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# IBC AS A MAJOR ECONOMIC REFORMS FOR UZBEKISTAN

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## ABSTRACT

*The Insolvency and Bankruptcy Code (IBC) is considered as the major structural legal reform in the world. It is making a robust economy by reducing the amount of Non-Performing Assets and improving Ease of Doing Business (EoDB) ranking. It has attracted investors from abroad because they now seek each developing nation as a legible place for investment owing to the reasons as, smaller timeframe for resolution reduces risk of losing investment and flexible exit policy, even when company becomes insolvent the IBC gears towards maximum realisation of value of assets. It has given a new identity to the developing economy on the International platform. It seeks to create a single unified law for insolvency and bankruptcy. This research empirically studies IBC as an important tool in the growth of the developing economy and analyses the impact of re-engineering/ restructuring under IBC on the Central Asian economy. This empirical research study is exploratory in nature, focuses on the aspects of the practical implementation of the Insolvency and Bankruptcy Code in developed nations. The timelines have been drastically changed to tackle the delay in settlement of cases under the said economic reforms; however its practical impact is matter of assessment and therefore the need for present research. Four years since passing of this legislation in India, this article seeks to analyze the effectiveness of India in comparison with its counterparts. This Article has drawn a comparison of insolvency and bankruptcy legal procedures in India from other countries such as US, UK, Germany, Singapore, Australia and paves a way towards the Central Asian developing economies.*

**Key words:** Uzbekistan - Asia- Central Asia- South Asia- Non Performing assets- distressed assets- creditors -insolvency- reforms- FDI- restructuring- global- doing business.

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## 1. INTRODUCTION

### 1.1 Insolvency Framework of Uzbekistan

Despite being relatively new, the current bankruptcy law in Uzbekistan, initially adopted in early 1990s, has improved drastically over the last decades. Uzbekistani insolvency regime, which was upgraded significantly throughout the several redrafts of the law, is still undergoing some changes that are being introduced as a part of its ambitious market-oriented economic reforms.

The main document regulating insolvency regime in Uzbekistan is the Law "*On Bankruptcy*" adopted in May 5, 1994 (the "Bankruptcy Law") (as amended on 03-12-2019). Adoption of the Bankruptcy Law was aimed at setting up a system of insolvency proceedings for legal entities as well as for individual entrepreneurs. Being a former-Soviet country Uzbekistan at that time had close to none historical background of bankruptcy regulations whatsoever. Unsurprisingly this first version of the Bankruptcy Law had failed to work successfully in practice as it did not cover many vital issues that kept arising thought attempts of implementing the bankruptcy proceedings. There were actually only two cases brought to court during the four-year period of existence of this version.

The evident underdevelopment of the first version of the Bankruptcy Law led to adoption of the second one on August 28, 1998. Compared to the previous one, the updated version expanded the scope of creditors' rights and also attempted to fill in the procedural gaps of the previous insolvency regime. This resulted in apparent progress of Uzbek bankruptcy law: 439 bankruptcy cases were adjudicated in 1998 alone. The law was amended on 03<sup>rd</sup> December 2019. It was amended to increase the rights of Debtors and Creditors. According to the Amendment, a settlement is not considered a bankruptcy proceeding. The debtor and creditors are entitled to conclude a settlement agreement at any stage of consideration of the bankruptcy case by the economic court.

## 2. SALIENT FEATURES OF BANKRUPTCY LAW

Table 1

Basis of Comparison	India	Uzbekistan
Laws governing Insolvency	Insolvency and Bankruptcy Code, 2016 (IBC)	Law Of The Republic Of Uzbekistan On Bankruptcy
Cross Border Insolvency	Sections 234 and 235 of IBC contain details of cross border insolvency in India. It gives power to the that the Central Government can make any agreements with the foreign country to start with the insolvency proceedings	Recognizes international and foreign agreements
Adjudicating Authority	National Company Law Tribunal (NCLT) is the Adjudicating Authority. The Appellate Authority is National Company Law Appellate Tribunal (NCLAT).	The hearing and the appeals for such insolvency cases happen in the economic courts especially assigned for this purpose
Types	There is Corporate Insolvency, Voluntary Liquidation and Liquidation which includes schemes of arrangement.	There is supervision, sanation, external management, amicable agreement and liquidation procedure.

Moratorium	Moratorium is imposed on all the proceedings other than insolvency and all the other agreements of the company as soon as Insolvency Application is admitted by the court. It continues either till a resolution plan is implemented or till the company is liquidated.	It is suspension of fulfillment of pecuniary obligations by the debtor and settlement of compulsory payments.
Who can trigger	Under IBC, the debtor themselves, the creditors (financial or operational) can trigger insolvency	A debtor, a creditor, a prosecutor, a tax agency or other state authority. The debtor and the creditor have the right to initiate the procedure for restoring the solvency of debtor or liquidation proceedings.
Control	The control of the assets and management of the Corporate Debtor rests with the Insolvency Professional/Liquidator appointed by the Court, once proceedings start.	The control of the assets and management stays with the Debtor even after insolvency is initiated against them.
Role of Insolvency Professional	Under IBC, the Insolvency Professional is known as a officer of the court and plays the role of taking over the Corporate Debtor, keeping it as a going concern, managing claims, holding creditor meetings, preparing the Information Memorandum etc. On company undergoing liquidation, the IP has to hand over the company to the Liquidator.	The economic court appoints an external manager or an authorized agent to take over the external management of the debtor or liquidation proceedings respectively.
Decision Making	Points for decision taking are put to vote in the committee of creditors. The insolvency professional cannot take decisions on his own.	Points for decision taking are put to vote in the committee of creditors. The external manager or the authorized representative cannot take decisions on his own.
Fees	The fees of Insolvency Professional is decided and ratified by the committee of creditors and forms part of the CIRP cost.	The fees of external manager and authorized representative also is decided in the creditor committee and is paid out of debtor's property
Priority of creditors	Section 53 of IBC lays down the priority of payment in cases of liquidation: (a) The insolvency resolution process costs and the liquidation costs paid in full; (b) the following debts which shall rank equally between and among the following :— (i) workmen's dues for the period of twenty-four months preceding the liquidation commencement date; and (ii) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52;	Article 83 of the Law on Bankruptcy talks of the sequence of satisfaction of the creditors demands secured by pledge: • Out of turn payments: legal costs, the remuneration of the court manager, current utility and maintenance payments, expenses for insurance of the debtor's property, payments related to debtor's obligations that arose after introduction of bankruptcy procedure, payments to the individuals to whom the debtor bears responsibility for causing harm to life or health;

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	<p>(c) wages and any unpaid dues owed to employees other than workmen for the period of twelve months preceding the liquidation commencement date;</p> <p>(d) financial debts owed to unsecured creditors;</p> <p>(e) the following dues shall rank equally between and among the following:—</p> <p>(i) any amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the liquidation commencement date;</p> <p>(ii) debts owed to a secured creditor for any amount unpaid following the enforcement of security interest;</p> <p>(f) any remaining debts and dues;</p> <p>(g) preference shareholders, if any; and</p> <p>(h) equity shareholders or partners, as the case may be</p>	<ul style="list-style-type: none"> <li>• claims (certified by payment (executive) documents) on the issuance of wages, recovery of alimony and payment of remuneration under copyright agreements;</li> <li>• claims regarding mandatory obligations, compulsory insurance, bank loans and bank credit insurance, as well as claims of creditors secured by collateral in part of the debt which was not covered due to insufficient amount received from the sale of pledged property (subject of pledge) and claims not secured by collateral;</li> <li>• claims of shareholders on the accrued dividends;</li> <li>• other claims</li> </ul> <p>The payments under one category of claims can only be made once all payments of previous category were satisfied.</p>
Provisions for avoidance transactions	Yes	Article 132 of Law on Bankruptcy talks of unlawful actions that lead to Bankruptcy and this includes avoidance transactions as well.
Approval for Reorganization Plan	Creditor Approval needed	Creditor Approval needed
Regulations for Group Insolvency of Companies	No specific provisions	No Specific provisions
Time limit	180 days for the process, not exceeding 330 days	The term for bankruptcy proceedings is 1 month. (Until 2019, this period was 2 months). Through 2019 Amendment, judicial rehabilitation is introduced for a period not exceeding 24 months.
Dealing with COVID-19	Increasing the threshold for triggering insolvency as well as prohibiting legal proceedings for non-payment during this pandemic.	On April 3, 2020, Uzbekistan released PD-5978 on additional measures to support the population, economic sectors, and business entities during the coronavirus pandemic. The decree provides for measures to ensure the stable functioning of economic sectors, as well as providing support to individual economic entities. For example, for a number of goods the customs duty and excise tax rates were removed until 31 December 2020;

		<p>additional tax optimization for certain taxpayers; a moratorium on initiating bankruptcy procedures and declaring enterprises bankrupt has been introduced until 1 October 2020; accrual and collection of rental payments for the use of state property has been suspended, etc.</p>
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- As per Article 3 of the Bankruptcy Law, the terms "bankruptcy" and "insolvency" are used interchangeably and are defined as debtor's incapacity to satisfy its monetary obligations or mandatory payment obligations.
- A company can restructure its debts in an effort to restore solvency. This is regulated by Uzbek insolvency laws, but takes place outside the bankruptcy proceedings. The restructuring of debts can be carried out with the assistance of the debtor's shareholders, either with the shareholders' financial aid, provision of a loan or a guarantee. A restructuring can be carried out by agreement between creditors or other parties and the debtor. The restructuring does not affect the right of the creditors to enforce their loans and security.
- The amended law on bankruptcy includes classification of creditors, strengthened the requirements for court receivers and curtailed the periods of each bankruptcy proceeding. Nevertheless, there was a lot left to be desired in terms of procedural matters, application of the bankruptcy test and intricacies regarding certain categories of debtors. Moreover, certain loopholes such as the recognition in Uzbekistan of foreign court decisions in bankruptcy proceedings have not been addressed completely. The law does not impose a strict timeline for the completion of insolvency proceedings

### 3. ECONOMIC SCENARIO IN INDIA

Businesses need efficient and speedy procedures for exit as much as for start-up. World over, insolvency procedures help entrepreneurs either to close down unviable businesses and start up new ones or rethink of restructuring/re-engineering of the existing business model by re-engineering of operational structure or restructuring of financial structure of the organisation. This ensures that the human and economic resources of a country are continuously transforming to efficient use thereby increasing the overall productivity of the economy. <sup>(1)</sup>

An effective insolvency system is an important element of financial system stability. It is, therefore, essential to provide for a sound framework for restructuring and rehabilitation of companies along with a framework for winding up and liquidation. The framework should seek to preserve estate and maximize the value of assets; recognize inter se rights of creditors and provide equal treatment of similar creditors while dealing with small creditors equitably. It should enable a timely and efficient resolution of re-engineering & re-structuring and establish a framework for cross border insolvency. The Insolvency law should strike a balance between rehabilitation and liquidation. It should provide an opportunity for genuine efforts to explore restructuring/ rehabilitation of potentially viable businesses with consensus of stake holders reasonably arrived at. Where revival / rehabilitation is demonstrated as not being feasible, winding up should be resorted to. The gap in the insolvency framework has been plugged to an extent by way of the Insolvency and Bankruptcy Code (IBC) and its subsequent amendments.

IBC is the second most crucial reform in the legal and economic development of India after the introduction of a uniform taxation system called Goods and Service Tax (GST). It is because IBC is not only making India emphatically powerful in the field of the legal and management environment but also provides a new identification and recognition at the global platform

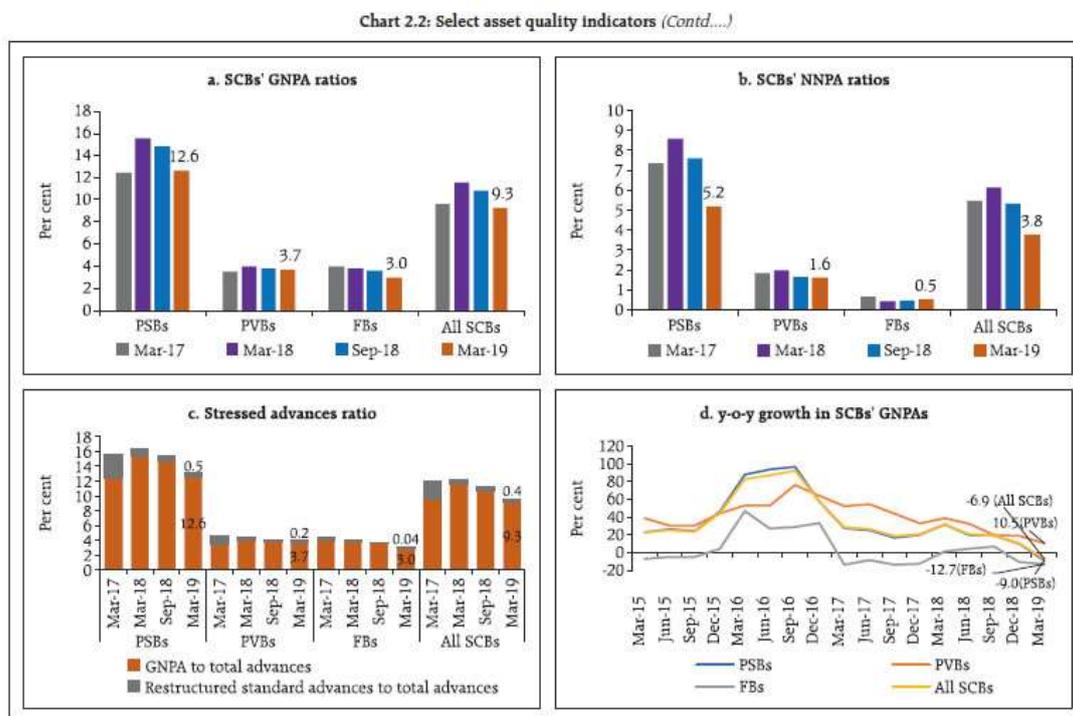
economically. Since the Code is passed, the global economic image of India is drastically enhanced, through enhancement of the FDI, decrease in the number of Non-performing Assets (NPA), increased M&A deals, improving India's ease of doing business ranking, etc.

The Indian economy is now at a stage where expression of a complete framework that addresses re-engineering & re-structuring issues would make a material difference to the productivity of the economy. A review of the system for addressing corporate re-engineering & re-structuring in the Indian context is therefore done.

The law should create the mechanism for debtor to meet the cost of rehabilitation and liquidation. In liquidation process, the law should facilitate quick disposal of assets to meet the balance cost of the insolvency. Efforts should be made to generate funds to meet the cost of restructuring by disposal of surplus assets, if any of the company. A view was expressed by the representatives of some banks/financial institutions that creditors should not be required to supplement the expense of rehabilitation / liquidation. The businesses that were viable and could be rehabilitated should be provided a fair opportunity for the purpose. This may require all stakeholders including creditors to make sacrifices. In the interest of avoiding business failure and consequent distress, wherever possible, this would be well worth the effort. Besides, under the proposed framework, rehabilitation effort would be taken up in consultation with creditors in a manner that is not open ended. Internationally, banks have actively participated and have facilitated business rehabilitation. It was time that a comprehensive and a balanced approach was adopted in India as well. The banks/financial institutions should, therefore, approach the new framework, which was consistent with international practices in a positive manner and participate meaningfully in such exercises.

The problem of Non-Performing Assets (NPA) and India being one of the major contributors to the global accumulated NPAs is one that needs to be addressed by IBC to improve the economy. CRISIL estimates the banking sector's gross NPA (aggregate) has declined to 10% in end March 2019 from 11.5% the year before on the same date. Primarily as a result of transparent recognition of stressed assets as NPAs, gross NPAs of PSBs, as per RBI data on global operations, rose from Rs. 2,79,016 crore as on 31.3.2015, to Rs. 8,95,601 crore as on 31.3.2018, and as a result of Government's 4R's strategy of recognition, resolution, recapitalisation and reforms, have since declined by Rs. 89,189 crore to Rs. 8,06,412 crore as on 31.3.2019 (provisional data). Data on NPAs is regularly published by RBI as part of its Financial Stability Reports. <sup>(2)</sup> Net non-performing assets (NPAs) of all commercial banks reduced to 3.7 per cent in FY19 as against 6 per cent in FY18. Though the speedy resolution and recognition of defaults have been great contributors in reducing the amount in Non-Performing Assets, there is still scope for improvement in the relief for stressed asset framework in the country. This is made clear by the Financial Stability Report released by RBI every quarter.

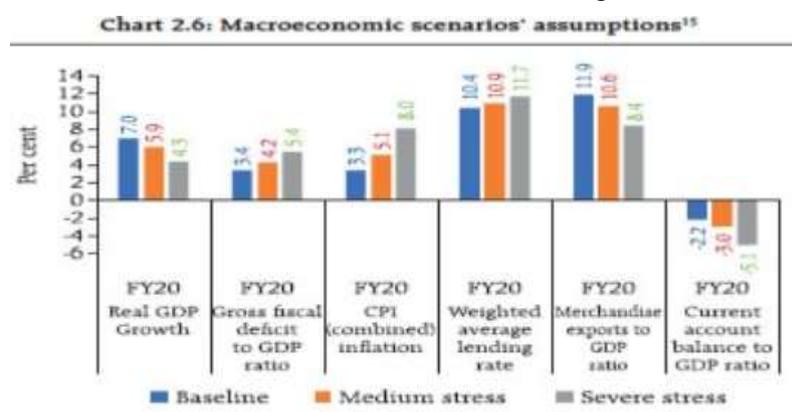
The following table shows the projection of NPAs (both Gross NPA and Net NPA) for the time period March 2017-March 2019.<sup>(3)</sup>



**Figure 1**

As per the RBI Financial Stability Report (December 2019)<sup>(4)</sup>, SCBs' gross non-performing assets (GNPA) ratio remained unchanged at 9.3 per cent between March and September 2019. SCBs' GNPA ratio may increase from 9.3 per cent in September 2019 to 9.9 per cent by September 2020 primarily due to change in macroeconomic scenario, marginal increase in slippages and the denominator effect of declining credit growth. The report, however, mentions that IBC is steadily making progress in the resolution of stressed assets.

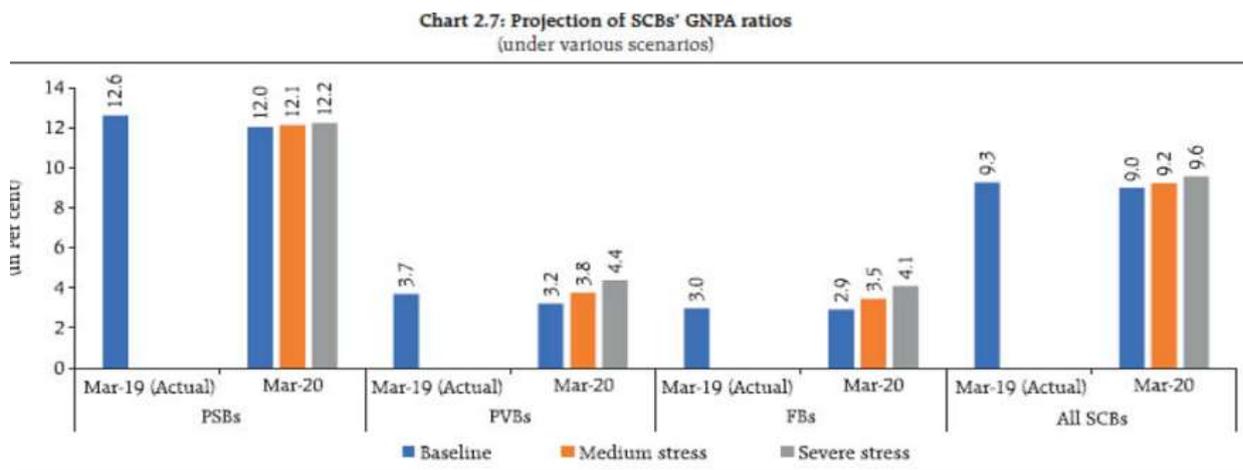
Due to the problems of bad loans or NPAs, the economic development of the country is affected. To measure the effects of bad loans/NPAs, we have to examine banking sectors performance with respect to the factors of economic development as shown in the following chart. The resilience of the Indian banking system against macroeconomic shocks was tested through macro-stress tests for credit risk. These tests encompassed a baseline and two (medium and severe) adverse macroeconomic risk scenarios (Following chart).



**Figure 2**

The baseline scenario assumed the continuation of the current economic situation in future (In terms of GDP growth, fiscal deficit to GDP ratio, CPI-combined inflation, weighted average lending rate, export to GDP ratio and current account balance to GDP ratio). The adverse scenarios were derived based on standard deviations in the historical values of each of the macroeconomic variables separately, that is, univariate shocks: up to one standard deviation (SD) of the respective variables for medium risk and 1.25 to 2 SD14 for severe risk (10 years historical data). The horizon of the stress tests is one year.

The stress tests indicate that under the baseline scenario, the GNPA ratios of all SCBs may come down from 9.3 per cent in March 2019 to 9.0 per cent by March 2020 (Following chart).



The projection of system level GNPA has been done using three different, but complementary econometric models: a multivariate regression, a vector gressive and a quantile regression (which can deal with tail risks and takes into account the non-linear impact of macroeconomic shocks). The average ratios of these three models are given in the chart. However, in the case of bank groups, two models – multivariate regression and VAR – are used.   
 :: The Reserve Bank's Supervisory Returns and staff calculations.

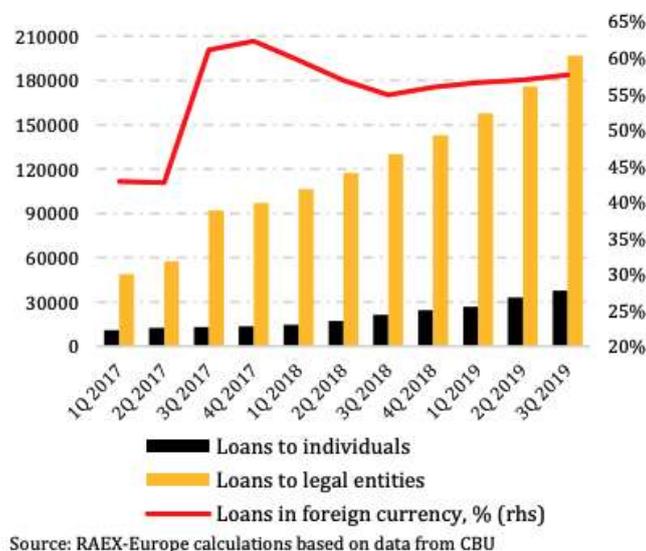
**Figure 3**

(Source: RBI)

Among the bank groups, PSBs' GNPA ratios may decline from 12.6 per cent in March 2019 to 12.0 per cent by March 2020 under the baseline scenario, whereas PVBs' GNPA ratios may decline from 3.7 per cent to 3.2 per cent and that of FBs may come down from 3.0 per cent to 2.9 per cent.

In view of the above charts and explanation, we have derived that NPAs are also the major factor which affect the economic development growth of India. Therefore, all aspects of IBC which would be rehabilitation of corporate debtor or time bound resolution, or recovery of stressed assets or liquidation.

Concurrently, the NPAs in Uzbekistan have seen a steady rise since 2010. The percent of NPAs reflect the health of the banking sector as well as the economy. A higher percent of such loans shows that banks have difficulty collecting interest and principal on their credits. This will result to fewer profits for the banks in Uzbekistan. The rise in NPAs can be combated through reforms in restructuring loans via insolvency laws and protection to lenders as well as borrowers.

**Graph 6: Loans dynamics and structure, USZ bn****Figure 4**

#### 4. RESPONSE TO COVID-19

Unprecedented times require unprecedented measures, and as the world markets are grappling in the wake of COVID-19, the Indian Government made a bold move in March 2020 in a bid to save the economy, particularly MSMEs, from capsizing due to the pandemic waves. In exercise of its powers conferred by section 4 of the Insolvency and Bankruptcy Code, 2016, the Central Government increased the minimum amount of default required to initiate CIRP from INR 1 lakh to INR 1 crore. The economic impact of the enhanced threshold limit is unprecedented post-IBC era and comes at a time when the global economic recession is imminent. It should be kept in mind that drastic economic measures are always a double-edged sword, with its merits and demerits, and it was indeed the need of the hour to save the Indian economy. The revision of threshold of the default amount shall not only ease out the economic pressure on MSMEs but also reduce the amount of frivolous insolvency applications that are filed by operational creditors as a mere pressure tactic due recover their dues, and reduce the stress on the NCLTs working during the stressful pandemic period. The increased threshold notification came out first in the series of measures to save the Indian economy, followed by the economic stimulus package of INR 20 lakh crore, with the suspension of Section 7, 9 and 10 of the IBC in the tow, albeit not officially announced.

#### 5. UZBEKISTAN ECONOMIC DEVELOPMENT

Till the COVID 19 pandemic set in, the economy of Uzbekistan in 2018 continued its sustainable growth and the government maintained macroeconomic and financial stability. The government initiated and continued a number of critical reforms, which, in general, resulted in some improvement of the business environment. The government's economic policy became more transparent, and Uzbekistan was appreciative of assistance from the international expert community. However, the reform strategy remains not entirely formulated.

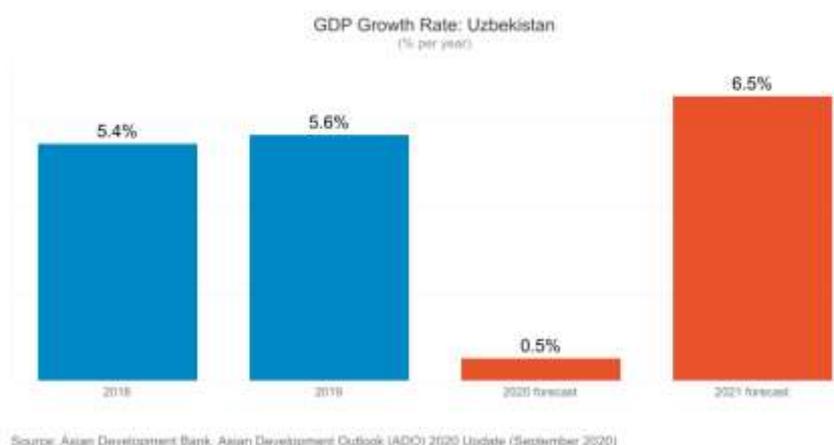


Figure 5

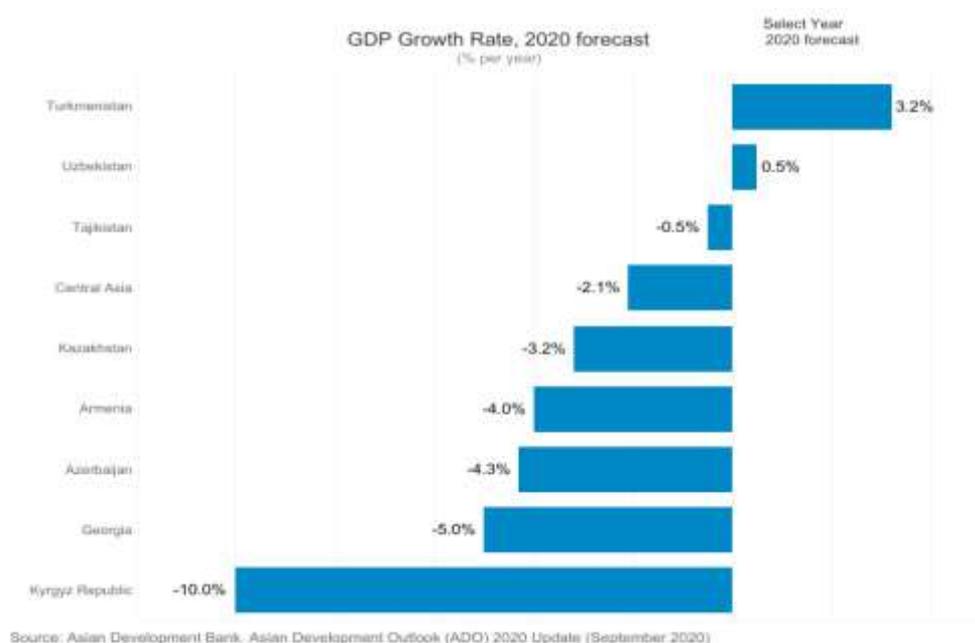


Figure 6

Economic growth in Uzbekistan is projected to further decelerate this year as a result of the corona virus disease (COVID-19) pandemic, weak demand, slowing industrial output, and a decline in services.<sup>(5)</sup> According to a Report of Asian Development Bank (ADB), there was forecasts Uzbekistan’s GDP growth at 0.5% in 2020, down from the 1.5% forecast in June. However, GDP is expected to rebound strongly to 6.5% in 2021.

Table 2 Foreign Investors

Foreign Direct Investment	2017	2018	2019
FDI Inward Flow (million USD)	1,797	625	2,286
FDI Stock (million USD)	10,044	8,992	9,504
Number of Greenfield Investments*	10	55	45
Value of Greenfield Investments (million USD)	1,384	5,177	4,843

Source: UNCTAD - Latest available data.

To improve the business environment, the Government of Uzbekistan introduced in 2017 a number of legislative changes, including the cancellation of unscheduled, and seemingly arbitrary or punitive, inspections of businesses as of January 1, 2017; elimination of the requirement to convert certain percentages of hard currency export earnings at the official (artificially low) exchange rate; simplification of business registration procedures; creation of a Business Ombudsman office; and a Law on Countering Corruption that attempts to increase transparency in Government of Uzbekistan functions.

By law, foreign investors are welcome in all sectors of the Uzbek economy and the government cannot discriminate against foreign investors based on nationality, place of residence, or country of origin. However, government control of key industries has discriminatory effects on foreign investors. For example, the Government of Uzbekistan retains strong control over all economic processes and maintains controlling shares of key industries, including energy, telecommunications, airlines, and mining. The government still regulates investment and capital flows in the raw cotton market and controls all silk sold in the country, dampening foreign investment in the textile and rug-weaving industries. Partial state ownership and government influence are common in many key sectors of the economy.

The state still reserves the right to export some commodities, such as nonferrous metals and minerals. In theory, private enterprises may freely establish, acquire, and dispose of equity interests in private businesses, but in practice, this is difficult to do because Uzbekistan’s securities markets are still underdeveloped.

**Table 3**

<b>Country Comparison For the Protection of Investors</b>	<b>Uzbekistan</b>	<b>Eastern Europe &amp; Central Asia</b>	<b>United States</b>	<b>Germany</b>
<b>Index of Transaction Transparency*</b>	8.0	7.0	7.4	5.0
<b>Index of Manager’s Responsibility**</b>	3.0	5.0	8.6	5.0
<b>Index of Shareholders’ Power***</b>	7.0	6.0	9.0	5.0

Source: Doing Business, Latest available data

Note: \*The Greater the Index, the More Transparent the Conditions of Transactions.

\*\*The Greater the Index, the More the Manager is personally Responsible.

\*\*\* The Greater the Index, the Easier it Will Be For Shareholders to Take Legal Action.

The natural strengths of Uzbekistan are vitiated by weaknesses in the policy and administrative regime governing business. <sup>(6)</sup> These weaknesses are major obstacles to accelerated FDI. Investment programs were launched in order to encourage big investments in the priority sectors. Programs include 86 foreign direct investment projects totaling 1.8 billion dollars, of which more than half is for the energy sector.

To encourage foreign investment, the Government provides tax incentives to joint stock companies for which foreign investment participation accounts for at least 15% of the authorized capital. Another key area to improve FDI with the inflow of foreign investors would

be to strengthen the insolvency law and regime in the country to provide easy exit routes and safety net options that encourage foreign investors. The same was seen in the case of Indian ecosystem wherein FDI exponentially rose after the introduction of Insolvency and Bankruptcy Code (IBC) that provided for smaller stricter timelines and easy exit routes without lengthy litigation time. According to the Economic Survey 2020-21 conducted in India, net FDI inflows of US\$ 27.5 billion during April-October, 2020: 14.8% higher as compared to first seven months of FY2019-20. In comparison to pre-IBC insolvency proceedings, the code promises hope. The average time taken to close the case as highlighted in the Economic Survey has also come down drastically.

## **6. CONCLUSION: DOING BUSINESS PERFORMANCE**

The World Bank Doing Business Report 2020 studies the time, cost and outcome of insolvency proceedings involving domestic legal entities. These variables are used to calculate the recovery rate, which is recorded as cents on the dollar recovered by secured creditors through reorganization, liquidation or debt enforcement (foreclosure or receivership) proceedings. To determine the present value of the amount recovered by creditors uses the lending rates from the International Monetary Fund, supplemented with data from central banks and the Economist Intelligence Unit. The most recent round of data collection was completed in May 2019. The ranking of economies on the ease of resolving insolvency is determined by sorting their scores for resolving insolvency. The recovery rate is calculated based on the time, cost and outcome of insolvency proceedings in each economy.

Uzbekistan has the potential to become one of the strongest economies in the post-Soviet area. Uzbekistan has demonstrated stable economic development in recent years, reporting 5.6% GDP growth in 2019. The country's leadership continues to implement large-scale economic reform policies targeted at boosting growth through modernization of state-owned monopolies and creating a supportive climate for private and foreign direct investment. During the reporting period, policy priorities were focused on improving Uzbekistan's investment attractiveness including through adoption of a new currency regulation law to guarantee freedom of current cross-border and capital movement transactions; a new law on investment activities to guarantee foreign investors' rights; and, a new tax code featuring lower and more equitable tax rates and simplified reporting requirements. Uzbekistan has a long entrepreneurial and trading heritage, and has the potential to become the largest economy in Central Asia. Delays in the implementation of previously announced liberalization reforms may result in a low inflow of private investments, which, combined with declining household incomes and a drop in the living standards that usually accompanies liberalization reforms, may undermine the success of the government's economic policies.<sup>(7)</sup>

According to the Law on Bankruptcy and the Labor Code, an enterprise may claim exemption from paying property and land taxes, as well as fines and penalties for back taxes and other mandatory payments, for the entire period of the liquidation proceedings. Monetary judgments are usually made in local currency. Bankruptcy itself is not criminalized, but in August 2013, the GOU introduced new legislation on false bankruptcy, non-disclosure of bankruptcy, and premeditated bankruptcy cases. A snapshot of Uzbekistan's performance in the World Bank Doing Business Report is as under:



Figure 7

Out of the ten factors that determine the ranking, resolving insolvency remains the only factor in Uzbekistan to not have shown any improvement or contributed to the ease in doing business in Uzbekistan.

Contrast with India, where after the introduction of IBC the rank did not only grow but also the factor of resolving insolvency has seen a more than 20 percent growth owing to stricter timelines and one uniform exit strategy for investors and lenders.

As per Doing Business Report, Uzbekistan is at rank 100 in “resolving insolvencies”.

The score is based on various parameters *w.r.t.* ‘Ease of Doing Business’ which are as follows:

**Table 4**

<b>Economy</b>	<b>Resolving Insolvency Score</b>	<b>Recovery rate (cents on the dollar)</b>	<b>Time (years)</b>	<b>Cost (% of estate)</b>	<b>Outcome (0 as piecemeal sale and 1 as going concern)</b>	<b>Strength of insolvency framework index (0-16)</b>
Uzbekistan	100	34.4	2.0	10.0	0	8.0

On the other hand, India’s ranking in World Economy in resolving insolvencies is 52 and scores on different variables (parameters) are as follows:

**Table 5**

<b>Economy</b>	<b>Resolving Insolvency Score</b>	<b>Recovery rate (cents on the dollar)</b>	<b>Time (years)</b>	<b>Cost (% of estate)</b>	<b>Outcome (0 as piecemeal sale and 1 as going concern)</b>	<b>Strength of insolvency framework index (0-16)</b>
India	52	71.6	1.6	9.0	1	7.5

The World Bank measures the perception of stakeholders in respect of ‘resolving insolvency’ on two sets of indicators, namely, the strength of insolvency framework and the recovery rate. The strength of insolvency framework is a function of four indices relating to commencement of proceedings, management of firm’s assets, reorganization proceedings and creditor participation. There have been improvements in all these indices since IBC was introduced in India. The recovery rate, as per the World Bank methodology, is a function of time, cost and outcome of insolvency proceedings. The IBC envisages a resolution plan for reorganization of a CD as a going concern. This gave the impression that the CD must continue to exist, post-resolution, limiting the possibilities of resolution. Though the contours of a resolution plan are left to the imagination of the market, the amendment of August 2019 makes it explicit that a resolution plan may provide for restructuring of the CD, including by way of merger, amalgamation and demerger. The purpose of an efficient insolvency regime is to release such locked capital, in the least amount of time possible.

The Ease of Doing Business is indicative of the overall economic growth as well. The easier it is to do business, the more investors will be attracted to the country in turn improving the GDP as well as the economy of the country. Reforming the insolvency laws, especially to the model adopted in India that has proved to be effective in improving FDI and GDP, would not only benefit the economy of Uzbekistan for the purpose of improving its rank, but also overall will be a step toward future liberalization and growth.

## KEY NOTES

- (1) <http://www.mca.gov.in/MinistryV2/restructuring+and+liquidation.html>
- (2) <https://pib.gov.in/newsite/PrintRelease.aspx?relid=190704>
- (3) <https://m.rbi.org.in/Scripts/PublicationReportDetails.aspx?UrlPage=&ID=931#C2C22A>
- (4) [https://www.rbi.org.in/Scripts/BS\\_PressReleaseDisplay.aspx?prid=48982](https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=48982)
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