residual issues for further study.**

***Index Terms*—Committee of creditors, Homebuyers, IBC Amendment Act 2026, Project-wise CIRP, Real-estate insolvency, RERA, Ring-fencing, Risk mitigation.**

I. INTRODUCTION

Real-estate developers rarely run a single undertaking. A typical developer carries several projects, each with its own land parcel, regulatory approvals, financing and set of allottees. The Insolvency and Bankruptcy Code, 2016 (the Code) was, however, built on the premise that a corporate debtor is one economic entity. A default in one project could therefore pull every project of the developer into a single Corporate Insolvency Resolution Process (CIRP), which often put otherwise viable projects, their cash flows and their homebuyers at risk [4].

Courts responded by developing project-oriented doctrines (Section II), and Parliament has now stepped in. The Insolvency and Bankruptcy Code (Amendment) Act, 2026 (the Amendment Act) received Presidential assent on 6 April 2026 [1], and most of its provisions were brought into force in May 2026 through Notification S.O. 2625(E) [2]. In June 2026 the Insolvency and Bankruptcy Board of India (IBBI) followed with a Discussion Paper proposing detailed changes to the CIRP Regulations for real-estate cases [3], [4].

Codification does not remove risk; it changes where the risk sits. A project-wise process raises new questions: how funds are kept apart, who bears the cost of completion, how approvals survive the process, and how homebuyers are protected when old claims are extinguished. This paper studies those risks and asks how the 2026 framework mitigates them. Its contribution is a risk-to-instrument map (Table I) and a three-layer mitigation framework for stakeholders.

II. JUDICIAL AND REGULATORY BACKGROUND

A. Homebuyers within the Code

In *Chitra Sharma v. Union of India*, the Supreme Court directed that the CIRP be revived and the committee of creditors (CoC) reconstituted to include homebuyers [5]. *Pioneer Urban Land and Infrastructure Ltd. v. Union of India* upheld the 2018 amendment that treats allottees as financial creditors under Section 5(8)(f) [6]. These decisions secured a voice for homebuyers but left the entity-wide structure of CIRP unchanged [4].

B. From entity-wide to project-wise resolution

Bikram Chatterji v. Union of India (the Amrapali case) established that allottees' right to possession prevailed over the claims of secured banks and development authorities, and the Court ordered project-specific escrow arrangements and completion by an independent agency [7]. In *Flat Buyers Association v. Umang Realtech*, the NCLAT held that CIRP against a real-estate company is limited to the project that caused the insolvency and introduced Reverse CIRP, in which the promoter infuses funds as an external lender under the supervision of the resolution professional (RP) [8]. In *Indiabulls Asset Reconstruction Co. Ltd. v. Ram Kishore Arora* (the Supertech case), the Supreme Court left undisturbed a CoC confined to one stressed project, noting that a company-wide CoC could cause irreparable harm to homebuyers in viable projects, while keeping open the wider question of the viability of project-specific CIRP [9].

C. Regulatory groundwork

Two 2024 amendments to the CIRP Regulations prepared the ground. Regulation 4D requires a separate bank account for each real-estate project, and Regulation 36A(1) allows the RP, with CoC approval, to invite separate resolution plans for individual or grouped projects [4], [10].

III. RESEARCH OBJECTIVES AND METHODOLOGY

The study has three objectives:

1) to identify the principal risks in a project-wise CIRP of a real-estate developer;
2) to assess how the Amendment Act and the existing regulations mitigate those risks; and

3) to identify residual risks and suggest a practical mitigation framework.

The study is doctrinal and qualitative. The primary sources are the Amendment Act [1], the notification bringing it into force [2], the CIRP Regulations [10] and the IBBI Discussion Paper [3]. Judicial decisions [5]–[9], [11], [12] form the case-law base, and a practitioner analysis [4] was used alongside the statutory text. No primary data were collected. Two limits apply: the IBBI proposals are proposals and not final regulations, and the Amendment Act is recent, so there is little tribunal case-law applying it.

IV. THE AMENDMENT ACT: KEY PROVISIONS

A. Asset-level resolution

The amended Explanation to Section 5(26) permits the sale of one or more assets of the corporate debtor through one or more resolution plans proposed by different resolution applicants, subject to specified conditions [1], [4]. For a developer with several projects, this allows viable projects to be resolved separately from unviable ones.

B. Duty to cooperate

Section 19(1) now extends the duty to assist the RP to persons engaged under a contract for service [1]. In real-estate cases this reaches architects, engineering consultants, contractors and project managers, on whom project completion depends [4].

C. Continuity of approvals

New Section 31(5) provides that a licence, permit, registration, clearance or similar right granted by a government, local authority or sectoral regulator, and linked to an approved resolution plan, is not to be suspended or terminated for the balance of its term, provided the applicant complies with its conditions [4]. This matters for RERA registration, building-plan approval, fire clearance and utility connections.

D. Clean-slate rule

New Section 31(6) extinguishes pre-approval claims against the corporate debtor and its assets once a plan is approved, unless the plan provides otherwise, and stops proceedings on those claims [1]. It codifies the principle in *Ghanashyam Mishra & Sons (P) Ltd. v. Edelweiss ARC Ltd.* [11]. An Explanation preserves claims against promoters, guarantors and persons jointly liable with the corporate debtor [4].

E. Creditor-initiated process and group insolvency

Chapter IV-A introduces a Creditor-Initiated Insolvency Resolution Process (CIIRP) in which the existing board stays in control during the process (Section 58F), and which a financial creditor of a notified class may start with the approval of at least 51% by value of that class [4]. It resembles Reverse CIRP, which had so far rested on judicial practice [4]. Chapter VA provides a voluntary group insolvency framework that coordinates procedure without pooling assets or liabilities, so that the separateness of project companies under RERA is kept [4].

F. Process discipline

Section 7(5) requires the tribunal to decide on admission within 14 days. Section 12A now allows withdrawal only with 90% CoC approval, after the CoC is constituted and before the first invitation for a resolution plan, consistent with the Supreme Court's insistence on the statutory withdrawal route [1], [12]. Section 33(1A) lets the CoC, by a 66% vote, seek restoration of a lapsed or rejected CIRP once, to be completed within 120 days, failing which liquidation follows [1]. Section 30(2)(ba) caps the payout to dissenting financial creditors, and a proviso to Section 31(1) lets the tribunal approve implementation of a plan first and the manner of distribution within 30 days afterwards [1], [4].

V. RISK IDENTIFICATION IN PROJECT-WISE CIRP

The risks fall into six groups: structural (what enters the process), financial (how money moves between projects), informational (what bidders and creditors can see), regulatory (whether approvals survive), procedural (delay, withdrawal and liquidation) and stakeholder (whether homebuyers can take part effectively). Table I maps eight specific risks to the instrument that addresses each.

TABLE I
RISK MAP FOR PROJECT-WISE CIRP AND MITIGATION INSTRUMENTS

Risk	Where it arises	Mitigation instrument
1. Entity-wide admission harms viable projects	Corporate-debtor-as-a-whole approach [4], [9]	Asset-level plans, s. 5(26) [1]; proposed Reg. 18B exclusion [3]
2. Cash-flow leakage across projects	Mixed receipts and expenses; weak project accounting [3]	Reg. 4D accounts [10]; proposed Reg. 4DA project-wise books [3]
3. Information gaps and unrealistic plans	Inconsistent disclosures; no cost-to-complete estimate [3]	Proposed Regs. 4F, 36(2)(hb), 36(2)(jb), 38A [3]
4. Loss of statutory approvals	RERA, building-plan, fire and utility approvals [4]	s. 31(5): approvals continue if conditions are met [1]
5. Post-approval claims and enforcement	Hydra-headed claims against the resolved asset [4], [11]	s. 31(6) clean-slate rule [1]
6. Premature liquidation	Lapsed or rejected CIRP [1]	s. 33(1A) restoration; proposed Reg. 39D [1], [3]
7. Delay and misuse of withdrawal	Slow admission; settlements outside the CoC [4], [12]	s. 7(5) 14-day rule; s. 12A 90% vote [1]
8. Weak homebuyer voice and awareness	Large allottee class; scattered stakeholders [3]	Proposed Regs. 16B, 24(6A), Form CA-R, site signboards [3]

Table I shows that the Amendment Act mostly addresses risks 1, 4, 5, 6 and 7 directly. Risks 2, 3 and 8 depend largely on regulations that the IBBI has so far only proposed [3].

VI. A RISK-MITIGATION FRAMEWORK

A. Statutory layer

The Amendment Act supplies the foundation: asset-level plans, continuity of approvals, the clean-slate rule, a wider duty to cooperate, strict admission and withdrawal timelines, and restoration of a failed CIRP before liquidation [1], [4]. These provisions reduce legal uncertainty for resolution applicants, which in turn improves the prospects of a completion-oriented plan.

B. Regulatory layer

The IBBI Discussion Paper proposes the following changes to the CIRP Regulations [3]:

1) **Project identification and exclusion (Reg. 18B).** At its first meeting the CoC reviews every project (RERA registration, stage of completion, occupancy) and may, by a 66% vote, have the RP seek exclusion of projects that need no resolution.
2) **Ring-fencing (Reg. 4DA).** Separate project-wise books, all receipts and payments through project accounts, periodic disclosures to the CoC, and compliance with RERA fund-utilisation rules.
3) **Cost-to-complete (Reg. 4F).** The RP appoints professionals for an independent technical and cost-to-complete assessment of each project.
4) **Disclosure and plan content (Regs. 36(2)(hb), 36(2)(jb), 38A).** Uniform project-wise disclosures, allottee preferences (possession, refund, registration) and mandatory plan contents with timelines.
5) **Monitoring and liquidation safeguards (Regs. 38(4)(b), 39D).** Allottee and RERA or development-authority representation on the monitoring committee, and a recorded note on why completion options failed before any liquidation proposal.

C. Practice layer

The Discussion Paper also proposes measures that depend on conduct rather than text: RPs to obtain project records from RERA and keep RERA compliance during CIRP, authorised representatives to file minutes of their meetings with allottees, a simplified claim form for allottees (Form CA-R), and signboards at project sites and offices announcing the CIRP and the RP's contact details [3]. These steps target information gaps and weak homebuyer participation (risks 3 and 8).

D. Suggested actions by stakeholder

Drawing on the above, the author suggests the following priorities. RPs should maintain project-wise accounts from the first day and commission cost-to-complete assessments early. CoCs should record a project-by-project decision on inclusion or exclusion. Resolution applicants should build plans around project-level timelines and treatment of every allottee category. Authorised representatives should document consultations with allottees. Regulators should align RERA data-sharing with the CIRP timeline.

VII. DISCUSSION AND RESIDUAL RISKS

Several issues remain open. First, the clean-slate rule gives certainty to applicants, but legislatures and tribunals will have to ensure it does not wipe out legitimate homebuyer claims arising from fraud, particularly where investigating authorities have crystallised them [4]. Second, strict ring-fencing may conflict with the cross-project funding seen in the Supertech case, where promoter infusions across projects were treated as interim finance and tracked by the RP [9]; how far cross-funding can be allowed without weakening ring-fencing has not been settled. Third, the CIIRP can be started only by a notified class of financial creditors [4], so its fit with homebuyer-heavy developers depends on the notification and on practice. Fourth, a project excluded from CIRP under the proposed Reg. 18B leaves its allottees dependent on RERA and ordinary remedies, which makes the RERA coordination measures important [3]. Finally, as the practitioner literature notes, the reforms will succeed only if tribunals, RPs and CoCs implement them well [4]. Since the IBBI proposals are not yet final regulations and tribunal case-law on the Amendment Act is limited, these conclusions are provisional.

VIII. CONCLUSION

The Amendment Act moves real-estate insolvency from an entity-wide to a project-sensitive model and removes several structural risks: forced inclusion of viable projects, loss of approvals and post-approval claims. The remaining risks are mainly operational, concerning cash-flow control, information quality, cost-to-complete estimation and homebuyer participation, and are addressed by the IBBI's proposed regulations and by practice. A layered approach combining the statute, the regulations and disciplined practice offers the most realistic route to mitigating risk in project-wise CIRP. Future work could test the framework on decided project-wise cases once tribunal decisions under the Amendment Act accumulate.

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