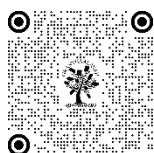


# EFFECTS OF INDIVIDUAL INSOLVENCY AND PPIRP (PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS) ON THE INDIAN BUSINESS ENVIRONMENT

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## ABSTRACT

The introduction of the Insolvency and Bankruptcy Code (IBC), 2016 marked a paradigm shift in India's insolvency framework. While corporate insolvency has received significant attention, the frameworks for individual insolvency and the Pre-Packaged Insolvency Resolution Process (PPIRP) are emerging mechanisms aimed at easing debt resolution. This paper explores the implications of individual insolvency and PPIRP on India's business environment, with a focus on micro, small, and medium enterprises (MSMEs), financial institutions, and entrepreneurial risk-taking. The paper analyses policy developments, legal challenges, and stakeholder impact while offering suggestions for more effective implementation.

## 1. INTRODUCTION

India's economic liberalization, which gained momentum in the early 1990s, has played a pivotal role in fostering an environment conducive to entrepreneurship, innovation, and private enterprise. With an increase in market opportunities and reduced regulatory barriers, the country witnessed a surge in the formation of micro, small, and medium enterprises (MSMEs) as well as a rise in individual entrepreneurship. However, this rapid growth has also exposed businesses and individuals to heightened financial risks and uncertainties, especially in the face of economic downturns, market volatility, and unforeseen disruptions such as the COVID-19 pandemic.

To address the challenges of financial distress, the Government of India introduced the Insolvency and Bankruptcy Code (IBC), 2016, as a comprehensive framework for resolving insolvency and bankruptcy issues in a time-bound and efficient manner. The Code sought to consolidate various fragmented laws and provide a uniform mechanism to deal with insolvency for both corporate entities and individuals. While the Corporate Insolvency Resolution Process (CIRP) under the IBC has gained significant traction, resulting in improved recovery rates and accountability among debt-laden companies, the provisions related to individual insolvency remain underutilized and less understood.

Simultaneously, to offer a more flexible and debtor-in-control resolution framework for stressed MSMEs, the Pre-Packaged Insolvency Resolution Process (PPIRP) was introduced in 2021. This innovative mechanism was designed to balance speed, stakeholder consensus, and cost-efficiency in resolving distress, particularly in the MSME sector. Despite its potential, PPIRP is still evolving and faces teething issues in terms of adoption, awareness, and implementation.

This research paper aims to delve into the emerging landscape of individual insolvency and PPIRP in India, examining their legal underpinnings, operational challenges, and their overall impact on the Indian business environment. It explores how these mechanisms influence entrepreneurial confidence, creditor-debtor dynamics, and the ease of doing business, particularly for MSMEs and individual guarantors, while highlighting areas for policy improvement and structural reform.

## 2. INDIVIDUAL INSOLVENCY UNDER THE IBC

### Legal Framework

Part III of the Insolvency and Bankruptcy Code (IBC), 2016 provides a structured framework for resolving insolvency and bankruptcy for individuals and partnership firms. This part of the Code seeks to address the financial distress of individuals, sole proprietors, and unincorporated entities, which are especially common in the Indian business ecosystem, particularly among MSMEs. Recognizing that these entities often operate in informal sectors and lack the institutional structure of corporates, the IBC offers simplified and debtor-friendly mechanisms for resolving debt. Here it is pertinent to note that provisions only related to Personal Guarantor to Corporate Debtor has been notified.

The key processes under Part III include:

- **Fresh Start Process:**

Designed specifically for economically vulnerable individuals, this mechanism allows for a complete waiver of debts under certain eligibility conditions. It is intended to offer relief to low-income debtors who have minimal assets and income, thus providing them with a "fresh start" without being burdened by unserviceable debts. To qualify, the debtor must meet strict thresholds related to income, assets, and debt levels, making it a highly targeted social safety net.

- **Insolvency Resolution Process:**

This process enables individuals or their creditors to propose a repayment plan that is evaluated and approved by an adjudicating authority (typically the National Company Law Tribunal and Debt Recovery Tribunal). Once approved, the repayment plan becomes binding on all parties. The objective is to restructure debt in a manner that ~~is~~ gives a chance to debtor to settle before going to Bankruptcy.

- **Bankruptcy Process:**

When resolution fails or is deemed unviable, the bankruptcy process can be initiated, either voluntarily by the debtor or by a creditor. This leads to the appointment of a bankruptcy trustee who takes over the estate of the bankrupt individual, liquidates the assets, and distributes the proceeds among creditors in accordance with the prescribed priority. Upon completion, the debtor is discharged from remaining debts, allowing for financial rehabilitation.

Although these provisions provide a holistic approach to managing individual insolvency, their practical implementation has been slow due to several bottlenecks including infrastructural gaps, lack of awareness, and delays of adjudication at National Company Law Tribunal or at National Company Appellant Law Tribunal or at Hon'ble Supreme Court. Moreover, the jurisdiction of Debt Recovery Tribunals (DRTs) and National Company Law Tribunal (NCLTs) and their limited capacity to handle a large number of individual cases remain significant concerns.

Despite these challenges, the inclusion of individual insolvency in the IBC framework reflects a forward-thinking approach by policymakers. It aims not just at creditor recovery but also at giving honest but unfortunate debtors a second chance—an essential feature of modern insolvency regimes around the world.

### Key Provisions

- Applicable to individuals and proprietorship firms with debts up to a specified threshold but at present are notified to Personal Guarantor to Corporate Debtor.
- Can be initiated by the debtor or the creditor.
- Allows for debt restructuring, moratoriums, and eventual discharge of debt.

### Impact on Business Environment

- **Entrepreneurial Risk-Taking:** Offers a safety net to individual entrepreneurs, encouraging innovation and enterprise.
- **Reduction in Informal Lending:** Formal resolution discourages reliance on unregulated credit markets which is typically of high cost.
- **Reputation and Creditworthiness:** Stigma and reporting of insolvency impact future borrowing ability.

## 3. PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS (PPIRP)

### 3.1. ORIGIN AND RATIONALE

The Pre-Packaged Insolvency Resolution Process (PPIRP) was introduced in India through the **Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021**, which was later codified into law. The primary motivation behind this innovation was to provide a swift, cost-effective, and stakeholder-driven resolution mechanism specifically designed for **micro, small, and medium enterprises (MSMEs)** — a sector that forms the backbone of the Indian economy and was severely impacted by the COVID-19 pandemic.

Traditional insolvency proceedings under the Corporate Insolvency Resolution Process (CIRP) were found to be **Creditor oriented** time-consuming, expensive, and sometimes detrimental to business continuity, especially for smaller enterprises with limited resources. The need was felt for a framework that could ensure **minimum business disruption**, retain **debtor control**, and facilitate a **faster turnaround** with consensus-driven solutions.

PPIRP was inspired by global best practices, particularly from jurisdictions like the UK and the US, where pre-packaged arrangements are commonly used to speed up insolvency resolution while maintaining business viability. By allowing a resolution plan to be negotiated and finalized before formal insolvency proceedings begin, PPIRP aims to combine the efficiency of private restructuring with the safeguards of a judicial process.

### 3.2. KEY FEATURES

PPIRP introduces several unique features that distinguish it from traditional insolvency proceedings:

- **Debtor-Initiated Process:**

Unlike CIRP, which can be triggered by either creditors or the debtor or by the Corporate Debtor himself, PPIRP is strictly a **debtor-initiated process**. The debtor must obtain prior approval from **at least 66% of unrelated financial creditors (by value)** before filing for PPIRP. This pre-approval ensures that there is already a broad consensus around the resolution approach, reducing the likelihood of disputes during the formal process.

- **Pre-Negotiated Resolution Plan:**

One of the defining characteristics of PPIRP is that the resolution plan is **negotiated in advance** with creditors. The process formally begins only after a resolution plan has been substantially discussed and is likely to be approved, thereby cutting down on delays and uncertainty associated with open bidding. It is known as Base Resolution Plan.

- **Time-Bound Process:**

PPIRP is designed to be completed within **120 days** from the commencement date, with **90 days** allotted for the submission of a resolution plan and another **30 days** for the Adjudicating Authority (National Company Law Tribunal or NCLT) to approve or reject the plan. This strict timeline enhances predictability and ensures that value is preserved in distressed entities.

- **Debtor-in-Possession Model:**

Unlike CIRP, where the management of the company is transferred to an Insolvency Professional (Interim Resolution Professional or Resolution Professional), PPIRP allows the **existing management to retain control** of the business throughout the process. This **debtor-in-possession** model ensures minimal disruption to day-to-day operations and is more aligned with the sensitivities of small businesses.

- **Applicable to MSMEs Only (Initially):**

The initial rollout of PPIRP was limited to corporate debtors classified as **MSMEs** under Section 54A of the IBC. This limitation was deliberate, as MSMEs often lack the resources to endure a lengthy CIRP and are more vulnerable to liquidation due to procedural delays.

- **Safeguards and Oversight:**

Despite the debtor retaining control, PPIRP incorporates **safeguards to protect creditor interests**, including the role of a Resolution Professional to oversee the process, the right of creditors to replace the pre-pack plan with a competing plan, and provisions to scrutinize any preferential or fraudulent transactions.

### 3.3. COMPARISON WITH CIRP

Feature	CIRP	PPIRP
Initiation	Creditor or Debtor or Corporate Debtor	Only Debtor
Timeline	180-330 days	120 days
Management Control	Transferred to RP	Retained by Debtor
Cost	Higher	Lower

#### Impact on MSMEs and Indian Businesses

The introduction of the Pre-Packaged Insolvency Resolution Process (PPIRP) represents a significant step toward creating a more agile and responsive insolvency framework for MSMEs in India. While its implementation is still at an early stage, the process has both immediate and long-term implications for the financial health, governance, and resilience of small and medium enterprises.

##### 1. Efficiency in Debt Resolution

One of the most notable advantages of PPIRP is its ability to facilitate **faster and more cost-effective resolution** of financial distress. The structured 120-day timeline, combined with a pre-negotiated resolution plan, allows for a quicker turnaround compared to the traditional Corporate Insolvency Resolution Process (CIRP), which can take up to 330 days or more. This efficiency is critical for MSMEs, which often lack the financial cushion to withstand prolonged insolvency proceedings. By **preserving enterprise value** and allowing early intervention, PPIRP increases the chances of business revival rather than liquidation.

##### 2. Reduced Litigation and Legal Uncertainty

The **consensus-based nature** of PPIRP significantly reduces the scope for litigation. Since the process begins only after the approval of 66% of financial creditors, many of the contentious issues are resolved prior to the formal filing. This leads to a **less adversarial environment**, enabling smoother negotiations and improving stakeholder cooperation. Reduced legal complexity not only saves time and money but also enhances the predictability of outcomes, which is particularly beneficial for smaller firms that lack legal expertise and resources.

##### 3. Transparency and Governance Concerns

While the debtor-in-possession model helps maintain operational continuity, it also introduces **potential governance risks**, especially the **possibility of collusion between the debtor and a select group of creditors**. Since the resolution plan is formulated prior to initiation and not opened to competitive bidding (unless challenged), there is a risk that the process may be manipulated to favor promoters or related parties. To address this, the IBC includes safeguards such as the requirement for fair valuation, disclosure of related-party transactions, and the option for creditors to invite competing plans if the pre-pack proposal is unsatisfactory. However, **effective implementation and regulatory oversight** remain crucial to ensure genuine transparency.

##### 4. Promotion of Credit Discipline

By making businesses more accountable to their creditors and encouraging early resolution of stress, PPIRP can contribute to **improved financial discipline** among MSMEs. The need to secure creditor approval before initiating the process incentivizes companies to maintain better financial records, communicate proactively with lenders, and adopt

sound governance practices. Over time, this can lead to an improved credit culture in the MSME sector, thereby enhancing their **access to formal finance** and reducing reliance on informal or high-interest borrowing.

#### 5. Continuity and Employment Protection

By preserving the control of the company with the existing management and enabling faster resolution, PPIRP allows MSMEs to **continue operations with minimal disruption**, thereby safeguarding jobs and maintaining business relationships with customers and suppliers. This is particularly important in labour-intensive industries and sectors like manufacturing, textiles, and services, where MSMEs contribute significantly to employment.

#### 6. Trust Building in the Insolvency Ecosystem

If effectively implemented, PPIRP has the potential to **restore trust among stakeholders** in the insolvency framework by showing that resolution is possible without hostile takeovers or business collapse. This is vital for MSMEs, where reputation and long-term relationships are key to survival and growth.

### 4. CHALLENGES AND CRITICISMS

Despite the progressive intent behind the inclusion of individual insolvency provisions and the introduction of the Pre-Packaged Insolvency Resolution Process (PPIRP), several **practical, procedural, and structural challenges** hinder their effective implementation. These bottlenecks limit the overall impact these mechanisms can have on improving the business environment in India.

#### Challenges in Individual Insolvency

While the IBC envisages a comprehensive framework for resolving personal financial distress, the segment of individual insolvency remains **largely underutilized and underdeveloped**.

- **Low Awareness and Adoption:**

A major roadblock to the success of individual insolvency provisions is the **lack of awareness among debtors, creditors, and legal practitioners**. Most individuals and sole proprietors are either unaware of their rights under Part III of the IBC or continue to rely on informal mechanisms for debt resolution. As a result, very few applications are filed, and the intended benefits of the framework have not been fully realized.

- **Inadequate Infrastructure and Capacity:**

The **existing institutional infrastructure**, including the National Company Law Tribunal (NCLTs) and Debt Recovery Tribunals (DRTs), insolvency professionals trained in handling individual cases, and Information Utilities, is not yet equipped to handle the complexities and volume of individual insolvency cases. Unlike corporate insolvency, where law has matured with 8+ years of its implementation, the infrastructure for individual insolvency remains **fragmented and overburdened**.

- **Legal Ambiguity and Judicial Delays:**

Several provisions under Part III are yet to be tested and clarified through judicial precedents. This leads to **interpretational challenges** and uncertainty in application. Moreover, NCLTs & DRTs often suffer from **backlogs and delays**, defeating the purpose of time-bound resolution. The absence of streamlined rules and procedural clarity further hampers efficiency.

#### Challenges in PPIRP

While PPIRP was designed to provide relief to MSMEs and offer a quicker, more consensual insolvency route, it too faces significant criticisms that limit its widespread use.

- **Limited Scope (MSMEs Only):**

Currently, PPIRP is available **only to MSMEs**, as defined under Section 54A of the IBC. This restricted applicability excludes a large segment of businesses that may benefit from pre-pack mechanisms but do not meet the MSME criteria. While the pilot phase focused on MSMEs for practical reasons, the lack of **scalability to other corporate debtors** reduces its overall utility in the insolvency ecosystem.



- **Complex Procedural Requirements:**

Though intended to be a simplified process, the **pre-requisite conditions** for initiating PPIRP are perceived as **cumbersome and bureaucratic**. These include the requirement for a base resolution plan, approval from 66% of unrelated financial creditors before filing, and adherence to timelines for disclosures and filings. For small businesses lacking legal sophistication, these procedures can act as a deterrent.

- **Creditor Hesitancy and Transparency Concerns:**

One of the central criticisms of PPIRP is the **perception of inadequate transparency and possible promoter bias**. Since the plan is proposed by the debtor and negotiated in advance, creditors—particularly operational creditors or minority lenders—may fear being sidelined in the decision-making process. Moreover, concerns regarding **collusion between promoters and select financial creditors** further reduce the trust and willingness of stakeholders to participate. This has led to a **lukewarm response** from the market and limited real-world adoption so far.

### **Conclusion to Challenges Section**

In summary, while both individual insolvency and the Pre-Packaged Insolvency Resolution Process (PPIRP) represent significant innovations under the Insolvency and Bankruptcy Code (IBC), their practical impact remains constrained by systemic and procedural shortcomings. To ensure that these mechanisms fulfil their intended role in enhancing debt resolution and promoting a robust credit culture, **targeted reforms are essential**.

These reforms should focus on increasing **awareness and accessibility**, particularly among MSMEs and individual debtors, many of whom remain unaware of these legal remedies. Strengthening the **institutional infrastructure**, such as National Company Law Tribunal & Debt Recovery Tribunals and the availability of trained insolvency professionals, is also critical. Moreover, there is a need to **simplify procedural requirements**, remove unnecessary bottlenecks, and **broaden the scope** of PPIRP beyond MSMEs to include a wider range of businesses.

Unless these challenges are addressed through sustained policy efforts, both individual insolvency and PPIRP risk remaining **underutilized and ineffective**, thereby weakening the comprehensive vision of the IBC to provide timely and equitable insolvency resolution across all types of debtors in India.

### **Case Studies and Data Analysis**

To better understand the practical implications of individual insolvency and the Pre-Packaged Insolvency Resolution Process (PPIRP) under the IBC, it is essential to examine how these mechanisms have functioned in real-life scenarios. The following case studies and data overview provide a snapshot of their current impact, implementation challenges, and emerging trends.

#### **Case Study 1: PPIRP Implementation in an MSME Manufacturing Firm (Maharashtra)**

An MSME engaged in the manufacturing of automotive components in Maharashtra was severely impacted by supply chain disruptions and liquidity constraints following the COVID-19 pandemic. Facing mounting debt and declining revenues, the firm opted for the **Pre-Packaged Insolvency Resolution Process (PPIRP)** in 2022.

With prior consent from 75% of its financial creditors, the company submitted a pre-negotiated resolution plan as per Section 54A of the IBC. The process was completed in **under 100 days**, significantly faster than a traditional Corporate Insolvency Resolution Process (CIRP). The resolution plan included partial debt restructuring, fresh working capital infusion by a strategic investor, and operational continuity under the existing management.

#### **Outcomes:**

- **Preservation of business continuity** and brand equity.
- **Protection of over 200 jobs** and retention of supplier networks.
- Enhanced confidence among creditors in using structured insolvency tools for small businesses.

This case illustrates the **potential of PPIRP as a timely, efficient, and consensus-driven resolution framework** for distressed MSMEs, particularly when there is early creditor engagement.

#### **Case Study 2: Delayed Individual Insolvency Proceedings in Gujarat**

A small retail trader based in Gujarat, who had acted as a personal guarantor for a business loan, faced insolvency proceedings initiated under Part III of the IBC. However, due to a lack of procedural clarity and inadequate capacity at the Debt Recovery Tribunal (DRT), the case was **delayed for over 18 months**, resulting in:

- Frozen bank accounts and restricted credit access.
- Severe **business stagnation** and erosion of customer base.
- Emotional and financial stress due to lack of recourse.

The trader's experience highlights the **critical gaps in awareness, judicial infrastructure, and institutional readiness** that continue to plague the individual insolvency regime. Unlike corporate insolvency, where procedures are well-established, individual insolvency cases are often mired in delays and lack standardized execution pathways.

### Data Overview and Analysis

A quantitative look at insolvency resolution in India further underscores the underutilization of both PPIRP and individual insolvency frameworks:

- **PPIRP Cases:**

As of early **2024**, **fewer than 10 PPIRP applications** had been formally admitted by the National Company Law Tribunal (NCLT). This is a stark contrast to the hundreds of CIRP cases admitted annually, reflecting **limited awareness, procedural complexity, and creditor hesitation**.

- **Individual Insolvency Cases:**

According to IBBI data and stakeholder reports, **less than 1% of total insolvency cases involve individual debtors**, despite the high volume of personal guarantees linked to corporate loans. This points to a significant **implementation gap** and a missed opportunity to address personal debt distress in a structured manner.

### Key Observations

Based on the case studies and data reviewed, several key insights emerge regarding the implementation and impact of individual insolvency and PPIRP under the Insolvency and Bankruptcy Code (IBC):

- **Progressive Legislative Intent, Limited Adoption:**

The introduction of individual insolvency mechanisms and the Pre-Packaged Insolvency Resolution Process (PPIRP) reflects a **forward-looking legal and policy framework**, aimed at promoting timely, inclusive, and effective resolution of financial distress. However, in practice, the **adoption rates remain negligible**, signalling a gap between the availability of legal tools and their practical uptake by stakeholders.

- **Urgent Need for Procedural, Institutional, and Legal Strengthening:**

The underperformance of these mechanisms can be traced to **systemic inefficiencies**, including unclear procedures, delays at judicial forums (especially NCLTs & DRTs), and a shortage of trained insolvency professionals for individual cases. There is also a **lack of streamlined processes** tailored to the needs of small businesses and individual debtors, which contributes to underutilization and inconsistent outcomes.

### Policy-Implementation Disconnect:

Perhaps the most critical observation is the **disconnect between policy design and on-ground realities**. While the legal provisions are in place, their execution is hindered by practical challenges such as limited awareness among MSMEs and individual debtors, creditor scepticism about PPIRP's transparency, and insufficient capacity-building efforts. Without robust institutional support and stakeholder engagement, the transformative potential of these reforms remains largely untapped.

## 5. RECOMMENDATIONS

To unlock the full potential of individual insolvency provisions and the Pre-Packaged Insolvency Resolution Process (PPIRP) within India's insolvency framework, a series of targeted policy and institutional reforms are essential. The

following recommendations aim to address existing bottlenecks and improve stakeholder confidence, implementation efficiency, and system accessibility:

### 1. Expand PPIRP Beyond MSMEs with Appropriate Safeguards

While the initial rollout of PPIRP was rightly limited to MSMEs, its applicability should now be **gradually extended to larger businesses**, especially those in sectors with complex capital structures but viable prospects for revival. This expansion must be accompanied by **customized safeguards**, such as mandatory independent valuation, transparent creditor disclosures, and robust oversight by resolution professionals, to mitigate concerns of promoter bias and ensure fairness.

### 2. Strengthen Digital Infrastructure for Individual Insolvency

To streamline processes and improve access, the government should invest in **robust digital platforms** for filing, monitoring, and tracking individual insolvency applications. A centralized, user-friendly portal—integrated with National Company Law Tribunal (NCLTs) & Debt Recovery Tribunals (DRTs), insolvency professionals, and Information Utilities—would increase transparency, reduce delays, and enable **real-time updates** for both debtors and creditors. This is especially important for individual guarantors and small entrepreneurs unfamiliar with legal procedures.

### 3. Enhance Creditor Awareness and Trust in PPIRP

Many financial creditors remain **reluctant to engage with PPIRP** due to concerns over transparency, lack of competitive bidding, and potential promoter misuse. Targeted **capacity-building initiatives**—including training sessions, guidelines, and case-based awareness programs—can help address these concerns. The Insolvency and Bankruptcy Board of India (IBBI), in collaboration with industry associations and financial institutions, should take the lead in **educating creditors on the structured safeguards and benefits** of the pre-pack approach.

### 4. Offer Incentives for Timely and Successful Resolutions

The government could consider offering **fiscal and regulatory incentives** to promote early and successful resolution of insolvency cases. These may include:

- **Tax reliefs** for creditors on waived debt under an approved plan.
- **Legal fee waivers or filing cost subsidies** for MSMEs or individual debtors entering into a resolution process within a specific timeline.
- **Recognition mechanisms** (e.g., compliance ratings or credit score benefits) for firms and individuals who resolve debt efficiently.

Such incentives would not only encourage timely filings but also **promote a culture of proactive financial restructuring** rather than reactive crisis management.

## 6. CONCLUSION

The introduction of individual insolvency provisions and the Pre-Packaged Insolvency Resolution Process (PPIRP) represents a **significant step forward** in India's insolvency and bankruptcy framework. These mechanisms reflect a **maturing approach** to managing financial distress, particularly in a rapidly evolving business landscape. While still in their nascent stages, both individual insolvency and PPIRP offer promising avenues for **protecting entrepreneurship, preserving business value, and enhancing the credit culture**.

The **individual insolvency framework**, though underutilized, has the potential to provide relief for personal guarantors and small business owners grappling with financial distress. Similarly, PPIRP, with its streamlined process and emphasis on **consensus-driven resolution**, presents a timely and effective way to assist MSMEs in navigating insolvency challenges, especially in times of economic uncertainty.

However, these mechanisms are not without their challenges. **Low adoption rates, procedural complexities, and institutional gaps** continue to hinder their effectiveness. For these tools to realize their full potential, **effective implementation** will be crucial. This includes addressing barriers to awareness, streamlining processes, strengthening infrastructure, and fostering trust among all stakeholders—creditors, debtors, and resolution professionals alike.

As the Indian insolvency landscape evolves, **targeted reforms, awareness campaigns, and policy adaptations** will be necessary to ensure that these provisions truly support business continuity, encourage timely debt resolution, and contribute to the stability of the broader economic ecosystem. With these adjustments, India can build a **more resilient**



**business environment**, where both individuals and enterprises have the tools to recover from financial distress and continue contributing to the country's growth.

## CONFLICT OF INTERESTS

None.

## ACKNOWLEDGMENTS

None.

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