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# THE IBC–FEMA INTERSECTION: COMPLIANCE COMPLEXITIES IN THE LIQUIDATION OF FOREIGN- HELD INDIAN SUBSIDIARIES

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## ABSTRACT:

In scenarios where a foreign company holds a controlling stake in its Indian subsidiary, the Indian entity must file Form BEN-2 under Section 90 of the Companies Act, 2013, declaring the foreign parent as a Significant Beneficial Owner (SBO). Upon the subsidiary's insolvency, liquidation proceedings fall primarily under the Insolvency and Bankruptcy Code, 2016 (IBC), which prioritizes creditor recovery through a structured resolution or liquidation process led by a Resolution Professional and adjudicated by the National Company Law Tribunal (NCLT).

However, the presence of foreign shareholding triggers additional layers of compliance under the Foreign Exchange Management Act, 1999 (FEMA) and Reserve Bank of India (RBI) regulations, particularly the Foreign Direct Investment (FDI) framework. Key requirements include RBI prior approval for transfer of foreign-held shares to liquidators or buyers, reporting via Form FC-TRS or FLA returns, and adherence to sectoral FDI caps and pricing guidelines. These overlaps often result in protracted timelines, as IBC's 330-day liquidation mandate clashes with FEMA's approval delays, potentially eroding asset value and creditor recoveries.

This paper examines these regulatory intersections, analyzing judicial precedents. It proposes legally permissible mechanisms such as conditional NCLT approvals, streamlined RBI fast-track routes under Automatic Route sectors, and advance SBO disclosures to expedite liquidation while ensuring compliance. Ultimately, harmonizing IBC with FEMA/RBI frameworks could enhance India's insolvency ecosystem for cross-border investments.

**Keywords:** IBC liquidation, foreign-owned subsidiaries, Significant Beneficial Owner, FDI regulations, cross-border insolvency.

## **CHAPTER 1:**

### **1.1. Introduction**

Foreign-owned subsidiaries operating under Indian law have grown as a result of the country's increasing foreign investment. The Foreign Exchange Management Act, 1999 (FEMA) imposes additional regulatory obligations when foreign stakeholders are involved, even though the Insolvency and Bankruptcy Code, 2016 (IBC) offers a structured mechanism for insolvency and liquidation, Particularly during liquidation, when adherence to both foreign exchange and insolvency laws is required, this overlap causes procedural complications. The chapter highlights how this dual framework affects the effectiveness, timeliness, and results of liquidation proceedings involving foreign-owned Indian subsidiaries. It also introduces the fundamental problem of regulatory intersection between IBC and FEMA.

### **1.2. Objective**

- The primary objective of this research is to identify the procedural framework governing the path towards liquidation for foreign-owned Indian Subsidiaries under IBC 2016, which is more tedious as it brings along additional compliance requirements pursuant to FEMA,1999, accompanied by regulations issued by RBI.
- The step-by-step liquidation process, including approvals, reporting obligations and regulatory clearances, will be analysed in this study to identify the areas where procedural delays are being faced.
- It also seeks to explore whether these delays arise from overlapping jurisdiction, approval bottlenecks or a lack of coordination between insolvency and foreign exchange authorities.

### **1.3 Hypothesis**

There is a significant procedural conflict between IBC and FEMA that affects the efficiency of liquidation proceedings involving foreign investment.

### **1.4 Research Methodology**

This study adopts a doctrinal and analytical legal research methodology to examine the

regulatory interplay between the Insolvency and Bankruptcy Code, 2016 and the Foreign Exchange Management Act, 1999, in the context of the liquidation of foreign-owned Indian subsidiaries.

## **Chapter 2:**

### **2.1 Foreign owned Indian subsidiaries:**

India's liberalised foreign investment framework permits foreign entities to establish a corporate presence through incorporation of a subsidiary or a wholly owned subsidiary under the Companies Act, 2013. With the progressive reforms in the Foreign Direct Investment regime and the consolidation of FEMA regulations, India has become a preferred destination for foreign corporations seeking structured and compliant market entry.

A foreign-owned Indian subsidiary is a company that is incorporated in India but owned either fully or partly by a foreign company. It operates under the provisions of the Companies Act, 2013, while its foreign investment aspects are regulated by the Foreign Exchange Management Act, 1999. Such subsidiaries can be of two types: a Wholly Owned Subsidiary (WOS), where 100% of the shares are held by the foreign parent (for example, Amazon Seller Services Pvt Ltd owned by Amazon) and a partially owned subsidiary, where ownership is shared between foreign and Indian entities, such as Vodafone Idea Ltd, which has both foreign and Indian shareholders.

### **2.2 Regulatory Compliance for WOS of Foreign Companies in India:**

Wholly Owned Subsidiaries (WOS) structure offers strategic advantages, it also imposes several compliance obligations under various laws, including the Companies Act, 2013, the Foreign Exchange Management Act, 1999 (FEMA), and other applicable regulations.

#### **2.2.1. Compliance under the Companies Act, 2013**

WOS must comply with various ongoing obligations under the Companies Act, 2013:

- A WOS must have at least two directors, with at least one being a resident of India.
- WOS must appoint a statutory auditor within 30 days of incorporation.

- The WOS is required to file annual returns (Form MGT-7) and financial statements (Form AOC-4) with the RoC within prescribed timelines.
- Proper books of accounts, minutes of meetings, and statutory registers must be maintained at the registered office of the WOS. These records must be preserved for a minimum period as prescribed by law.

**ISIN Requirement for Wholly Owned Subsidiaries:** In accordance with the amendment to the company law rules<sup>1</sup>, and as per the notification dated 27th October 2023 issued by the Ministry of Corporate Affairs, Government of India, it is now mandatory for every private company, other than a small company<sup>2</sup>, to comply with specific securities issuance protocols. The key requirements are as follows:

- Every private company, excluding small companies, is required to issue its securities solely in dematerialized form.
- Companies must facilitate the dematerialization of all their securities, ensuring compliance with the provisions of the Depositories Act, 1996, along with the regulations established thereunder.
- In accordance with Section 89<sup>3</sup> of the Companies Act, 2013, WOS are required to file Form MGT-6 in the following circumstances:
  - i. The WOS must submit Form MGT-6 to the RoC within 30 days of receiving a declaration under Section 89. This declaration is provided by the registered owner of shares who does not hold the beneficial interest in such shares, which is submitted in Form MGT-4. Additionally, Form MGT-5 is used by the beneficial owner who holds or acquires a beneficial interest in shares but whose name is not entered in the register of members.
  - ii. Failure to file Form MGT-6 within the prescribed 30-day period from the receipt of the declarations may result in penalties as outlined in the Companies Act. Therefore, it is imperative for WOS to maintain a systematic process for

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<sup>1</sup> The Companies (Prospectus and Allotment of Securities) Rules, 2014

<sup>2</sup> The Companies Act, 2013, Section 2(85), No. 18, Acts of Parliament, 2013 (India).

<sup>3</sup> The Companies Act, 2013, Section 89, No. 18, Acts of Parliament, 2013 (India) (notified w.e.f. 1 April 2014).

monitoring declarations received under Sections 89 and 90<sup>4</sup>, ensuring timely filing of Form MGT-6.

- iii. A WOS of a foreign company in India is required to file Form BEN-2 with the Registrar of Companies (RoC) to declare its Significant Beneficial Owners (SBOs).

### 2.2.2 Compliance under FEMA

The Foreign Exchange Management Act, 1999 governs foreign investment and foreign exchange transactions in India. WOS must adhere to the following compliance requirements:

**Foreign Direct Investment (FDI):** All foreign investment in India takes place through the FDI framework (prescribed by the Reserve Bank of India), where the Government, via its policy issued by DPIIT, lays down the rules, sectoral limits, and conditions for such investment backed by FEMA and the Reserve Bank of India implements and enforces it. India has liberalised its FDI regime, allowing up to 100% foreign direct investment in single-brand retail under the automatic route, without prior government approval, as per guidelines.<sup>5</sup>

**Reporting Requirements:** After receiving foreign investment, the WOS must file Form FC-GPR (Foreign Currency-Gross Provisional Return) with the RBI within 30 days of the issue of shares to report the receipt of funds.

**FLA Return:** Every wholly owned subsidiary company in India which receives FDI in any of the previous year is required to file a Foreign Liabilities and Assets (FLA)<sup>6</sup> return on or before the 15th day of July every year for disclosing foreign assets and liabilities.

**External Commercial Borrowings (ECB):** If the WOS intends to raise funds through ECB, it must comply with the guidelines set by the RBI, including obtaining necessary approvals.

**Foreign Exchange Transactions:** All foreign exchange transactions, including remittances to

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<sup>4</sup> The Companies Act, 2013, Section 90, No. 18, Acts of Parliament, 2013 (India) (notified w.e.f. 1 April 2014).

<sup>5</sup> Press Information Bureau, Government of India, Ministry of Commerce & Industry, "Guidelines for Single Brand Retail Trade" (24 July 2019, 15:42 IST)

<sup>6</sup> Reserve Bank of India, *Foreign Liabilities and Assets (FLA) Return*, filed through the FLAIR (Foreign Liabilities and Assets Information Reporting) System.

the parent company, must comply with FEMA regulations<sup>7</sup>. Proper documentation must be maintained for all foreign exchange dealings.

## CHAPTER 3

### 3.1 How winding up is initiated:

Foreign companies entering India through the wholly owned subsidiary route often do so with strong expectations, but in practice, they may face challenges such as poor market performance, regulatory complexities, or difficulties in scaling operations. When the business becomes unsustainable, liquidation becomes a practical exit option. Broadly, this can occur in two ways: where the company has **not defaulted on its debts**, it may opt for **voluntary liquidation**; however, where a **default exists**, it must undergo the insolvency resolution process (CIRP) under IBC.

While some foreign subsidiaries opt for liquidation upon failure, others choose reorganisation. For instance, Harley-Davidson exited its direct operations in India but restructured its presence through a partnership with Hero MotoCorp, thereby retaining market access.

### 3.2. The Process and Involvement FEMA and its underlying concepts (liquidation)

In this Growing era, due to multiple economic factors and business flaws, many firms and industries are going bankrupt, such events cause distribution to every authorities/persons involved with the entity, ultimately it leads to Winding up either by Voluntary method or Compulsory method as enforced by the tribunal, based on the situation and circumstances happening around the entity,

When it comes to foreign held subsidiaries, the stakeholders of such entity may arise from different areas and nationalities, which pose the great test to the IBC's growing jurisprudence and significant development to India's insolvency regulations hereunder, In Some cases, the Foreign Subsidiaries will be held wholly by the Parent Company, in Other instances the Ownership of the Subsidiary company maybe split among many parties, i.e. Equity shares, preference shares etc.,

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<sup>7</sup> Foreign Exchange Management (Current Account Transactions) Rules, 2000 and Foreign Exchange Management (Non-debt Instruments) Rules, 2019.

The company must inform its Authorized Dealer (AD) Bank about the proposed closure and submit the necessary documents such as the strike-off order or liquidation approval. If any funds remain in the company's bank accounts, they must be repatriated to the foreign parent company after complying with applicable tax requirements.

The Other Winding Process would be Go as per the Provisions Stated in the Insolvency and Bankruptcy Code, The adjudicating Authority Appoints Liquidator as per the Recommendations of the Committee of Creditors, as per the claims received by the creditors, followed by the Waterfall mechanism<sup>8</sup> (Distribution of Assets), the liquidator may act upon as prescribed, But the actual issue arises when the Foreign entities/institution/investors files a claim, The Rbi through FEMA and FEMA Regulations has added several compliances that has to be satisfied, in order to improve transparency while dealing with foreign fund, but the involvement of AD-Bank and non-maintenance of Registrars by the Entity going Through Liquidation been creating hassles, and the IRP/RP/Liquidator has to go through difficulties to finalize the Liquidation process .

The Adjudicating Authority with Consultation with the Reserve Bank of India in the case of the liquidation *of M/s The Less packaging Company India Private limited<sup>9</sup> and M/s Nutec Bickley Wesman Kilns Pvt. Ltd<sup>10</sup>* Held that, During the Process of the Liquidation,

“It is emphasized that the Reserve Bank of India has clarified that the provisions relating to liquidation of companies and remittance pursuant thereto are governed by the Foreign Exchange Management (Remittance of Assets) Regulations, 2016 (FEMA 13R)<sup>11</sup>. The RBI has expressly stated that no filing of Form FC-TRS is prescribed for remittances made to foreign shareholders in lieu of the full and final settlement of their claims” extract from para xvii (c).”

***“With regard to the prayer seeking dispensation from filing Form FC-TRS, it is submitted that the remittance to the foreign shareholder is governed by the Foreign Exchange***

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<sup>8</sup> Insolvency and Bankruptcy Code, 2016, Sec 53 (India).

<sup>9</sup> In re Liquidation of The Less Packaging Co. India Pvt. Ltd., CP (IB)-553/ND/2023 (NCLT New Delhi Bench-VI May 2, 2024)

<sup>10</sup> In re Liquidation of Nutec Bickley Wesman Kilns Pvt. Ltd., C.P. (IB) No. 220/KB/2025 (NCLT Kolkata Bench-II 2025).

<sup>11</sup> Foreign Exchange Management (Remittance of Assets) Regulations, 2016, Notification No. FEMA 13(R)/2016-RB (Reserve Bank of India Apr. 1, 2016).

***Management (Remittance of Assets) Regulations, 2016 (FEMA 13R). Accordingly, the filing of Form FC-TRS is not required.”***

This Clarifies that the RBI Expressly provided Relief Since the shares are Extinguished here and there is no transfer of shares in here , that could help Foreign Entities/investors/stakeholders, But the issue persists with the AD-Bank since they are the ones the company has been dealt with for the inward of foreign remittance, the AD-Bank has to further carry out the Settlement for this mechanism, The AD-Bank has go through Series of Checks in order to make sure there isn't any Money Laundering Activity has been carried off.

Although The Insolvency and Bankruptcy Board of India, through its provisions explicitly provide the timeline of one year, to complete the Liquidation, it generally cannot be carried in cases involving FEMA and the already pending cases before the Adjudicating Authority.

It can be a time-consuming process, especially if the company has a large chunk of shareholders or if the funds are being repatriated to stakeholders across different countries. This can result in significant delays and additional costs during liquidation to ascertain and make sure the Conditions are being fulfilled.

### **3.3. Liquidation Framework under the IBC**

The liquidation process under the Insolvency and Bankruptcy Code, 2016 is triggered when the CIRP fails to yield a viable resolution plan or when the CoC decides to liquidate the corporate debtor. Upon such failure, the NCLT passes a liquidation order under Section 33,<sup>12</sup> following which a liquidator is appointed to take over the management and affairs of the company. The powers of the board of directors stand suspended, and the liquidator assumes control over all assets forming part of the liquidation estate<sup>13</sup>. These assets are identified and consolidated under Section 36, after which the liquidator verifies claims of creditors and proceeds to realise the assets for distribution in accordance with the statutory waterfall mechanism under Section 53.

However, the scope of liquidation is not absolute. A significant limitation lies in the treatment of subsidiary assets. The Code expressly excludes assets of subsidiaries whether Indian or

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<sup>12</sup> Insolvency and Bankruptcy Code, 2016, Chapter III, Sec 33 (Initiation of Liquidation).

<sup>13</sup> Insolvency and Bankruptcy Code, 2016, Section 36 (Liquidation Estate).

foreign from the liquidation estate of the holding company. This position has been judicially affirmed in *Dynepro Private Limited v. V Nagarajan*<sup>14</sup>, where the appellate tribunal clarified that the resolution professional or liquidator can only take control of assets in which the corporate debtor has direct ownership rights.

***“7. According to the Appellant the material in question do not belong to the Corporate Debtor and it belongs to ‘G.B. Engineering’ which was entrusted to ‘Cethar Ltd.’ (Corporate Debtor) for doing job work and therefore, it do not come within the meaning of “asset” of the Corporate Debtor”***

Consequently, even in cases involving group structures, liquidation remains confined to the legal entity undergoing insolvency, reinforcing the principle of separate corporate personality.

## CHAPTER 4

### 4.1.Procedural Delays in cross boarder Liquidation

Despite the structured framework envisaged under the Code, liquidation proceedings in practice are often affected by procedural delays, particularly in cases involving cross-border elements. One of the primary reasons for such delay is the absence of a comprehensive statutory framework governing cross-border insolvency. While Sections 234<sup>15</sup> and 235<sup>16</sup> of the Code contemplate cooperation with foreign jurisdictions, their practical utility remains limited due to the absence of bilateral agreements. This legislative gap became evident in the landmark *Jet Airways (India) Ltd. Insolvency Case*<sup>17</sup>, where parallel insolvency proceedings were initiated in India and the Netherlands.

***“7. In view of the aforesaid observations, we set aside part of the impugned order dated 20th June, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench in so far it relates to the observations that the ‘Dutch Court’ has no jurisdiction in the matter of ‘corporate insolvency resolution process’ of ‘Jet Airways (India)***

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<sup>14</sup> *Dynepro Private Limited v. V. Nagarajan*, Company Appeal (AT) (Insolvency) Nos. 229 & 262 of 2018 (NCLAT, decided on 30 January 2019).

<sup>15</sup> The Companies Act, 2013, Section 234, No. 18, Acts of Parliament, 2013 (India) (enforced w.e.f. 1 Apr. 2017, vide Noti. No. S.O. 1005(E), dt. 30 Mar. 2017).

<sup>16</sup> The Companies Act, 2013, Section 235, No. 18, Acts of Parliament, 2013 (India) (enforced w.e.f. 1 Apr. 2017, vide Noti. No. S.O. 1005(E), dt. 30 Mar. 2017).

<sup>17</sup> *Jet Airways (India) Ltd. v. State Bank of India*, Company Appeal (AT) (Insolvency) No. 707 of 2019 (NCLAT), paras. 5–6, 12–14, 20–21.

***Limited, (Offshore Regional Hub) and the consequential directions as given to the 'Resolution Professional' in respect of 'Offshore proceedings.'***

The lack of statutory guidance led to jurisdictional conflict and uncertainty regarding control over overseas assets, ultimately necessitating the formulation of a court-approved Cross-Border Insolvency Protocol. Although this protocol facilitated coordination, the time taken to negotiate and implement such an arrangement significantly delayed the overall process.

Another source of delay arises from procedural ambiguity in recognising foreign creditors and foreign determinations of debt. In *Macquarie Bank Ltd. v. Shilpi Cable Technologies Ltd.*,<sup>18</sup> the Supreme Court had to intervene to clarify that foreign creditors are entitled to initiate insolvency proceedings under the Code and that procedural requirements should not be interpreted in a manner that creates barriers to their participation.<sup>19</sup> Similarly, in *Stanbic Bank Ghana Ltd. case*<sup>20</sup>, the tribunal held that while foreign judgments cannot be directly enforced within insolvency proceedings, they may be relied upon as evidence of debt. This distinction, though pragmatic, introduces additional procedural layers, as parties may need to establish the validity and evidentiary value of such judgments before the tribunal, thereby prolonging proceedings.

Further complexity is introduced in cases involving foreign arbitral awards, as seen in *Agrocorp International Pte Ltd v. National Steel and Agro Industries Ltd.*,<sup>21</sup> where the tribunal recognised such awards as constituting “debt” under the Code. While this approach facilitates creditor access, it also necessitates compliance with evidentiary and authentication requirements, particularly in cross-border contexts. The process of verifying foreign documents, addressing jurisdictional objections, and ensuring compliance with procedural formalities contributes to delays that ultimately affect the liquidation timeline.

In addition to these legal uncertainties, institutional limitations further exacerbate delays. The absence of a standardised mechanism for cooperation between Indian tribunals and foreign courts results in fragmented proceedings and inconsistent approaches. Unlike jurisdictions that

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<sup>18</sup> *Macquarie Bank Ltd. v. Shilpi Cable Technologies Ltd.*, (2018) 2 SCC 674

<sup>19</sup> “...the definition of ‘person’ contained in Section 3(23) of the Code includes a person resident outside India... persons, such as the appellant, are certainly operational creditors within the meaning of the Code.” (Para 8 of the judgement)

<sup>20</sup> *Stanbic Bank Ghana Ltd. v. Rajkumar Impex Pvt. Ltd.*, 2018 SCC OnLine NCLT 22994.

<sup>21</sup> *Agrocorp International (P) (PTE) Limited v. National Steel and Agro Industries Limited*, 2020 SCC OnLine NCLT 6054

have adopted the UNCITRAL Model Law, India currently relies on case-by-case judicial innovation, which, while flexible, lacks predictability. This not only increases litigation but also delays asset realisation and distribution, thereby undermining the objective of time-bound insolvency resolution.

## CHAPTER 5

### 5.1.The IBC Moratorium and Its Operation Against FEMA

The goal of the moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 is to establish a legally protected environment in which the corporate debtor's assets are protected and no stakeholder receives an unfair advantage. During the insolvency resolution process, it mainly limits activities like asset transfers, enforcement of security interests, and recovery procedures.

However, the Foreign Exchange Management Act of 1999 regulates transactions involving foreign-held Indian subsidiaries due to the presence of foreign investment. FEMA controls capital account transactions and requires that all transactions involving foreign shareholders adhere to established regulatory standards.

FEMA obligations are not suspended during insolvency, in contrast to creditor actions. They are still applicable as separate legal requirements, especially with regard to:

- Foreign shareholding structures
- Cross-border fund flows
- Regulatory reporting and approvals

This creates a situation where insolvency proceedings under IBC must progress **without disregarding FEMA compliance**, even though the Code itself does not explicitly provide a mechanism to integrate both frameworks.

### 5.2.Impact

The effectiveness and results of insolvency proceedings involving foreign stakeholders are impacted by the concurrent application of IBC and FEMA. Because of the regulatory

uncertainty it creates, insolvency professionals make cautious decisions. Resolution plans' commercial viability is diminished by additional compliance requirements, which may deter potential investors. Due to asset depreciation and decreased creditor recoveries, these delays impede value maximization. Furthermore, the distressed asset market in India may lose the trust of foreign investors due to such regulatory overlap.

### **Reasons Behind the Delay**

1. **Lack of an Integrated Legal System:** Without a unified system for coordination, IBC and FEMA function independently. Interpretational gaps result from the absence of a statutory connection between foreign exchange regulation and insolvency law.
2. **Diverse Regulatory Bodies:** Many authorities are involved in insolvency proceedings, including financial intermediaries, foreign exchange regulators, and the adjudicating tribunal. Decision-making is fragmented when there is no cohesive coordination system.
3. **Requirements for Compliance Verification:** Strict adherence to regulations is necessary for transactions involving foreign stakeholders. It takes a long time to verify adherence to ownership structures, reporting requirements, and foreign exchange standards, particularly in troubled businesses where records might be lacking.
4. **Uncertainty in Legal Interpretation:** Regarding how disputes between IBC and FEMA should be settled in every circumstance, there is no established legal stance. Stakeholders become cautious as a result, preferring regulatory clarity before making important decisions.
5. **Lack of Pre-insolvency Compliance Preparedness:** Companies that file for bankruptcy frequently have incomplete or outstanding regulatory filings. Making these corrections during the insolvency process adds to the complexity and causes delays.

## **CHAPTER 6**

### **6.1.Solution 1: Liquidator as Nodal Authority**

The liquidator should be formally designated as the single point of contact for managing all cross-border regulatory interactions in a structured reform. Rather than addressing various bodies in isolation, the liquidator ought to have the authority to:

Send in a combined compliance report that addresses corporate, tax, and FEMA requirements. serve as the formal point of contact between financial regulators and the adjudicating authority. Seek approvals concurrently via a single communication channel.

The Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations may be amended to achieve this, enabling more efficient and coordinated decision-making without changing the underlying legislation.

## **6.2. Solution 2: NCLT-Mandated Time-Bound Clearances**

At the liquidation order stage, the adjudicating authority should issue time-bound directives to all relevant authorities to eliminate regulatory delays. This would consist of: establishing a stringent response period (such as 15–21 days) for regulatory approvals. In non-sensitive cases, treating non-response within the deadline as approval mandating that authorities give written explanations for any delays or rejections. These directives can be issued under the tribunal's current jurisdiction, guaranteeing procedural effectiveness while upholding regulatory oversight.

## **6.3. Solution 3: Pre-Filing Compliance Audit and Rectification**

To find and fix any outstanding regulatory issues, a mandatory compliance audit should be carried out prior to starting liquidation. This would entail:

- Examining all foreign investment records and FEMA filings
- Revising disclosures of beneficial ownership
- Correcting non-compliance using the regulatory tools at hand

By ensuring that the company enters liquidation with clean and updated records, the burden on the liquidator is reduced and post-initiation delays are minimised.

## **6.4. Conclusion**

The intersections between insolvency law and foreign exchange regulation give rise to conflicts that are primarily procedural and coordination-based rather than substantive. The solutions proposed focus on: Centralising authority through the liquidator, Enforcing timelines through

judicial directions. Ensuring preparedness through pre-insolvency compliance. Such initiatives are always possible within the existing legal framework, which would greatly facilitate cross-border liquidation. To ensure the timely resolution with maximised value for all concerned parties in matters involving foreign investment, a coordinated approach is imperative between insolvency and regulatory authorities.