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A crisis with benefits

With former financial services secretary M Nagaraju taking charge at IL&FS, its resolution enters a new phase, with recoveries set to exceed commitments

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Eight years ago, the spectacular unspooling of Infrastructure Leasing & Financial Services Ltd (IL&FS) seemed like a Lehman Brothers-like moment in India's financial landscape. The collapse turned off the liquidity spigot for numerous non-banking financial companies (NBFCs), even as the contagion threatened to engulf the wider financial market.

Last month, the infrastructure development and finance group quietly appointed former department of financial services secretary M Nagaraju as chairman and managing director (CMD) for a term of two years. However, the road ahead could be a rough one for Nagaraju. He has to decide what to do with 62 entities from the IL&FS stable, the choice being to either close them down or seek approvals for their sale.

So far, the ILF&S rescue has been one of the smoothest bankruptcy processes India has seen, which has led officials to believe that the eventual redemptions to lenders could exceed the commitments stated in successive court depositions.

New phase

"We expect to pay back at least 10 per cent more than the ₹61,000 crore we have committed so far," said a senior executive who declined to be named. That amount accounts for 61.38 per cent of the total debt owed. The sum cleared so far includes ₹6,145 crore for the marquee Chenani Nashri Tunnel project in Jammu and Kashmir, renamed the Dr Syama Prasad Mookerjee Tunnel.

"I want to ensure that the full value inherent in them (the assets) is recognised before decisions are taken," Nagaraju told *Business Standard*.

"Speed matters, but value matters more. Every option will be evaluated objectively, within the framework laid down by the NCLAT (National Company Law Appellate Tribunal) and in close consultation with the government, creditors and other stakeholders, with a single aim: The best possible outcome for all stakeholders and for the public interest."

Something good

That's a far cry from October 4, 2018, when the new board appointed by the Ministry of Corporate Affairs held a press conference to outline its plans for the company, which had just reported India's biggest corporate default.

Since then, the IL&FS resolution process has led to several key changes in the legal environment for the corporate sector, with the passage of new laws, creation of new regulatory bodies and, most importantly, the confidence to test the bankruptcy waters.

A key element of the company's recovery has been the higher realisation from distressed assets. In FY22, the value realised was just ₹20,968 crore, through quick monetisation routes like transfer to InvITs and non-fund-based releases, such as cancellation of bank guarantees or letters of credits.

The first round of sales was in the nature of distress sales. But now these assets will be monetised as going concerns.

Until July 2026, the debtor has repaid ₹16,013 crore from units that have been operating well. As per court records up to July 2026, successive boards have paid back ₹50,387 crore out of the total liability of ₹99,377 crore.

The picture was significantly gloomier in October 2018. A progress report by a new seven-member board was grim about the prospects. "IL&FS Group is not inconsequential, but critical to the financial stability (of India), as its share in the total exposure of the banks to the NBFC sector is about 16 per cent," it said, warning that: "The cascading impact of the default by the IL&FS Group on the financial sector would be... if not addressed in an orderly manner, catastrophic for the financial stability".

New institutions

One of the first challenges faced by the new board, headed by veteran banker Uday Kotak as the chairman, was that there was no provision in the new Indian Bankruptcy Code (IBC) for a group resolution process. The law itself had been passed just two years earlier in 2016. High-profile cases, nudged by the Reserve Bank of India (RBI), had begun to spring up, but group insolvency had not yet been envisaged.

IL&FS, thus, presented a first-of-its-kind crisis of a group going bust. As per court records, there were 302 companies with the IL&FS flag, of which 169 were domestic and the rest offshore. "The operations of the group were conducted through a complex maze of various direct and indirect holding companies, subsidiaries, associate companies as well as unincorporated entities, further complicated by a multi-layered structure," court papers note as part of depositions. At the time, there were no modalities to handle such a case.

The newly set up Insolvency and Bankruptcy Board of India (IBBI) raced to form an 11-member committee, chaired by former Securities and Exchange Board of India (Sebi) chief U K Sinha, to define the framework for dealing with group insolvencies. It was only after the Sinha committee gave its report in September 2019 that the IL&FS case could be taken up.

The recommendations covered all the IL&FS contingencies. It said, for instance, that the definition of a corporate group should include holding, subsidiary, and associate companies. The adjudicating authority — the courts — could include other groups not covered by the definition. Critically, the Sinha committee asked for the development of a procedural coordination mechanism in the first phase.

The first set of applications by the new board of IL&FS came to the National Company Law Tribunal (NCLT) in 2020. Over the past six years, there have been 12 such applications, with the latest one filed as recently as July 2026.

The IL&FS crisis also led to the creation of the long-delayed National Financial Regulatory Authority (NFRA). The regulatory body to police corporate auditors was envisaged in the Companies Act of 2013 but the provision had been languishing. The Ministry of Corporate Affairs issued an order to set up the NFRA in October, 2018, as it moved the NCLT to terminate the board of IL&FS and set up a new seven-member board.

Sparking debate

Other changes were equally consequential. The collapse set off a debate on whether companies hid their financial woes because of the spectre of criminal charges. IL&FS, for instance, had been internally debating the risks of over-leverage much before its first default by IL&FS Financial Services (IFIN) on its commercial paper repayments and inter-corporate deposits that spooked the markets, leading to short-term lenders pulling back.

The government subsequently conceded that the threat of criminal action for corporate crimes had become counter-productive. The amendment to the Companies Act in 2020 was salutary as it removed the threat of imprisonment for offences.

It also reduced the fine payable for petty offences like the failure to file annual returns with the Registrar of Companies from ₹5 lakh to ₹2 lakh.

'Not the only lens'

"For more than three decades, IL&FS was one of the institutions that built modern Indian infrastructure, pioneering public-private partnerships and project development at a time when few others would take on that risk," said Nagaraju.

"The crisis of 2018 should not be the only lens through which that legacy is viewed, nor should it alone decide how the remaining value in the Group is realised. A great deal has been achieved in the resolution so far, and I intend to build on it."

The wider definition of bankruptcy, mixture of smart regulations through bodies like the NFRA, and a recognition that corporate misdemeanours need not immediately translate to jail-time are some of the key benefits to have emerged from the IL&FS crisis. The IL&FS saga shows that a mix of administrative support and business leadership can help resolve the most intractable of boardroom crises.

(Disclosure: Entities controlled by the Kotak family have a significant holding in *Business Standard* Pvt Ltd)