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IL&FS Moves NCLAT to Update CoC Vote Shares

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Mumbai: IL&FS has told the National Company Law Appellate Tribunal (NCLAT) that it will change voting shares in committees of creditors (CoCs) to show the current outstanding of lenders, after interim distributions and auto-debits of nearly ₹18,000 crore. This should reduce the voting shares of specific lenders as they would have received payments in the interim since IL&FS was taken into administration seven years ago.

The infrastructure financier said the creditor vote share in CoCs for voting would show their current outstanding after payouts completed either by way of interim distribution or auto debit by banks rather than their original exposure as of the October 2018 cut-off date.

IL&FS clarified that in some cases, 100% of a creditor's admitted debt as of the cut-off date has been discharged. Several major IL&FS assets, including BKEL, ITPCL, and select road projects, will see changes in CoC composition.

IL&FS was referred for resolution process in Oct 2018 with around ₹1 L-cr of debt across over 300 entities

In the BKEL road project, for instance, the earlier CoC comprised certain banks holding's majority vote, which has now shifted to different banks after payouts. The composition will further change if additional distributions are made before formal voting.

"Such re-adjustment of the composition of CoC pursuant interim distribution is necessary to protect public interest," ILFS said in its filing before the NCLAT. "Permitting creditors whose financial interest have substantially diminished pursuant to interim payouts to control decision of CoC, especially with regards to HI bids, by relying on outdated cut-off date claims could potentially result in skewed outcomes that would cater to expediency over possible rule based on value maximisation, thereby severely undermining the later."

IL&FS was referred for an in-court resolution process in October 2018 for resolution of around ₹1 lakh crore debt across over 300 entities.